Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

February 9, 2021 - 6:00 PM

The Commission Meeting will be a VIRTUAL MEETING
with City Commission and City staff participating through video. The link is:
https://www.youtube.com/channel/UCTTgU3xsQBqlyRaME7TaYrQ/live

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

Brian Cesar .... 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 575-439-4100.

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. The Alliance for Regional Military Support (ARMS) will provide a briefing on activities in support of Holloman AFB and the regional military installations of Las Cruces (WSMR), and El Paso (Fort Bliss). *(Richard Dayoub, ARMS Treasurer and Gus Rodriguez, ARMS Chairman)*

PUBLIC COMMENT

Residents must submit comments to the City Clerk prior to 3 p.m. on the day of the Commission meeting. Comments will be distributed to the Commission and the City Manager and will be included in the public record.

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.

2. Approve the minutes for the January 26, 2021 Regular meeting. *(Rachel Hughs, City Clerk)*

3. Consider, and act upon, acceptance of grant agreement from NMDOT, Aviation Division, to Alamogordo-White Sands Regional Airport in the amount of $9,200.00 to obtain construction cost estimates for Taxiway A. *(Jim Talbert, Airport Manager*)

4. Consider, and act upon, acceptance of grant agreement from NMDOT, Aviation Division, to Alamogordo-White Sands Regional Airport in the amount of $72,000.00 to install remaining solar runway lights. *(JimTalbert, Airport Manager*)

5. Consider, and act upon, acceptance of extension of grant and additional funding in the amount of $84,953.33, awarded to Alamogordo Police Department from Paso Del Norte Health Foundation. *(Richard Denton, Police Chief)*

6. Consider, and act upon, Resolution 2021-06 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 February 9, 2021. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

7. Consider, and act upon, acceptance of a capital outlay grant agreement in the amount of $150,000.00 to make improvements to the Sergeant Willie Estrada Civic Center. *(Veronica Ortega, Community Services Director)*

ITEMS REMOVED FROM CONSENT AGENDA

PUBLIC HEARINGS

8. Consider, and act upon, a transfer of ownership of Dispenser Liquor License to License Numbers 0119, 0283, and 0910, located at 100 N. White Sands Blvd, 822 N. Scenic Drive and 2201 N. White Sands Blvd to BW & Gas Convenience Retail. *(Rachel Hughs, City Clerk and Marvin Green, Allsup's Regional Manager)*

UNFINISHED BUSINESS

9. Consider, and act upon, Case V-2020-0002(A) to allow the placement of a 14x46 manufactured home that has been placed in the rear yard of the property located at 818 8th Street, within an R-3 Zoning District (Two Family Dwelling District). *(Stella Rael, City Planner)* **(Roll Call Vote Required)**

NEW BUSINESS

10. Consider, and act upon, Ordinance 1626 for first publication authorizing the execution and delivery of a loan and subsidy agreement for the amount of $2,151,300.00 between the City of Alamogordo and New Mexico Finance Authority. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

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

ADJOURNMENT

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 1/28/2021 **Report No:** 1.

Submitted By:

Subject: The Alliance for Regional Military Support (ARMS) will provide a briefing on activities in support of Holloman AFB and the regional military installations of Las Cruces (WSMR), and El Paso (Fort Bliss). *(Richard Dayoub, ARMS Treasurer and Gus Rodriguez, ARMS Chairman)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Information only.

Background: Mr. Dayoub and Mr. Rodriguez from the Alliance for Regional Military Support will provide a briefing to the City of Alamogordo of activities in support of Holloman AFB, the City of Alamogordo, and the regional military installations of Las Cruces (WSMR), and El Paso (Fort Bliss) known as the Triad.

City of Alamogordo City Commission Meeting
AGENDA REQUEST FORM

Today's Date: January 27, 2021

Request Date of Meeting: Tuesday, February 9th, 2021

Name and Title: Richard E. Dayoub, Treasurer, Alliance for Regional Military Support

Address: 1460 Common Drive

El Paso, Texas **ZIP** 79936

Phone Number: 915-203-6573

E-Mail Address: richard.dayoub@outlook.com

Item requested will be for Information only

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

The Alliance for Regional Military Support will provide a briefing to the City of Alamogordo of our activities in support of Holloman AFB, the City of Alamogordo, and the regional military installations of Las Cruces (WSMR), and El Paso (Fort Bliss) known as the Triad.

Signature: Richard Dayoub

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

Phone: (575) 439-4100 **Fax: (575) 439-4396** **E-mail: rhughs@ci.alamogordo.nm.us**

Revised 6/16/2020

Alliance for Regional Military Support

Presentation To
City of Alamogordo

ALLIANCE FOR REGIONAL MILITARY SUPPORT

www.allianceforregionalmilitarysupport.com

MISSION, GOAL AND STRATEGY OF ARMS

- **Mission**:
  - Ensure Fort Bliss, White Sands Missile Range and Holloman Air Force Base “the triad” remain an integral part of America’s National Defense Strategy
- **Vision**
  - Maintain the relevance and enhance the military value of our region and our joint regional military complex, support our defense workforce, and sustain and strengthen our Nation's defense technical and industrial base
- **Strategy**
  - Develop actionable initiatives to address goals and collaborate locally, regionally, and nationally to achieve results

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.

CURRENT GOVERNMENT PARTNERS

- El Paso County
- City of Alamogordo
- County of Otero
- County of Dona Ana
- Horizon Economic Development Corporation
- The City of Las Cruces
- The City of El Paso

CURRENT BUSINESS PARTNERS

- First Light Federal Credit Union
- Southwest Land Development
- Hyundai of El Paso
- Casa Ford
- Tropicana Homes
- Jobe Materials
- Bohannon Development
- Pride Industries
- MCA
- Pride Industries
- Tenet Healthcare
- River Oaks Properties
- El Paso Electric Company
- Rocky Mountain Mortgage
- GECU
- Hospitals of Providence
- Borderplex-Alliance
- Raytheon Technologies

NOTABLE ACCOMPLISHMENTS

- Conducted a joint meeting with Congresswomen Veronica Escobar and Former Congresswoman Xochitl Torres-Small to discuss their impact on the HASC and the way forward with advocacy for the region.
- Conducted a formal briefing with newly elected Congresswoman Yvette Herrell
- Conducted a formal briefing with newly elected Senator Ben Ray Lujan
- Alamogordo Community Leaders have continuous communications with Cypress International, ARMS' consultant, to address needs and opportunities related to Holloman AFB
- Scheduling Meeting with Holloman AFB Garrison Commander to Discuss Installation Priorities
- Continuing meetings with Army Medical Command and the Defense Health Agency officials to discuss their transition plans and to help ensure that the region retains appropriate health care services. Conducted Town-Hall with WBAMC and the VA
- Working with Medical Center of the Americas to coordinate transition with the Defense Health Agency to minimize impact to military/dependent health care.

NOTABLE ACCOMPLISHMENTS

- Working closely with AFC (Army Futures Command) in Austin to reengage bringing experts to El Paso to deliver needed information to small businesses in order to showcase Triad region's capabilities.
- Facilitated meetings between General Murray (Commander, AFC) and Congresswomen Escobar and former Congresswoman Torres-Small
- Coordinated the visit of General Paul Funk (Training and Doctrine Command) with 30+ civic leaders and educators.
- Coordinated a meeting with Congresswomen Escobar and General Garrett (Forces Command Commanding General)
- Hosted a regional briefing for Triad partners with White Sands Missile Range Commander (BG Trybula)
- Hosted a meeting with Army Test and Evaluation Command (BG Gallivan) for Triad partner organizations
- Met with Fort Bliss Garrison Commander to discuss Mobilization-Force Generation Missions and Infrastructure Requirements to support all military branches
- Had discussions with LTG McKean from Army Futures Command and coordinated his upcoming visit to El Paso and Las Cruces.

WAY FORWARD

- Continue to modernize Fort Bliss as a Mobilization Force Generation Installation
- Proactively pursue continuous improvement of regional Military Medical capabilities
- Stay engaged with Army Futures Command and AFWERX
- Advocate for Holloman AFB capabilities (Red Air, WSMR airspace for AF MQ-9 and F-16)
- Advocate for White Sands Missile Range capabilities
- Advocate for Joint Modernization Command, 32nd Air and Missile Defense Command and JTF-N headquartered at Fort Bliss
- Sustain and improve the Defense workforce by building a pipeline of veterans training in the region
- Sustain safe, desirable, affordable off-post housing
- **Working with area school districts to focus curricula on STEM, A.I., Autonomy and Data Mining**
- Prevent encroachment
- Continue to advocate for and improve air service at the El Paso International Airport
- Engage and Encourage political leaders to advocate for Fort Bliss, WSMR and Holloman AFB
- Developing talking points for community leaders regarding the regional military complex.

QUESTIONS?

CONTACTS

Mr. Gus Rodriguez	Chair	Gus.Rodriguez@allianceforregionalmilitarysupport.com
Mr. John Baily	Vice Chair	John.Baily@allianceforregionalmilitarysupport.com
Mr. Richard Dayoub	Treasurer	Richard.Dayoub@allianceforregionalmilitarysupport.com
Mr. Lance Lehr	Secretary	Lance.Lehr@allianceforregionalmilitarysupport.com
Mr. Tom Thomas	Member	Tom.Thomas@allianceforregionalmilitarysupport.com

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** **Report No:** 2.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the January 26, 2021 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
6:00 P.M., VIRTUAL MEETING
January 26, 2021

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

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

Mayor Boss called the meeting to order at 6:00 p.m. Roll Call was taken by the Deputy Clerk. Deputy Clerk Gutierrez announced there was a quorum present. Invocation was given by Commissioner Payne and the Pledge of Allegiance was led by Mayor Pro-Tem Sikes.

APPROVAL OF AGENDA

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

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:

1. City Manager Cesar stated that for the current budget fiscal year, we had to revise the budget three or four times due to the Covid restrictions. Now with the new administration at the Federal level and the feedback we were receiving from the New Mexico Municipal League regarding legislation at the State level, there was a possibility of the minimum wage being raised to $15.00 per hour. Right now, in New Mexico our minimum wage was $10.50 per hour, and it was going to be increasing to $12.00 per hour. If it passed at the Federal level and since it was a Covid relief bill, he was assuming that at the Federal level it was going to take effect within a relatively short order. What that meant was that we were looking at an increase of $4.50 almost immediately for our employees. In running the numbers for the $12.00 hour wage, for every dollar we went up across the board in wages, it equated to approximately $1 million. So, if they were looking at all employees receiving a $4.50 increase in wages, that would be closer to $4.5 million which would be a serious hit on our operational budgets. That would likely result in reduced staffing levels and some City services possibly going away. If it did not pass at the Federal level, there was possibly a bill being introduced at the State level that would take the State minimum wage to $15 per hour. The only saving grace was that if it were not passed at the Federal level but was passed at the State level, it would be phased in like the current minimum wage was over a number of years. Even enacting the remaining taxes the City had the ability to enact, which was a little over a quarter percent, it still did not fill in that gap. Staff was watching this, and it would be factored into the budget process if it did come to pass. Mayor Boss asked if they also considered what the effect would be on those that were currently making $15.00 an hour and who would probably be expecting a raise because of that. City Manager Cesar said technically they could just take all employees who were below $15.00 and just move them up to $15.00, but that would create the salary compression. For example, a police officer position would start at $15.00 hour, and a clerk at the Recreation Center would also start at $15.00 per hour. With that salary compression, they would not be able to attract people to certain positions. So, they would propose, as had been done when the minimum wage went to $12.00 per hour, the increases throughout the various levels of the City with possibly having to eliminate positions and close certain facilities down. They would also be

looking at restructuring management and consolidating in some areas. It was too early to tell anything because we did not know what was going to happen at either the Federal or State level. But if it were phased in, it would not be as drastic as an increase that started immediately.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner Rardin made the following comments:
Commissioner Rardin asked for an update on an issue he had brought up a few months ago regarding the jump in White Sands Blvd. City Manager Cesar said the Utility Maintenance Department had gone out to make sure there was not a water break on a fire hydrant service line, etc., and they did not find an indication of one. The street had not been opened up to take out that dip and be repaved, partially due to the lower staffing levels because of Covid. Also, Public Works currently had utility maintenance and utility construction staff tied up with the multiple number of water breaks we were having. Also, they were giving support to the contractor for the utility contractor for the utility relocations that were in the final phase up near Scenic Drive and Thunder Road. He would get with the Public Works Director in the morning and make sure they got out and took care of this dip. Commissioner Rardin said it was a dip that someone could actually get airborne on. City Manager Cesar said with the water breaks and having to patch behind the repairs, we did not have open segments of asphalt.

CONSENT AGENDA

1. Approve the minutes for the January 12, 2021 Regular meeting. *(Rachel Hughs, City Clerk)*

2. Consider, and act upon, Resolution 2021-03, Adoption of Required Community Development Block Grant (CDBG) Annual Certifications and Commitments. *(Debbie Osborne, Grant Coordinator*)

3. Consider, and act upon, Resolution 2021-04 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 January 26, 2021 *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)

Commissioner Rardin moved to approve items 1, 2, and 3 of the consent calendar.
Mayor Pro-Tem Sikes seconded the motion.
Roll Call vote was taken.
Motion carried with a vote of 7-0-0.

NEW BUSINESS

4. Consider, and act upon, Case V-2020-0002(A) to allow the placement of a 14x46 manufactured home that has been placed in the rear yard of the property located at 818 8th Street, within an R-3 Zoning District (Two Family Dwelling District). *(Stella Rael, City Planner)* (Roll Call Vote Required)

City Manager Cesar said we had word from the applicant this afternoon that he needed to have this item moved to the next Commission meeting.

Commissioner Baldwin moved to table the item.
Commissioner Rardin seconded the motion.
Roll Call vote was taken.
Motion carried with a vote of 7-0-0.

5. Consider, and act upon, the budget process and documents for the FY2021 - FY2022 preliminary budget. *(Evelyn Huff, Finance Director)*

Finance Director Huff said this was the annual conversation they had at the beginning of the budget process each year to discuss how the Commission wanted to have the budget information presented to them. They always talked about the different options in order that staff could make sure they had the correct information before the Commission when the budget was brought forward. Normally for the past two or three budget cycles, they had presented each Commissioner with the summary budget pages from the summary book. These pages summarized all the different lines in the departments so they could see them in a one-page view. Then they offered the full presentation of the budget in three binders that they would leave in the Commissioners' office in order that they could at their leisure go through the budget page by page and line by line for every fund. It was planned they would have those books available by mid-April, which was two weeks before the Commission budget hearings scheduled for May. During those hearings, they would have the PowerPoint presentation with all the department information. They were always open for questions and they could delve deeper into things if they needed to. She was open to suggestions on whether they liked the way it had been done, or if anyone wanted to see something different, they had a lot of different options available. She hoped they would not be held virtually again because it was hard to interact virtually and to ask questions. Any feedback was welcome.

Mayor Boss felt it went well the way they had handled it last year and they had the entire budget available to them if they wanted to look at it. That would work for him again. Mayor Pro-Tem Sikes and Commissioner Baldwin agreed. Commissioner McDonald agreed and said she liked the summary pages.

Finance Director Huff said with the possible changes to minimum wage and if they had to update after the books were presented, they would get any updated information to the Commission up until the budget hearings. Hopefully, they would know by the middle of April pretty solidly what they needed to do. Commissioner Rardin asked if when they ran the numbers on the $15.00 per hour potential minimum wage increase, could they possibly look at running $4.50 for anyone below $15.00 per hour and maybe a threshold of $2.50 for anyone above the $15.00? From a business standpoint, trying to give everybody a raise of $4.50, which was $1 million per dollar, it was a lot of money. Also, that $4.5 million was a reoccurring expense year after year. If they could receive a couple different scenarios, such as $2.00 or $2.50 for anyone above $16.00 to $18.00. Finance Director Huff said she had met with Deputy Human Resources Manager Torres today and they reviewed the payroll projection system and talked about running different scenarios. It was something they were already planning for, so they would be able to bring the Commission a lot of different options. Commissioner Rardin asked if they looked at what potential services or jobs would be cut if this increase did happen? City Manager Cesar said they were starting to look at it, but nothing had been decided to be proposed to the Commission yet. Commissioner Rardin said the Commission would have to face the backlash that created whenever they had to make the hard decision on what services needed to be cut. City Manager Cesar said the City had the essential services it needed to provide, and they had the other services. Expect nonessential services to be the area where they would make the recommendations to be hit harder than the essential services.

Commissioner Baldwin moved to present the budget in the format it was presented in last year, and with the scenarios as requested by Commissioner Rardin.
Commissioner Rardin seconded the motion.
Motion carried with a vote of 7-0-0.

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

Mayor Boss read the openings and reappointed Ryan Sanders to the Public Library Board and wished to thank him for the service he had given that Board in the past. Mayor Boss reappointed Kay Ekman to the Senior Volunteer Programs Advisory Council and wanted to thank her for the work she had put into this Council. No one was opposed.

ADJOURNMENT

Commissioner McDonald moved to adjourn at 6:25 p.m.
Commissioner Payne seconded the motion.
Motion carried with a vote of 7-0-0

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Teresa Gutierrez, Deputy Clerk)
Approved at the Regular Meeting held on February 9, 2021.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/1/2021 **Report No:** 3.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, acceptance of grant agreement from NMDOT, Aviation Division, to Alamogordo-White Sands Regional Airport in the amount of $9,200.00 to obtain construction cost estimates for Taxiway A. *(Jim Talbert, Airport Manager*)

Fiscal Impact: $9,200
Amount Budgeted: $0.00
Fund: 091

Additional Fiscal Impact: Grant award of $9,200. No match required.

Recommendation: Accept grant agreement.

Background: In a recent meeting with the FAA and the city the primary discussion was concerning upgrading the airport from a B-2 status (250-foot clearance runway center line to main taxiway centerline) to a C-2 or C-3 status (300 feet or 400-foot clearance respectively, runway center line to main taxiway centerline). This change is in consideration of larger ariel tankers and the future possibility of a major airline servicing the Alamogordo Airport. Moving the taxiway to 300 feet puts it in the current water drainage ditch, where 400 feet would put it on the other side of the ditch. The FAA believes that the 400-foot option is the better one. Also, at 300 feet, the FAA will only fund a 35-foot wide taxiway and at 400 feet the FAA will fund a 50 foot wide taxiway. The current taxiway is 75 feet wide. The 400-foot option will have enough spacing for tanker aircraft in the pits and aircraft at the terminal to have adequate clearance for safe operation. This project is heavily dependent on FAA funding. The FAA is requesting a cost comparison between a complete reconstruction of the existing taxiway (A) at a 50-foot width and construction of a new taxiway at 400-foot separation at a width of 50 feet. The 50 foot wide estimate allows for a equal comparison. Both estimates will be for the same length of both taxiways. The estimate will not include any extension to the end of the now extended runway. The intent of doing the estimate this way is to provide two identical length and width taxiways. This estimate will not limit any future development. It is obvious that the new taxiway construction cost will be greater than the reconstruction. The FAA wants to know how much more the new construction will cost in order to make a determination of which project they will fund. Armstrong, the airport's engineering consultant, provided an estimate as to how much creating this estimate would cost. The State DOT AD then offered a 100% reimbursable grant to pay for this estimate. There will be no City match for this grant. The airport has funds budgeted in the current FY to cover this reimbursable grant.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

Aviation Grant Agreement Form

Date	Jan 25, 2021
Project Location	ALM - ALAMOGORDO MUNICIPAL AIRPORT

Sponsor	ALAMOGORDO, CITY OF
Address	1376 EAST 9TH ST
City	ALAMOGORDO
NM	
Zip Code	88310

The Sponsor must sign and send a digital PDF copy to their Airport Development Administrator at the NMDOT Aviation Division.

Participation STATE ONLY

Funding Breakdown 100-0

Contract No._______________

Project No. ALM-21-04

Vendor No. 0000054303-5

Expiration Date_____________

Purchase Order No:_______________________________

AVIATION GRANT AGREEMENT

This Agreement is between the New Mexico Department of Transportation, acting through its Aviation Division (Department), and the Sponsor. This Agreement is effective as of the date of the last party to sign on the signature page below.

Now Therefore, pursuant to the New Mexico Aviation Act, NMSA 1978, Section 64-1-11 et seq., and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq., the parties agree as follows:

1. Purpose.
The purpose of this Agreement is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an aviation project.

a. Project Description:

TWY A CONSTRUCTION COST ESTIMATES

b. Site of Development.The site of development is identified on the property map, attached as Exhibit A.
c. Funding.Below is the funding for the Project. The State's contribution is the maximum amount that the Department will contribute. Attached as Exhibit B is the engineer's cost estimate.

State	Sponsor	Other	Total
$ 9,200	$ 0	$ 0	$ 9,200

2. The Sponsor Shall:

a. Pay all costs, perform all labor, and supply all material, except as described in the Engineers Estimate attached as EXHIBIT B.
b. Provide a representative from its organization who shall serve as the single point of contact for the Department.
c. Establish and maintain a resolution by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for management of the program.
d. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
e. Be responsible for all design and pre-construction activities.
f. Initiate and cause to be prepared all necessary documents including plans, specifications, estimates (PS&E), and reports for this Project.
g. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
h. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. Construction projects will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

i. Notify the Department when the plans and specifications are sufficiently complete for review.
j. Make no changes in design or scope of work without documented approval of the Department.
k. Advertise for and contract for the construction of the Project in accordance with federal and state laws or local ordinances.
l. Require the Engineer to prepare a final detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Department in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.
m. The Sponsor shall submit to the Department one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
n. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent in violation of state laws and rules. The Sponsor shall return any recovered state funds to the Department. It shall furnish to the Department, upon request, all documents and records pertaining to the determination of the amount of the state's share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such state funds shall be approved in advance by the Department.
o. The Sponsor shall, upon reasonable notice, allow the Department the right to inspect the Project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being complied with satisfactorily. If an inspection discloses a failure to substantially meet such requirements and standards the Department may terminate payment or payments until a mutually satisfactory remedy is reached.

3. The Department Shall:

a. Assign a contact person for this project.
b. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
c. The Department shall not provide an extensive check of any plans submitted by the Sponsor. The Department's concurrence of the Project plans does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

4. Both Parties Agree:

a. The allowable costs of this Project shall not include costs determined by the Department to be ineligible for consideration under the Aviation Act.
b. The expenditure of any State money is subject to approval by the Department.
c. Funds granted under the Local Governments Road Fund, NMSA 1978 Section 67-3-28.2, shall not be used to administer this Project or used to meet the local match.

5. Method of Payment - Reimbursement.

The Department shall reimburse the Sponsor in accordance with the terms of this agreement. Claims for reimbursement shall be completed on form A-1159, Request for Reimbursement. Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Department reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

6. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Department or State Auditor, upon demand, all records which support the terms of this Agreement.

7. Term.
The Agreement becomes effective upon signatures of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This agreement shall expire two (2) years from the effective date, unless terminated pursuant to Sections 8 and 17, below.

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

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

By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

9. Disposition of Property.

a. Upon termination of this Agreement, the Sponsor shall account for any remaining property, materials or equipment belonging to the Department and dispose of them as directed by the Department.
b. Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes maintained according to the manufacturers guidelines and stored at the airport.

10. Representations and Certification.
The Sponsor, by signing this Agreement, represents and certifies the following:

a. <u>Legal Authority</u> - The Sponsor has the legal power and authority to: (1) do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) accept, receive and disburse grant funds from the State of New Mexico in aid of the Project; and (3) carry out all provisions stated in this Aviation Grant Agreement.

b. <u>Defaults</u> - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.

c. <u>Possible Disabilities</u> - The Sponsor states, by execution of this Agreement, there are no facts or circumstance (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.

d. <u>Land</u> - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

11. Assurances.
The Sponsor, by signing this Agreement, covenants and agrees to the following Assurances:

a. That it will operate the airport for the use and benefit of the public on fair and reasonable terms and without unjust discrimination.
b. That it will keep the airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes. The Sponsor shall establish fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation.

c. Neither it nor any person or organization occupying space at the airport will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility and, further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis.
d. Operate and maintain in a safe and serviceable condition the airport and all facilities which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
e. By acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
f. Comply with the New Mexico Aviation Act and associated provisions, NMSA 1978 Sections 64-1-1 to 64-5-4 and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq.
g. That it shall not award the contract nor give bidding documents to any contractor who is subject to suspension or debarment by the U.S. Department of Transportation or the Department at the time of the bidding or award of the contract. Violation of this provision shall void this Agreement.

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

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

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

15. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

16. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

17. Appropriations and Authorizations of State and Federal Funds.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Sponsor, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Sponsor, Legislature or the Congress of the United States if federal funds are involved, this Agreement shall terminate upon written notice being given by one party to the other. The Department and the Sponsor are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

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

19. Applicable Law.
The Laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

20. Principal Contacts and Notices.
The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

Name:	Daniel R. Moran
Title:	Finance & Administrative Manager
Address:	New Mexico Department of Transportation - Aviation Division 3501 Access Rd C. Albuquerque, NM 87106
Office:	(505) 244-1788 ext. 9112
Fax:	(505) 244-1790
E-mail:	dan.moran@state.nm.us

Name	JIM TALBERT		
Title	AIRPORT MANAGER		
Sponsor	ALAMOGORDO, CITY OF		
Address	1376 EAST 9TH ST		
City	ALAMOGORDO	NM Zip Code	88310
Office Phone	+1 (575) 439-4110	Fax	
E-Mail	JTAIRPORTMANAGER@CI.ALAMOGORDO.NM.US		

21. Amendment.
This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties.

In witness whereof, each party is signing this Agreement on the date stated opposite of that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_________________________________ Date: ________________
Cabinet Secretary or Designee

Recommended by:

By:__________________________________ Date: _________________
Aviation Division Director
or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By:_________________________________ Date: __________________
Assistant General Counsel

SPONSOR

Print Name: Brian Cesar

By:____ Date:_________________

Title: City Manager

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/2/2021 **Report No:** 4.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, acceptance of grant agreement from NMDOT, Aviation Division, to Alamogordo-White Sands Regional Airport in the amount of $72,000.00 to install remaining solar runway lights. *(JimTalbert, Airport Manager*)

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: Grant award of $72,000. No match required.

Recommendation: Accept grant agreement.

Background: This FY, the state of New Mexico DOT aviation division reported that they had some money available for airport project grants. In order to receive a grant, there were some criteria that needed to be met such as the project had to be safety related and not pavement related. The project also needed to be under a certain dollar amount. I put together some different projects, and the state approved the purchase of dual sided solar “foot remaining signs” for the paved runway. Currently there are some single sided reflective signs, but since the runway has been extended, those do not cover the entire length of the runway. Also because of the age of the existing wiring, and the power capacity, installing normal power lights would require replacing all the runway wiring. The purpose of the lights is to provide a large sign, approximately 3 feet by 3 feet, showing how much runway is left. This allows the pilot of larger aircraft, such as the Slurry tankers, to know how much runway is ahead for a safe take off or on landing roll out. These lights can be installed by Facility Maintenance. These lights will meet one of the FAR part 139 safety requirements for the future possibility of a major airline coming to Alamogordo. This is a 100% reimbursable grant, not the normal 90-10 grant. There will be no city match. The airport has funds budgeted in the current FY to cover this reimbursable grant.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

Aviation Grant Agreement Form

Date 1/20/2021

Project Location: ALM - ALAMOGORDO MUNICIPAL AIRPORT

Sponsor: ALAMOGORDO, CITY OF

Address: 1376 EAST 9TH ST

City: ALAMOGORDO NM Zip Code: 88310

The Sponsor must sign and send a digital PDF copy to their Airport Development Administrator at the NMDOT Aviation Division.

Participation STATE ONLY

Funding Breakdown 100-0

Contract No._______________

Project No. ALM-21-03

Vendor No. 0000054303-5

Expiration Date_____________

Purchase Order No:________________________________

AVIATION GRANT AGREEMENT

This Agreement is between the New Mexico Department of Transportation, acting through its Aviation Division (Department), and the Sponsor. This Agreement is effective as of the date of the last party to sign on the signature page below.

Now Therefore, pursuant to the New Mexico Aviation Act, NMSA 1978, Section 64-1-11 et seq., and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq., the parties agree as follows:

1. Purpose.
The purpose of this Agreement is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an aviation project.

a. Project Description:

SOLAR RUNWAY REMAINING LIGHTS

b. Site of Development.The site of development is identified on the property map, attached as Exhibit A.
c. Funding.Below is the funding for the Project. The State's contribution is the maximum amount that the Department will contribute. Attached as Exhibit B is the engineer's cost estimate.

State	Sponsor	Other	Total
$ 72,000	$ 0	$ 0	$ 72,000

2. The Sponsor Shall:

a. Pay all costs, perform all labor, and supply all material, except as described in the Engineers Estimate attached as EXHIBIT B.
b. Provide a representative from its organization who shall serve as the single point of contact for the Department.
c. Establish and maintain a resolution by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for management of the program.
d. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
e. Be responsible for all design and pre-construction activities.
f. Initiate and cause to be prepared all necessary documents including plans, specifications, estimates (PS&E), and reports for this Project.
g. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
h. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. Construction projects will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

i. Notify the Department when the plans and specifications are sufficiently complete for review.
j. Make no changes in design or scope of work without documented approval of the Department.
k. Advertise for and contract for the construction of the Project in accordance with federal and state laws or local ordinances.
l. Require the Engineer to prepare a final detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Department in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.
m. The Sponsor shall submit to the Department one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
n. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent in violation of state laws and rules. The Sponsor shall return any recovered state funds to the Department. It shall furnish to the Department, upon request, all documents and records pertaining to the determination of the amount of the state's share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such state funds shall be approved in advance by the Department.
o. The Sponsor shall, upon reasonable notice, allow the Department the right to inspect the Project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being complied with satisfactorily. If an inspection discloses a failure to substantially meet such requirements and standards the Department may terminate payment or payments until a mutually satisfactory remedy is reached.

3. The Department Shall:

a. Assign a contact person for this project.
b. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
c. The Department shall not provide an extensive check of any plans submitted by the Sponsor. The Department's concurrence of the Project plans does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

4. Both Parties Agree:

a. The allowable costs of this Project shall not include costs determined by the Department to be ineligible for consideration under the Aviation Act.
b. The expenditure of any State money is subject to approval by the Department.
c. Funds granted under the Local Governments Road Fund, NMSA 1978 Section 67-3-28.2, shall not be used to administer this Project or used to meet the local match.

5. Method of Payment - Reimbursement.

The Department shall reimburse the Sponsor in accordance with the terms of this agreement. Claims for reimbursement shall be completed on form A-1159, Request for Reimbursement. Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Department reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

6. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Department or State Auditor, upon demand, all records which support the terms of this Agreement.

7. Term.
The Agreement becomes effective upon signatures of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This agreement shall expire two (2) years from the effective date, unless terminated pursuant to Sections 8 and 17, below.

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

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

By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

9. Disposition of Property.

a. Upon termination of this Agreement, the Sponsor shall account for any remaining property, materials or equipment belonging to the Department and dispose of them as directed by the Department.
b. Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes maintained according to the manufacturers guidelines and stored at the airport.

10. Representations and Certification.
The Sponsor, by signing this Agreement, represents and certifies the following:

a. Legal Authority - The Sponsor has the legal power and authority to: (1) do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) accept, receive and disburse grant funds from the State of New Mexico in aid of the Project; and (3) carry out all provisions stated in this Aviation Grant Agreement.

b. Defaults - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.

c. Possible Disabilities - The Sponsor states, by execution of this Agreement, there are no facts or circumstance (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.

d. Land - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

11. Assurances.
The Sponsor, by signing this Agreement, covenants and agrees to the following Assurances:

a. That it will operate the airport for the use and benefit of the public on fair and reasonable terms and without unjust discrimination.
b. That it will keep the airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes. The Sponsor shall establish fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation.

c. Neither it nor any person or organization occupying space at the airport will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility and, further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis.
d. Operate and maintain in a safe and serviceable condition the airport and all facilities which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
e. By acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
f. Comply with the New Mexico Aviation Act and associated provisions, NMSA 1978 Sections 64-1-1 to 64-5-4 and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq.
g. That it shall not award the contract nor give bidding documents to any contractor who is subject to suspension or debarment by the U.S. Department of Transportation or the Department at the time of the bidding or award of the contract. Violation of this provision shall void this Agreement.

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

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

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

15. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

16. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

17. Appropriations and Authorizations of State and Federal Funds.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Sponsor, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Sponsor, Legislature or the Congress of the United States if federal funds are involved, this Agreement shall terminate upon written notice being given by one party to the other. The Department and the Sponsor are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

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

19. Applicable Law.
The Laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

20. Principal Contacts and Notices.
The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

Name:	Daniel R. Moran
Title:	Finance & Administrative Manager
Address:	New Mexico Department of Transportation - Aviation Division 3501 Access Rd C. Albuquerque, NM 87106
Office:	(505) 244-1788 ext. 9112
Fax:	(505) 244-1790
E-mail:	dan.moran@state.nm.us

Name	JAMES TALBERT
Title	AIRPORT MANAGER
Sponsor	ALAMOGORDO, CITY OF
Address	1376 EAST 9TH ST
City	ALAMOGORDO NM Zip Code 88310
Office Phone	+1 (575) 439-4110 Fax
E-Mail	JTAIRPORTMANAGER@CI.ALAMOGORDO.NM.US

21. Amendment.
This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties.

In witness whereof, each party is signing this Agreement on the date stated opposite of that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:________________________________ Date: _______________
Cabinet Secretary or Designee

Recommended by:

By:_________________________________ Date: ________________
Aviation Division Director
or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By:________________________________ Date: _________________
Assistant General Counsel

SPONSOR

Print Name: Brian Cesar____________________

By:_______________________________________ Date:________________

Title: City Manager______________________

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/2/2021 **Report No:** 5.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, acceptance of extension of grant and additional funding in the amount of $84,953.33, awarded to Alamogordo Police Department from Paso Del Norte Health Foundation. *(Richard Denton, Police Chief)*

Fiscal Impact: $84,953.33
Amount Budgeted: $0.00
Fund: 024

Additional Fiscal Impact: Additional funding of $84,953.33. No match required.

Recommendation: Accept grant extension and additional funding.

Background: In October, 2019, Paso del Norte Health Foundation Board of Directors awarded Alamogordo Police Department $211,603.57 for their project titled "Improving systems to improve care: Building a culture of CIT in Alamogordo." Progress on the project was delayed when Covid-19 restrictions began. Consequently, Paso del Norte Health Foundation has agreed to a grant extension to 11/1/2021, and is providing addition funding in the amount of $84,953.33 to cover the CIT Clinical Director's salary and benefits.

January 20, 2021

Mr. Brian Cesar
City of Alamogordo
700 Virginia Ave.
Alamogordo, NM 88310

Dear Mr. Cesar:

The Memorandum of Agreement entered on 9/26/2019 for your grant titled 2019 BHC: Improving systems to improve care: Building a culture of CIT in Alamogordo under the Behavioral Health Consortium Initiative was approved for a 24-month term. I am pleased to inform you that a cost-extension (extension of the grant term with additional funding) has been approved for your grant. The new grant term is 11/1/2019 to 11/1/2021.

An amendment to the Memorandum of Agreement is included with this document. To complete the amendment process, please use the DocuSign system to sign and return the amendment. This letter does not substitute for the signed agreement and no additional costs should be incurred until the amendment is signed and returned. After signing the amendment, a copy will be emailed to you for your records.

We look forward to our continued collaboration. If you have any questions about this amendment, please contact Enrique Mata at (915) 253-0287.

Sincerely,

DocuSigned by:
TRACY J YELLEN
57BC41245678430
Tracy J. Yellen
CEO

cc: File
Enrique Mata

2175

Cost-extension
Rev. 11/11/2019 C. Perez

Reference #: 2175

COST-EXTENSION AMENDMENT TO MEMORANDUM OF AGREEMENT

This is an Amendment to the Memorandum of Agreement, made and entered on 9/26/2019 by and between Paso del Norte Health Foundation (**Health Foundation**) and City of Alamogordo (**Grantee**). The Amendment is effective as of January 20, 2021.

Agreement:

The Health Foundation made a grant to Grantee for 2019 BHC: Improving systems to improve care: Building a culture of CIT in Alamogordo (**Program**) under the Behavioral Health Consortium initiative on 9/26/2019 for $211,603.57.

This amendment extends the term of the grant with additional funding in the amount of $84,953.33. The new grant end date is 11/1/2021. The new grant term is 11/1/2019 to 11/1/2021 and is subject to the following:

1) Grantee agrees to continue the Program as described in Grantee's original proposal dated 7/16/2019.

2) Grantee agrees to provide the Health Foundation with timely grant progress and financial reports regarding the Program in accordance with the following schedule:

Requirement	Due Date	Associated Payment
Signed Amended MOA	01-25-2021	$84,953.33
Progress & Financial Report	06/14/2021	0.00
Final & Financial Report	11/22/2021	0.00

This Amendment becomes a part of and is subject to all mutual covenants, undertakings, agreements and representations contained in the original Memorandum of Agreement dated 9/26/2019.

Amendment is accepted by signing below.

"Health Foundation"
Paso del Norte Health Foundation

DocuSigned by:
By: TRACY J YELLEN
37BC41243678430...
Tracy J. Yellen, CEO

Date: 1/20/2021 | 7:19 PM MST

"Grantee"
City of Alamogordo

DocuSigned by:
By: Mr. Brian Cesar
88A3441D5B524F8...
Brian Cesar, Interim City Manager

Date: 1/25/2021 | 9:01 AM MST

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/2/2021 **Report No:** 6.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Resolution 2021-06 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 February 9, 2021. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: Beginning Cash Balances $0
Revenues 81,200 Increase
Expenditures 972,000 Increase
Transfers In 33.000 Increase
Transfers Out 33.000 Increase

Net Impact (890,800)

Recommendation: Approve the resolution

Background: The City Commission adopted the FY 2020-2021 budget on May 26, 2020. The Department of Finance & Administration granted approval of the City of Alamogordo's Fiscal Year 2020-2021 Final Budget on August 4, 2020. Resolution 2021-04 amends the budget to reflect a more true and accurate projection of the actual revenues and expenditures. A summary and explanation of the revisions are attached for your review.

1/12TH REQ RSRV
1,185,378
1/12TH REQ RSRV
0
Fund Reserve Policy
462,900
Bal. Remaining
4,571,721

ALL FUNDS SUMMARY
BUDGET 2020-2021

FY21 BUDGET - RESOLUTION 2021-06 (#7) FEBRUARY 9, 2021

FUND NO.	FY 2020-2021 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	10,851,509	16,410,376	310,000	7,127,352	(6,817,352)	14,224,534	6,219,999	1,648,278	4,571,721
12	INTERNAL SERVICE FUND	75,354	419,050	2,826,751	41,528	2,785,223	3,212,967	66,660		$66,660
15	CORRECTIONS-JAIL	10,557	81,827	69,300	273	69,027	161,000	411		$411
16	LODGER'S TAX-PROMOTIONAL FUND	193,655	129,454	2,839	1,159	1,680	219,126	105,663		$105,663
17	POLICE COURT BOND	7,938	0	0	0	0	0	7,938		$7,938
19	COURT AUTOMATION FUND	0	68,566	0	9,000	(9,000)	49,537	10,029		$10,029
20	LODGER'S TAX-CITY	39,187	258,247	58,000	61,971	(3,971)	225,931	67,532		$67,532
21	D.A.R.E. DONATIONS FUND	22,129	4,120	0	0	0	8,109	18,140		$18,140
24	GRANT CAPITAL IMPROVEMENT	65,880	2,107,736	20,000	0	20,000	2,119,813	73,803		$73,803
27	MUNICIPAL COURT OPERATIONS	331	13,000	448,500	15,594	432,906	442,741	3,496		$3,496
28	POLICE CONTINGENCY	59,105	2,714	0	0	0	10,000	51,819		$51,819
31	CEMETERY-PERPETUAL CARE	796,327	25,843	0	0	0	0	822,170		$822,170
32	COMMUNITY SERVICES	9,212	618,488	4,170,500	616,285	3,554,215	3,754,482	427,433		$427,433
33	FIRE PROTECTION	560,664	687,650	0	0	0	1,033,361	214,953		$214,953
35	HIDTA GRANT FUND	0	28,239	0	0	0	28,239	0		$0
36	LAW ENFORCEMENT FUND	32,692	55,200	0	0	0	87,892	0		$0
37	STATE HIGHWAY FUND	142,772	69,645	0	0	0	53,581	158,836		$158,836
38	TRAFFIC SAFETY FUND	77,841	23,684	0	0	0	36,000	65,525		$65,525
39	STATE JUDICIAL	2,171	75,500	0	0	0	75,500	2,171		$2,171
42	1984 GROSS RECEIPTS TAX	1,081,048	1,432,928	0	1,613,091	(1,613,091)	17,765	883,120	251,546	$631,574
44	TRANSPORTATION FUND	552,452	1,128,346	1,429,337	162,308	1,267,029	2,939,265	8,562		$8,562
48	NEW MEXICO C.D.B.G.	0	500,000	806,305	0	806,305	1,306,305	0		$0
49	1986 GROSS RECEIPTS TAX	5,367,554	1,493,467	0	3,041,333	(3,041,333)	321,190	3,498,498	269,505	$3,228,993
50	PROPERTY ACQUISITION	85,010	0	0	0	0	0	85,010		$85,010
53	GENERAL OBLIGATION	942,316	1,064,162	0	0	0	1,080,492	925,986	539,815	$386,171
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	37,465	0	37,465	37,465	21,967		$21,967
56	99 GRT FLOOD CONTROL BOND PROJ	19,843	30,981	3,971,608	0	3,971,608	3,763,555	258,877		$258,877
59	REVENUE BOND P & I FUND	152,016	7,250	2,679,704	0	2,679,704	2,679,704	159,266		$159,266
61	MUNICIPAL INFRASTRUCTURE .0625%	1,148,787	358,305	0	834,819	(834,819)	4,442	667,831		$667,831
63	COMMUNITY DEVELOPMENT	2,300	0	884,087	39,283	844,804	843,181	3,923		$3,923
69	1994 GROSS RECEIPTS	3,080,368	1,429,449	0	2,625,814	(2,625,814)	17,765	1,866,238	554,603	$1,311,635
71	ALAMO SENIOR CENTER	7,231	864,098	606,718	1,081	605,637	1,443,170	33,796		$33,796
74	ALAMO SENIOR CENTER GIFT	140,663	25,797	0	0	0	80,365	86,095		$86,095
75	RETIRED & SENIOR VOL. PROGRAM	382	242,606	69,500	18,496	51,004	293,576	416		$416
81	WATER/SEWER OPERATING	8,703,658	15,439,902	2,744,578	1,998,892	745,686	21,353,450	3,535,796	1,359,965	$2,175,831
82	98 JT WATER/SEWER BOND P&I	1,251,402	19,609	1,899,703	0	1,899,703	1,899,703	1,271,011		$1,271,011
86	SOLID WASTE COLLECTION SYS.	534,473	2,098,552	0	132,962	(132,962)	1,996,741	503,322	166,854	$336,468
88	BONITO CAMPGROUND	392,085	5,518	0	0	0	4,000	393,603		$393,603
89	ESGRT .0625%	3,067,403	378,127	0	1,048,210	(1,048,210)	470,178	1,927,142		$1,927,142
90	GOLF COURSE	64	1,597,648	148,000	81,190	66,810	1,631,602	32,920		$32,920

1/12TH REQ RSRV
1,185,378
1/12TH REQ RSRV
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ALL FUNDS SUMMARY
BUDGET 2020-2021

FY21 BUDGET - RESOLUTION 2021-06 (#7) FEBRUARY 9, 2021

FUND NO.	FY 2020-2021 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	120,432	810,993	100,000	45,966	54,034	920,065	65,394		$65,394
94	OTERO GREENTREE REG LANDFILL	4,137,173	1,401,009	0	8,155	(8,155)	3,555,064	1,974,963		$1,974,963
96	SELF-INSURED FUND	528,693	66,439	0	0	0	52,648	542,484		$542,484
98	PAYROLL CLEARING	212,703	0	0	0	0	0	212,703		$212,703
104	UTILITY DEPOSITS	674,999	0	0	0	0	0	674,999		$674,999
105	ECONOMIC DEVELOPMENT	3,704,019	817,789	0	0	0	346,208	4,175,600		$4,175,600
107	SELF INSURED/LIABILITY	952,065	11,694	300,000	14,718	285,282	583,948	665,093		$665,093
109	2004 GRT CAPITAL OUTLAY	13,782,068	2,997,973	0	4,043,365	(4,043,365)	7,893,347	4,843,329	533,704	$4,309,625
114	SIDEWALKS REVOLVING LOANS	141,416	2,095	0	0	0	32,360	111,151		$111,151
115	CORP ESCROW ACCOUNT RESERVE	1,000	0	0	0	0	0	1,000		$1,000
119	2012 GRT REF/IMP REVBD	690,594	24,232	0	0	0	368,966	345,860		$345,860
121	2015 GO BONDS-FUN CENTER	89,067	1,441	0	0	0	0	90,508		$90,508
122	2015 GO BONDS-STREETS	172,584	3,003	0	0	0	0	175,587		$175,587
901	HOUSING LOW RENT OPERATING	1,130,674	822,806	0	50	(50)	1,134,440	818,990	86,881	$732,109
903	HOUSING HOMEOWNERSHIP OPER	728,361	1,705	0	0	0	28,355	701,711		$701,711
904	HOUSING CAPITAL FUND PROJECTS	0	1,289,450	0	0	0	1,242,482	46,968		$46,968
	TOTALS FY2021	**66,564,194**	**57,446,713**	**23,582,895**	**23,582,895**	**0**	**84,084,610**	**39,926,297**	**5,411,151**	**34,515,146**

1/12TH REQ RSRV
1,185,378
1/12TH REQ RSRV
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ALL FUNDS SUMMARY

BUDGET 2020-2021

FY21 BUDGET - RESOLUTION 2021-06 (#7) FEBRUARY 9, 2021

FUND NO.	FY 2020-2021 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	10,851,509	16,410,376	310,000	7,094,352	(6,784,352)	14,257,534	6,219,999	1,648,278	4,571,721
	Revision #2				33,000	(33,000)	(33,000)	0		$0
	Total Revised Fund 11	**10,851,509**	**16,410,376**	**310,000**	**7,127,352**	**(6,817,352)**	**14,224,534**	**6,219,999**	**1,648,278**	**4,571,721**
12	INTERNAL SERVICE FUND	75,354	419,050	2,793,751	41,528	2,752,223	3,179,967	66,660		$66,660
	Revision #2			33,000		33,000	33,000	0		$0
	Total Revised Fund 12	**75,354**	**419,050**	**2,826,751**	**41,528**	**2,785,223**	**3,212,967**	**66,660**		**66,660**
15	CORRECTIONS-JAIL	10,557	81,827	69,300	273	69,027	161,000	411		$411
	Total Revised Fund 15	**10,557**	**81,827**	**69,300**	**273**	**69,027**	**161,000**	**411**		**411**
16	LODGER'S TAX-PROMOTIONAL FUND	193,655	129,454	2,839	1,159	1,680	219,126	105,663		$105,663
	Total Revised Fund 16	**193,655**	**129,454**	**2,839**	**1,159**	**1,680**	**219,126**	**105,663**		**105,663**
17	POLICE COURT BOND	7,938	0	0	0	0	0	7,938		$7,938
	Total Revised Fund 17	**7,938**	**0**	**0**	**0**	**0**	**0**	**7,938**		**7,938**
19	COURT AUTOMATION FUND	0	68,566		9,000	(9,000)	49,537	10,029		$10,029
	Total Revised Fund 19	**0**	**68,566**	**0**	**9,000**	**(9,000)**	**49,537**	**10,029**		**10,029**
20	LODGER'S TAX-CITY	39,187	258,247	58,000	61,971	(3,971)	225,931	67,532		$67,532
	Total Revised Fund 20	**39,187**	**258,247**	**58,000**	**61,971**	**(3,971)**	**225,931**	**67,532**		**67,532**
21	D.A.R.E. DONATIONS FUND	22,129	4,120			0	8,109	18,140		$18,140
	Total Revised Fund 21	**22,129**	**4,120**	**0**	**0**	**0**	**8,109**	**18,140**		**18,140**
24	GRANT CAPITAL IMPROVEMENT	65,880	2,107,736	20,000	0	20,000	2,119,813	73,803		$73,803
	Total Revised Fund 24	**65,880**	**2,107,736**	**20,000**	**0**	**20,000**	**2,119,813**	**73,803**		**73,803**
27	MUNICIPAL COURT OPERATIONS	331	13,000	448,500	15,594	432,906	442,741	3,496		$3,496
	Total Revised Fund 27	**331**	**13,000**	**448,500**	**15,594**	**432,906**	**442,741**	**3,496**		**3,496**
28	POLICE CONTINGENCY	59,105	2,714			0	10,000	51,819		$51,819
	Total Revised Fund 28	**59,105**	**2,714**	**0**	**0**	**0**	**10,000**	**51,819**		**51,819**
31	CEMETERY-PERPETUAL CARE	796,327	25,843			0		822,170		$822,170
	Total Revised Fund 31	**796,327**	**25,843**	**0**	**0**	**0**	**0**	**822,170**		**822,170**
32	COMMUNITY SERVICES	9,212	618,488	4,170,500	616,285	3,554,215	3,754,482	427,433		$427,433
	Total Revised Fund 32	**9,212**	**618,488**	**4,170,500**	**616,285**	**3,554,215**	**3,754,482**	**427,433**		**427,433**
33	FIRE PROTECTION	560,664	687,650	0	0	0	1,033,361	214,953		$214,953
	Total Revised Fund 33	**560,664**	**687,650**	**0**	**0**	**0**	**1,033,361**	**214,953**	**0**	**214,953**
35	HIDTA GRANT FUND	0	28,239			0	28,239	0		$0
	Total Revised Fund 35	**0**	**28,239**	**0**	**0**	**0**	**28,239**	**0**		**0**
36	LAW ENFORCEMENT FUND	32,692	55,200	0	0	0	87,892	0		$0
	Total Revised Fund 36	**32,692**	**55,200**	**0**	**0**	**0**	**87,892**	**0**		**0**

37	STATE HIGHWAY FUND	142,772	69,645	0	0	0	53,581	158,836		$158,836
	Total Revised Fund 37	**142,772**	**69,645**	**0**	**0**	**0**	**53,581**	**158,836**		**158,836**
38	TRAFFIC SAFETY FUND	77,841	23,684	0	0	0	36,000	65,525		$65,525
	Total Revised Fund 38	**77,841**	**23,684**	**0**	**0**	**0**	**36,000**	**65,525**		**65,525**
39	STATE JUDICIAL	2,171	75,500			0	75,500	2,171		$2,171
	Total Revised Fund 39	**2,171**	**75,500**	**0**	**0**	**0**	**75,500**	**2,171**		**2,171**
42	1984 GROSS RECEIPTS TAX	1,081,048	1,432,928	0	1,613,091	(1,613,091)	17,765	883,120	251,546	$631,574
	Total Revised Fund 42	**1,081,048**	**1,432,928**	**0**	**1,613,091**	**(1,613,091)**	**17,765**	**883,120**	**251,546**	**631,574**
44	TRANSPORTATION FUND	552,452	1,128,346	1,429,337	162,308	1,267,029	2,939,265	8,562		$8,562
	Total Revised Fund 44	**552,452**	**1,128,346**	**1,429,337**	**162,308**	**1,267,029**	**2,939,265**	**8,562**		**8,562**
48	NEW MEXICO C.D.B.G.	0	500,000	806,305	0	806,305	1,306,305	0		$0
	Total Revised Fund 48	**0**	**500,000**	**806,305**	**0**	**806,305**	**1,306,305**	**0**		**0**
49	1986 GROSS RECEIPTS TAX	5,367,554	1,493,467	0	3,041,333	(3,041,333)	321,190	3,498,498	269,505	$3,228,993
	Total Revised Fund 49	**5,367,554**	**1,493,467**	**0**	**3,041,333**	**(3,041,333)**	**321,190**	**3,498,498**	**269,505**	**3,228,993**
50	PROPERTY ACQUISITION	85,010	0	0	0	0	0	85,010		$85,010
	Total Revised Fund 50	**85,010**	**0**	**0**	**0**	**0**	**0**	**85,010**		**85,010**
53	GENERAL OBLIGATION	942,316	1,064,162			0	1,080,492	925,986	539,815	$386,171
	Total Revised Fund 53	**942,316**	**1,064,162**	**0**	**0**	**0**	**1,080,492**	**925,986**	**539,815**	**386,171**
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	37,465	0	37,465	37,465	21,967		$21,967
	Total Revised Fund 54	**21,967**	**0**	**37,465**	**0**	**37,465**	**37,465**	**21,967**		**21,967**
56	99 GRT FLOOD CONTROL BOND PROJ	19,843	30,981	3,971,608	0	3,971,608	3,763,555	258,877		$258,877
	Total Revised Fund 56	**19,843**	**30,981**	**3,971,608**	**0**	**3,971,608**	**3,763,555**	**258,877**		**258,877**
59	REVENUE BOND P & I FUND	152,016	7,250	2,679,704		2,679,704	2,679,704	159,266		$159,266
	Total Revised Fund 59	**152,016**	**7,250**	**2,679,704**	**0**	**2,679,704**	**2,679,704**	**159,266**		**159,266**
61	MUNICIPAL INFRASTRUCTURE .0625%	1,148,787	358,305	0	834,819	(834,819)	4,442	667,831		$667,831
	Total Revised Fund 61	**1,148,787**	**358,305**	**0**	**834,819**	**(834,819)**	**4,442**	**667,831**		**667,831**
63	COMMUNITY DEVELOPMENT	2,300	0	884,087	39,283	844,804	843,181	3,923		$3,923
	Total Revised Fund 63	**2,300**	**0**	**884,087**	**39,283**	**844,804**	**843,181**	**3,923**		**3,923**
69	1994 GROSS RECEIPTS	3,080,368	1,429,449	0	2,625,814	(2,625,814)	17,765	1,866,238	554,603	$1,311,635
	Total Revised Fund 69	**3,080,368**	**1,429,449**	**0**	**2,625,814**	**(2,625,814)**	**17,765**	**1,866,238**	**554,603**	**1,311,635**
71	ALAMO SENIOR CENTER	7,231	864,098	606,718	1,081	605,637	1,443,170	33,796		$33,796
	Total Revised Fund 71	**7,231**	**864,098**	**606,718**	**1,081**	**605,637**	**1,443,170**	**33,796**		**33,796**
74	ALAMO SENIOR CENTER GIFT	140,663	25,797	0	0	0	80,365	86,095		$86,095
	Total Revised Fund 74	**140,663**	**25,797**	**0**	**0**	**0**	**80,365**	**86,095**		**86,095**
75	RETIRED & SENIOR VOL. PROGRAM	382	242,606	69,500	18,496	51,004	293,576	416		$416
	Total Revised Fund 75	**382**	**242,606**	**69,500**	**18,496**	**51,004**	**293,576**	**416**		**416**
81	WATER/SEWER OPERATING	8,703,658	15,439,902	2,744,578	1,998,892	745,686	21,353,450	3,535,796	1,359,965	$2,175,831
	Total Revised Fund 81	**8,703,658**	**15,439,902**	**2,744,578**	**1,998,892**	**745,686**	**21,353,450**	**3,535,796**	**1,359,965**	**2,175,831**
82	98 JT WATER/SEWER BOND P&I	1,251,402	19,609	1,899,703		1,899,703	1,899,703	1,271,011	0	$1,271,011
	Total Revised Fund 82	**1,251,402**	**19,609**	**1,899,703**	**0**	**1,899,703**	**1,899,703**	**1,271,011**	**0**	**1,271,011**
86	SOLID WASTE COLLECTION SYS.	534,473	2,098,552	0	132,962	(132,962)	1,996,741	503,322	166,854	$336,468
	Total Revised Fund 86	**534,473**	**2,098,552**	**0**	**132,962**	**(132,962)**	**1,996,741**	**503,322**	**166,854**	**336,468**
88	BONITO CAMPGROUND	392,085	5,518			0	4,000	393,603		$393,603
	Total Revised Fund 88	**392,085**	**5,518**	**0**	**0**	**0**	**4,000**	**393,603**		**393,603**
89	ESGRT .0625%	3,067,403	378,127	0	1,048,210	(1,048,210)	470,178	1,927,142		$1,927,142
	Total Revised Fund 89	**3,067,403**	**378,127**	**0**	**1,048,210**	**(1,048,210)**	**470,178**	**1,927,142**	**0**	**1,927,142**

90	GOLF COURSE	64	1,597,648	148,000	81,190	66,810	1,631,602	32,920		$32,920
	Total Revised Fund 90	**64**	**1,597,648**	**148,000**	**81,190**	**66,810**	**1,631,602**	**32,920**	**0**	**32,920**
91	AIRPORT	120,432	729,793	100,000	45,966	54,034	848,065	56,194	0	$56,194
	Revision #3		81,200			0	72,000	9,200		$9,200
	Total Revised Fund 91	**120,432**	**810,993**	**100,000**	**45,966**	**54,034**	**920,065**	**65,394**	**0**	**65,394**
94	OTERO GREENTREE REG LANDFILL	4,137,173	1,401,009	0	8,155	(8,155)	2,655,064	2,874,963		$2,874,963
	Revision #1					0	900,000	(900,000)		($900,000)
	Total Revised Fund 94	**4,137,173**	**1,401,009**	**0**	**8,155**	**(8,155)**	**3,555,064**	**1,974,963**	**0**	**1,974,963**
96	SELF-INSURED FUND	528,693	66,439	0	0	0	52,648	542,484		$542,484
	Total Revised Fund 96	**528,693**	**66,439**	**0**	**0**	**0**	**52,648**	**542,484**	**0**	**542,484**
98	PAYROLL CLEARING	212,703	0	0	0	0	0	212,703		$212,703
	Total Revised Fund 98	**212,703**	**0**	**0**	**0**	**0**	**0**	**212,703**	**0**	**212,703**
104	UTILITY DEPOSITS	674,999	0	0	0	0	0	674,999		$674,999
	Total Revised Fund 104	**674,999**	**0**	**0**	**0**	**0**	**0**	**674,999**	**0**	**674,999**
105	ECONOMIC DEVELOPMENT	3,704,019	817,789	0	0	0	346,208	4,175,600		$4,175,600
	Total Revised Fund 105	**3,704,019**	**817,789**	**0**	**0**	**0**	**346,208**	**4,175,600**		**4,175,600**
107	SELF INSURED/LIABILITY	952,065	11,694	300,000	14,718	285,282	583,948	665,093		$665,093
	Total Revised Fund 107	**952,065**	**11,694**	**300,000**	**14,718**	**285,282**	**583,948**	**665,093**	**0**	**665,093**
109	2004 GRT CAPITAL OUTLAY	13,782,068	2,997,973	0	4,043,365	(4,043,365)	7,893,347	4,843,329	533,704	$4,309,625
	Total Revised Fund 109	**13,782,068**	**2,997,973**	**0**	**4,043,365**	**(4,043,365)**	**7,893,347**	**4,843,329**	**533,704**	**4,309,625**
114	SIDEWALKS REVOLVING LOANS	141,416	2,095	0	0	0	32,360	111,151		$111,151
	Total Revised Fund 114	**141,416**	**2,095**	**0**	**0**	**0**	**32,360**	**111,151**	**0**	**111,151**
115	CORP ESCROW ACCOUNT RESERVE	1,000	0	0	0	0	0	1,000		$1,000
	Total Revised Fund 114	**1,000**	**0**	**0**	**0**	**0**	**0**	**1,000**	**0**	**1,000**
119	2012 GRT REF/IMP REVBD	690,594	24,232	0	0	0	368,966	345,860		$345,860
	Total Revised Fund 119	**690,594**	**24,232**	**0**	**0**	**0**	**368,966**	**345,860**		**345,860**
121	2015 GO BONDS-FUN CENTER	89,067	1,441	0	0	0	0	90,508		$90,508
	Total Revised Fund 121	**89,067**	**1,441**	**0**	**0**	**0**	**0**	**90,508**		**90,508**
122	2015 GO BONDS-STREETS	172,584	3,003	0	0	0	0	175,587		$175,587
	Total Revised Fund 122	**172,584**	**3,003**	**0**	**0**	**0**	**0**	**175,587**		**175,587**
901	HOUSING LOW RENT OPERATING	1,130,674	822,806	0	50	(50)	1,134,440	818,990	86,881	$732,109
	Total Revised Fund 901	**1,130,674**	**822,806**	**0**	**50**	**(50)**	**1,134,440**	**818,990**	**86,881**	**732,109**
903	HOUSING HOMEOWNERSHIP OPER	728,361	1,705	0	0	0	28,355	701,711		$701,711
	Total Revised Fund 903	**728,361**	**1,705**	**0**	**0**	**0**	**28,355**	**701,711**	**0**	**701,711**
904	HOUSING CAPITAL FUND PROJECTS	0	1,289,450	0	0	0	1,242,482	46,968		$46,968
	Total Revised Fund 904	**0**	**1,289,450**	**0**	**0**	**0**	**1,242,482**	**46,968**		**46,968**
	TOTALS FY2021	**66,564,194**	**57,446,713**	**23,582,895**	**23,582,895**	**0**	**84,084,610**	**39,926,297**	**5,411,151**	**34,515,146**

Resolution # 2021-06 February 9, 2021

RECURRING/ NON-RECURRING	FUND NO.	LINE ITEM NO.	LINE ITEM DESCRIPTION	ORIGINAL BUDGET AMOUNT	INCREASE (DECREASE)	REVISED BUDGET AMOUNT
	REVISION #1					
	This revision adds fund to the capital equipment line to purchase a new scrapper for the Landfill. Both boards approved this purchase					
	94	**OTERO GREENTREE REG LANDFILL**				
		Expenditures				
		094-0903-434.69-85	Capital Outlay - Equipment	0	**900,000**	900,000
			Total Expenditures	0	**900,000**	900,000
	REVISION #2					
	This revision moves funds to pay for the upgrade of the Microsoft 365 licenses to G5 (government level) and to continue the subscription at that level.					
	11	**GENERAL**				
		Transfer Out				
		011-0000-491.18-12	Transfer out to Fund 12	1,405,294	**33,000**	1,438,294
			Total Transfer	1,405,294	**33,000**	1,438,294
		Expenditures				
		011-2400-419.58-01	General Liability	65,025	**(33,000)**	32,025
			Total Expenditures	65,025	**(33,000)**	32,025
	12	**INTERNAL SERVICES**				
		Transfer In				
		012-0000-391.19-11	Transfer in from Fund 11	1,405,294	**33,000**	1,438,294
			Total Transfer	1,405,294	**33,000**	1,438,294
		Expenditures				
	MIS365	012-3402-419.57-34	Contract Services	119,180	**33,000**	152,180
			Total Expenditures	119,180	**33,000**	152,180
	REVISION #3					
	This revision adds the grants awarded by NMDOT to the Airport to install runway lights and to obtain construction estimates for Taxiway A. The $9,200 offsets expenses already budgeted					
	91	**AIRPORT**				
		Revenue				
	AP2103	091-0000-317.16-13	State Grants	0	**72,000**	72,000
	AP2104	091-0000-317.16-13	State Grants	0	**9,200**	9,200
			Total Revenues	0	**81,200**	81,200
		Expenditures				
	AP2103	091-0006-459.63-91	Building Improvements	0	**72,000**	72,000
			Total Expenditures	0	**72,000**	72,000

RESOLUTION NO. 2021-06

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 2020-21.

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 4, 2020, for fiscal year 2020-2021; and

WHEREAS, the City of Alamogordo, New Mexico, has tabulated on the following pages the additional resources and expenditures for fiscal year 2020-2021.

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 2021 be and hereby is revised as of February 9, 2021 to reflect a more true and accurate projection of the actual revenues and expenditures for fiscal year 2020-2021 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 February 9, 2021 as a more true and accurate projection of the actual revenues and expenditures for fiscal year 2020-2021.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Alamogordo, New Mexico, at a Regular Meeting held this 9th day of February 2021.

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

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/2/2021 **Report No:** 7.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, acceptance of a capital outlay grant agreement in the amount of $150,000.00 to make improvements to the Sergeant Willie Estrada Civic Center. *(Veronica Ortega, Community Services Director)*

Fiscal Impact: $150,000
Amount Budgeted: $150,000.00
Fund: 024

Additional Fiscal Impact: Legislative grant funding. No match required.

Recommendation: Accept capital outlay grant agreement.

Background: This project was one of the top five projects on the 2021-2025 City's Infrastructure Capital Improvement Plan (ICIP), adopted by Resolution No. 2019-35, and approved by the Commission on August 13, 2019. Subsequently, Alamogordo applied for and received grant agreement 20-E2646 in the amount of $150,000 to plan, design, construct and make improvements to the Sergeant Willie Estrada Civic Center, including flooring and accessibility, in Alamogordo.

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into as of this____day of__________, 20___, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the **City of Alamogordo**, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para 302, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2646 $150,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Paragraph 302 One Hundred Fifty Thousand Dollars ($150,000) to plan, design, construct and make improvements to the Sergeant Willie Estrada civic center, including flooring and accessibility, in Alamogordo in Otero County;

The Grantee's total reimbursements shall not exceed Three Hundred Thousand Dollars (**$150,000.00**). (the "Appropriation Amount") minus the allocation for Art in Public Places **("AIPP amount**") [1], if applicable, One Thousand Five Hundred Dollars **($1,500.00)** which equals One Hundred Forty-Eight Thousand Five Hundred Dollars (**$148,500.00**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse [2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

a. must be approved by the applicable oversight entity (if any) in accordance with law; or

b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor as their official representative(s) concerning all matters related to this Agreement.

Grantee	City of Alamogordo
Name	Debbie Osborne
Title	Grant Coordinator
Address	1376 E. Ninth Street Alamogordo NM 88310
Email	dosborne@ci.alamogordo.nm.us
Telephone	(575) 439-4257

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement.

Grantee	City of Alamogordo
Name	Debbie Osborne
Title	Grant Coordinator
Address	1376 E. Ninth Street, Alamogordo NM 88310
Email	dosborne@ci.alamogordo.nm.us
Telephone	(575) 439-4257

The Department designates the persons listed below, or their successors, as Points of Contact for matters related to this Agreement.

Department	DFA/Local Government Division
Name	David Buchen
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, New Mexico, 87501 david.buchen@state.nm.us
Email	David.Buchen@state.nm.us
Telephone	505) 827-4757

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii)Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. <u>Early Termination Before Reversion Date Due to Non-Appropriation</u>

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. <u>Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination</u>

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

<u>ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS</u>

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. <u>Corrective Action Plan in the Event of Suspension</u>

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI (A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (http://cpms.dfa.state.nm.us). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or

(iii) Twenty (20) days from the date of Early Termination; or

(iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of five (5) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Alamogordo** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Alamogordo**'s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Alamogordo**, the Department of Finance and Administration, Local Government Division (DFA/LGD), or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the **City of Alamogordo** or the Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Alamogordo** may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Alamogordo**'s only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed Agreement as of the date of execution by the Department.

GRANTEE

City of Alamogordo
Entity Name

By: Richard Boss
(Type or Print Name)

Its: Mayor
(Type or Print Title)

____
Signature of Official with Authority to Bind Grantee

____
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

____
Signature

____
Date

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: ______________________

B. Address: ______________________

(Complete Mailing, including Suite, if applicable)

____

City, State, Zip

C. Phone No: ______________________

D. Grant No: ______________________

E. Project Title: ______________________

F. Grant Expiration Date: ______________________

II. Payment Computation

A. Payment Request No. ______________________

B. Grant Amount: ______________________

C. AIPP Amount *(If Applicable)* : ______________________

D. Funds Requested to Date: ______________________

E. Amount Requested this Payment: ______________________

F. Reversion Amount (I*f Applicable*): ______________________

G. Grant Balance: ______________________

H. ☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)

I. ☐ Final Request for Payment (*if Applicable*)

III. Fiscal Year : ______________________

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☑ Reporting Certification:

I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☑ Compliance Certification:

Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

____

Grantee Fiscal Officer
or **Fiscal Agent** (*if applicable*)

____

Printed Name

Date: ______________________

____

Grantee Representative

____

Printed Name

Date: ______________________

(State Agency Use Only)

Vendor Code: ______________ **Fund No.:** ______________ **Loc No.:** ______________

I certify that the State Agency financial and vendor file information agree with the above submitted information.

____

Division Fiscal Officer Date

____

Division Project Manager Date

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee # ___________

DATE: ______________________________

TO: Department Representative: _______________________________, ___________________________

FROM: Grantee Entity: ____

Grantee Official Representative: ____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: ____

Grant Termination Date: ____

As the designated representative of the Department for Grant Agreement number ___________________________ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: ____

Third Party Obligation Amount: ____

Vendor or Contractor: ____

Third Party Obligation Amount: ____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _______________________________________

The Amount of this Notice of Obligation: _______________________________________

The Total Amount of all Previously Issued Notices of Obligation: _______________________________________

The Total Amount of all Notices of Obligation to Date: $ 0.00

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: ____

Title: ____

Signature: ____

Date: ____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/2/2021 **Report No:** 8.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, a transfer of ownership of Dispenser Liquor License to License Numbers 0119, 0283, and 0910, located at 100 N. White Sands Blvd, 822 N. Scenic Drive and 2201 N. White Sands Blvd to BW & Gas Convenience Retail. *(Rachel Hughs, City Clerk and Marvin Green, Allsup's Regional Manager)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve the Transfer.

Background:
The Alcohol and Gaming Division of the NM Regulation and Licensing Department has given this application preliminary approval. In accordance with Section 60-6B-4 NMSA of the Liquor Control Act, the Division must refer the application to the Governing Body for approval or disapproval. This public hearing is for the purpose of considering the application. A Notice of Public Hearing was published in the Alamogordo Daily News on Sunday, January 10, 2021 and Sunday, January 31, 2021. These publications meet the State regulations of publishing a notice twice prior to the hearing.

The applicant BW & Gas Convenience Retail, LLC, is seeking a Transfer of Ownership of Dispenser Liquor License to License Numbers 0119, 0283, and 0910, located at 100 N. White Sands Blvd, 822 N. Scenic Drive and 2201 N. White Sands Blvd, Alamogordo, NM 88310. Mr. Thomas Trkla is the CEO and Chairman of BW & Gas Convenience Retail, LLC. Allsup's holds the existing licenses.

Marvin Green Regional Manager of Allsup's will attend meeting to answer any questions.

Michelle Lujan Grisham
Governor

Marguerite Salazar
Superintendent

Andrew Vallejos
Director

New Mexico Regulation and Licensing Department

ALCOHOLIC BEVERAGE CONTROL

PO Box 25101 • Santa Fe, New Mexico 87504-5101
Phone (505) 476-4875 • Fax (505) 476-4595 • www.rld.state.nm.us/abc

December 21, 2020

Certified Mail No.: 7018 0680 0001 6409 9320

RECEIVED
JAN 04 2021
CITY CLERK

City of Alamogordo
Rachel Hughs, Clerk
1376 East Ninth Street
Alamogordo, NM 88310

License Number:	**License No. 0119**
Name of Applicant:	BW & Gas & Convenience Retail, LLC
Doing Business As:	Allsup's # 102338
Proposed Location:	100 N. White Sands, Alamogordo, New Mexico 88310

License Number:	**License No. 0283**
Name of Applicant:	BW & Gas & Convenience Retail, LLC
Doing Business As:	Allsup's # 102095
Proposed Location:	822 N. Scenic Drive, Alamogordo, New Mexico 88310

License Number:	**License No. 0910**
Name of Applicant:	BW & Gas & Convenience Retail, LLC
Doing Business As:	Allsup's # 102177
Proposed Location:	2201 N White Sands, New Mexico 88310

The Director of the Alcoholic Beverage Control "ABC" has reviewed the referenced Application and granted **Preliminary Approval.** It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

While the law states that "within forty-five (45) days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer", we recognize the potential for conflict between the requirement for publication of 30-day notice and the 45-day hearing requirement. Should the Local Governing Body be unable to meet one of these requirements, please send a Request for Waiver/Extension by email to the assigned ABC Hearing Officer listed on page 2.

Notice of the Public Hearing required by the Liquor Control Act **shall be given by the governing body by publishing a notice** of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications must occur before a hearing can be conducted.** The notice shall include:

- **(A)** Name and address of the Applicant/Licensee;
- **(B)** The action proposed to be taken by the Alcoholic Beverage Control;
- **(C)** The location of the licensed premises.

Alcoholic Beverage Control
(505) 476-4875

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

The Applicant is seeking a Transfer of Ownership of Dispenser Liquor License Numbers 0119, 0283, and 0910 .

Within thirty (30) days after the Public Hearing, the governing body shall notify the Alcoholic Beverage Control of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify the Alcoholic Beverage Control within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to the Alcoholic Beverage Control with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,

Desirae D. Griego

Desirae D. Griego
Admin Law Judge | Hearing Officer
New Mexico Regulation & Licensing Dept.
Alcoholic Beverage Control Division
Phone: (505) 476-4552 Fax: (505) 476-4595
Email: Desirae.Griego@state.nm.us

Enclosures:

1. Original Page 1 of the Application # 0119 (*must be signed and returned w/notices of publication*)
2. Original Page 1 of the Application # 0283 (*must be signed and returned w/notices of publication*)
3. Original Page 1 of the Application # 0910 (*must be signed and returned w/notices of publication*)

New Mexico Regulation and Licensing Department | Alcohol and Gaming Division | Page 1 Revised 5/16
PO Box 25101 Santa Fe, NM 87504-5101 Phone: (505) 476-4875 Fax: (505) 476-4595

AGD USE ONLY: Payment| Application Fee $ Received on: Receipt No.
Application Number: Local Option District:

TRANSFER OF DISPENSER- TYPE LIQUOR LICENSE APPLICATION

$200.00 Application Fee, non-refundable.

License No. 0119 Type of License: Dispenser

Check appropriate boxes:

Application is for: ☑ Transfer of Ownership ☐ Transfer of Ownership and Location ☐ Transfer of Location Only

Record Owner of Existing License: Allsup's Convenience Stores, Inc.

Current D/B/A Name: Allsup's #338

Current Premises Address: 100 N White Sands, Alamogordo New Mexico 88310

Current LOD: Alamogordo Is License moving out of Local Option District? ☐ Yes ☑ No

APPLICANT IS: ☐ Individual ☑ Limited Liability Company ☐ Corporation ☐ Partnership (General/Limited)

NAME of Individual/Company: **ADDRESS (including city, state, zip)**

~~Allsup's Convenience Stores, LLC~~ ~~P.O. Box 1907 Clovis NM 88130~~ 138 Conant St, Beverly, MA 01915

BW Gas & Convenience Retail, LLC 6.25.2020

D/B/A Name to be used: Allsup's ~~#338~~ 2023338 ~~Business Phone #:~~ 575-437-9309

Email Address (required): ~~[illegible]~~ notices@yesway.com

Physical location where license is to be used: (Include Street # / Highway # / State Road, City, State, and Zip Code)

100 N White Sands, Alamogordo New Mexico 88310

County of: Otero

Mailing Address: 138 Conant Street, Beverly MA 01915

Are alcoholic beverages currently being dispensed at the proposed location? ☑ Yes ☐ No If Yes, License # / Type : 0119

Agent/Contact Person: Linda L. Aikin **Phone#:** 505-982-6224 **Email:** lla@cybermesa.com

I, (print name) Thomas Nicholas Trkla, as (title) CEO, President and Chairman being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

Sign before a Notary Public:

Signature of Applicant : [signature] Date : 11/5/2020

NOTARY PUBLIC USE ONLY : (State of Massachusetts , County of Essex
SUBSCRIBED AND SWORN TO before me this 5th day of November
By [signature] Thomas Nicholas Trkla Notary Public : Nicole E. Reeves
My Commission Expires 8/17/23

NICOLE E. REEVES NOTARY PUBLIC COMMONWEALTH OF MASSACHUSETTS MY COMMISSION EXPIRES AUGUST 17, 2023

FOR LOCAL OPTION DISTRICT USE ONLY: Local Governing Body of:

Public Hearing held on , 20 . Check one: ☐ Approved ☐ Disapproved

Signature and Title of City/County Official :

FOR ALCOHOL AND GAMING DIVISION USE ONLY: ☐ Approved ☐ Disapproved

Signed by Director: Date :

New Mexico Regulation and Licensing Department | Alcohol and Gaming Division | Page 1 Revised 5/16
PO Box 25101 Santa Fe, NM 87504-5101 Phone: (505) 476-4875 Fax: (505) 476-4595

AGD USE ONLY: Payment| Application Fee $ Received on: Receipt No.
Application Number: ______ Local Option District: ___

TRANSFER OF DISPENSER- TYPE LIQUOR LICENSE APPLICATION

$200.00 Application Fee, non-refundable.

License No. 0283 Type of License: Dispenser

Check appropriate boxes:

Application is for: ☑ Transfer of Ownership ☐ Transfer of Ownership and Location ☐ Transfer of Location Only

Record Owner of Existing License: Allsup's Convenience Stores, Inc.

Current D/B/A Name: Allsup's #95

Current Premises Address: 822 N. Scenic Dr Alamogordo New Mexico 87310

Current LOD: Alamogordo Is License moving out of Local Option District? ☐ Yes ☑ No

APPLICANT IS: ☐ Individual ☑ Limited Liability Company ☐ Corporation ☐ Partnership (General/Limited)

NAME of Individual/Company: **ADDRESS (including city, state, zip)**

~~Allsup's Convenience Stores, LLC~~ ~~P.O. Box 1907 Clovis NM 88130~~ 138 Conant St, Beverly, MA 01915
BW Gas & Convenience Retail, LLC KMJ 6.25.2020

D/B/A Name to be used: Allsup's ~~#95~~ A2095 [illegible] **Business Phone #:** 575-434-3499

Email Address (required): ~~amoraz@yesway.com~~ notices@yesway.com

Physical location where license is to be used: (Include Street # / Highway # / State Road, City, State, and Zip Code)

822 N. Scenic Dr Alamogordo New Mexico 87310

County of: Otero

Mailing Address: 138 Conant Street, Beverly MA 01915

Are alcoholic beverages currently being dispensed at the proposed location? ☑ Yes ☐ No If Yes, License # / Type : 0283

Agent/Contact Person: Linda L. Aikin **Phone#:** 505-982-6224 **Email:** lla@cybermesa.com

I, (print name) Thomas Nicholas Trkla, as (title) CEO, President and Chairman being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

Sign before a Notary Public:

Signature of Applicant : Thomas Nicholas Trkla Date : 11/5/2020

NOTARY PUBLIC USE ONLY : (State of Massachusetts , County of Essex
SUBSCRIBED AND SWORN TO before me this 5th day of November
By Nicole L. Reeves Notary Public : Nicole L. Reeves
Thomas Nicholas Trkla My Commission Expires : 8/11/23

NICOLE L. REEVES NOTARY PUBLIC COMMONWEALTH OF MASSACHUSETTS My Commission Expires August 11, 2023

FOR LOCAL OPTION DISTRICT USE ONLY: Local Governing Body of: ________

Public Hearing held on ______, 20 ____ Check one: ☐ Approved ☐ Disapproved

Signature and Title of City/County Official : ______

FOR ALCOHOL AND GAMING DIVISION USE ONLY: ☐ Approved ☐ Disapproved

Signed by Director: Date :

New Mexico Regulation and Licensing Department | Alcohol and Gaming Division | Page 1 Revised 5/16
PO Box 25101 Santa Fe, NM 87504-5101 Phone: (505) 476-4875 Fax: (505) 476-4595

AGD USE ONLY: Payment| Application Fee $ ____ Received on: ______ Receipt No. ____
Application Number: ______ Local Option District:

TRANSFER OF DISPENSER- TYPE LIQUOR LICENSE APPLICATION

$200.00 Application Fee, non-refundable.

License No. 0910 Type of License: Dispenser

Check appropriate boxes:

Application is for: ☑ Transfer of Ownership ☐ Transfer of Ownership and Location ☐ Transfer of Location Only

Record Owner of Existing License: Allsup's Convenience Stores, Inc.

Current D/B/A Name: Allsup's #177

Current Premises Address: 2200 N White Sands, Alamogordo New Mexico 88310

Current LOD: Alamogordo Is License moving out of Local Option District? ☐ Yes ☑ No

APPLICANT IS: ☐ Individual ☑ Limited Liability Company ☐ Corporation ☐ Partnership (General/Limited)

NAME of Individual/Company: **ADDRESS (including city, state, zip)**

~~Allsup's Convenience Stores, LLC~~ ~~P.O. Box 1907 Clovis NM 88130~~ 138 Conant St, Beverly, MA 01915

BW GAS & Convenience Retail, LLC [initials] 6-25-2020

D/B/A Name to be used: Allsup's ~~177~~ 462/778 **Business Phone #:** 575-437-1440

Email Address (required): ~~[illegible]~~ notices@yesway.com

Physical location where license is to be used: (Include Street # / Highway # / State Road, City, State, and Zip Code)

2200 N White Sands, Alamogordo New Mexico 88310

County of: Otero

Mailing Address: 138 Conant Street, Beverly MA 01915

Are alcoholic beverages currently being dispensed at the proposed location? ☑ Yes ☐ No If Yes, License # / Type: 0910

Agent/Contact Person: Linda L. Aikin **Phone#:** 505-982-6224 **Email:** lla@cybermesa.com

I, (print name) Thomas Nicholas Trkla, as (title) CEO, President and Chairman being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

Sign before a Notary Public:

Signature of Applicant: Thomas Nicholas Trkla Date: 11-5-19

NOTARY PUBLIC USE ONLY: (State of Massachusetts, County of Essex)

SUBSCRIBED AND SWORN TO before me this 5 day of November

By ~~Priscilla Rollins Davis~~ Thomas Nicholas Trkla Notary Public Priscilla Rollins Davis

My Commission Expires 7/31/26

Priscilla Rollins Davis
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
July 31, 2026

FOR LOCAL OPTION DISTRICT USE ONLY: Local Governing Body of: ______ City, County, Village

Public Hearing held on ______, 20____. Check one: ☐ Approved ☐ Disapproved

Signature and Title of City/County Official:

FOR ALCOHOL AND GAMING DIVISION USE ONLY: ☐ Approved ☐ Disapproved

Signed by Director: ____ Date

City of Alamogordo

OFFICE OF THE CITY CLERK
1376 E. Ninth Street • Alamogordo, New Mexico 88310 •
(575) 439-4100 Fax (575) 439-4396

January 6, 2021

VIA CERTIFIED MAIL

Thomas Trkla
138 Conant St.,
Beverly, MA 01915

Re: Transfer of Ownership of Dispenser Liquor Licenses

Mr. Trkla,

The City Commission will hold a Virtual Public Hearing on February 9, 2021 at 6:00 pm during their regular Commission Meeting. The purpose of this Hearing is on the question of whether or not the Alcoholic Beverage Control Division of the State of New Mexico should grant BW & Gas Convenience Retail, LLC, a Transfer of Ownership of Dispenser Liquor License to License Numbers 0119, 0283, and 0910, located at 100 N. White Sands Blvd, 822 N. Scenic Drive and 2201 N. White Sands Blvd, Alamogordo, NM 88310 to Thomas Trkla of 138 Conant St., Beverly, MA 01915. I will email you the Zoom meeting link on February 5, 2021 so can you attend in case the Commission has any questions of you.

The livestream meeting link is
https://www.youtube.com/channel/UCTTgU3xsQBqlyRaME7TaYrQ/live.

If you have any questions, please contact me at (575) 439-4100 or rhughs@ci.alamogordo.nm.us .

Sincerely,

Rachel Hughs

Rachel Hughs, CMC
City Clerk

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

City Clerk

7006 3450 0001 8876 9206

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FIRST-CLASS M/
$006.90
01/06/2021 ZIP 88
043M31214334

Thomas Trkla
138 Conant St.,
Beverly, MA 01915

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total		

Sent To
Thomas Trkla
Street, or PO
138 Conant St.,
City, S
Beverly, MA 01915

7006 3450 0001 8876 9206

PS Form 3800, August 2006

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thomas Trkla
138 Conant St.,
Beverly, MA 01915

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature]
☐ Agent
☐ Addressee

B. Received by (Printed Name)
[signature]

C. Date of Delivery
1/11/21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
7006 3450 0001 8876 9206

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

8B | SUNDAY, JANUARY 10, 2021 | ALAMOGORDO DAILY NEWS

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Alamogordo City Commission will hold a virtual PUBLIC HEARING on **Tuesday, February 9, 2021** at 6:00 p.m., on the question of whether or not the Alcoholic Beverage Control Division of the State of New Mexico should grant **BW & Gas Convenience Retail, LLC, a Transfer of Ownership of Dispenser Liquor License to License Numbers 0119, 0283, and 0910, located at 100 N. White Sands Blvd, 822 N. Scenic Drive and 2201 N. White Sands Blvd, Alamogordo, NM 88310 to Thomas Trkla of 138 Conant St., Beverly, MA 01915**

The link to the virtual Public Hearing during the regular Commission meeting is: https://www.youtube.com/channel/UCTTgU3xsQBqlyRaME7TaYrQ/live

Members of the public may submit comments to the City Clerk prior to 3 p.m. on February 9, 2021. These comments will be distributed to the Elected Officials and the City Manager and will be included in the public record. Inquiries regarding this Public Hearing should be directed to the City Clerk at (575) 439-4100 or rhughs@ci.alamogordo.nm.us

Date: 1/06/2021
City of Alamogordo, New Mexico
By: Rachel Hughs, City Clerk
#4542606, Alamogordo News, Jan. 10, 31, 2021

ALAMOGORDONEWS.COM | SUNDAY, JANUARY 31, 2021 | 7B

NOTICE OF PUBLIC HEARING

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Date: 1/06/2021
City of Alamogordo, New Mexico
By: Rachel Hughs, City Clerk
#4542606, Alamogordo News, Jan. 10, 31, 2021

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 1/28/2021 **Report No:** 9.

Submitted By:

Subject: Consider, and act upon, Case V-2020-0002(A) to allow the placement of a 14x46 manufactured home that has been placed in the rear yard of the property located at 818 8th Street, within an R-3 Zoning District (Two Family Dwelling District). *(Stella Rael, City Planner)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Deny Case V-2020-0002(A)

Background: The property owner placed a 14x46 manufactured home in the rear yard of 818 8th Street without proper permits. The property owner also has tied into the existing water and sewer on the property that services the existing single family dwelling that is at this location without proper permits.

PLANNING AND ZONING COMMISSION
REGULARLY SCHEDULED MEETING
VIA ZOOM
December 3, 2020

Members Present: **Andrew “JR” Gomolak, Vice-Chair**
Beth Crabbe, Commissioner
Gerald Dodd, Commissioner
Raymond Nejeres, Commissioner

Members Absent: **Eddie Kemp, Chair**

Staff Present: **Stella Rael, City Planner**

1. **Call to Order**
   First Chair Andrew Gomolak called the meeting to order at 6:08 pm.

2. **Approval of Minutes**
   First Chair Gomolak asked for a motion to approve the minutes from the November 19, 2020 meeting. Commissioner Beth Crabbe made a motion, Commissioner Raymond Nejeres seconded the motion and the motion passed 4-0-0.

3. **V-2020-0002(A)**
   Pedro Perez
   818 8th Street
   City Planner Stella Rael presented a slideshow and stated that the property owner has placed a 14x46 manufactured home in the rear of his property located at 818 8th St. and is requesting a variance to be allowed to keep the manufactured home placed at this location. City Planner Rael informed the board that this home is placed within a R-3 zoning district (Two-Family Dwelling) which does not allow manufactured homes. Planner Rael stated that a legal ad had been placed in the Alamogordo Daily News on October 15, 2020 and that twenty-three (23) letters were mailed by first class mail to property owners within two hundred (200) feet of the property in question, she stated that as of November 30, 2020 she had not received any letters of opposition but had received two (2) phone calls of opposition.
   Mr. Armando Ortega spoke on behalf of Mr. Perez and stated that he had spoken to the Planning and Zoning department and had obtained permission to place the home in the rear yard and that the home was going to be used as a shop. Planner Rael confirmed that Mr. Ortega had contacted the Planning and Zoning department regarding the placement of a 12x40 accessory building but never completed the process and did not obtain zoning approval. Planner Rael also indicated that the plumbing to the manufactured home has already been tied into the water line to the existing residence on this lot. Mr. Ortega indicated that the plumbing had been completed by a licensed plumber. Planner Rael indicated that the City of Alamogordo does not issue permits, but she would contact Construction Industries Division to confirm that a permit was issued. Ms. Crabbe made a motion to approve the variance with a condition that the manufactured home be used as an accessory building. Mr. Gomolak second the motion. Motion failed by a vote of 2-2-0. After further discussion Ms. Crabbe made a motion to deny the variance request. Mr. Nejeres seconded the motion and motion was passed 4-0-0.

4. **Discussion of increasing property owner notification area**
   Planner Rael suggested that this item be moved to the January Planning and Zoning meeting due to Chair being absent. All members agreed.

5. **2021 Meeting Calendar**
   Planner Rael presented the upcoming 2021 meeting calendar and asked the board to review and it would be presented at the January meeting.

6. **City Commission Update**
   Planner Rael informed board that Map Amendment cases that had been presented to the Planning and Zoning Board at the November meeting had been presented to the City Commission and both cases had been approved.

7. **Otero County Liaison Report**
   No updates

8. **Holloman Air Force Base Report**
   No updates

9 **Unscheduled Public Communications**
   No updates

10. **Adjournment**
   Mr. Gomolak made a motion to adjourn, Mr. Nejeres seconded the motion and meeting was adjourned at 7:04 pm.

APPROVED:

____
(Date)

____
First Vice Chair

ATTEST:

____
Shelbe Abbott-Leyva, Recording Secretary

Copies of the recorded Planning and Zoning meeting audio may be obtained at no cost to Commissioners. A fee will be charged to the public.

From: Salazar, Kimberly, RLD <Kimberly.Salazar3@state.nm.us>
Sent: Tuesday, January 5, 2021 5:28 PM
To: Stella Rael <srael@ci.alamogordo.nm.us>
Subject: RE: HAS ZONING BEEN APPROVED- 1115 Indiana Ave

Hi Stella,

There was an electrical permit from 3/42019 that was pulled by Alamo Electric. Permit was for a service change as the service was tampered with. Permit was pulled online. Let me know if you have any other questions

From: Stella Rael <srael@ci.alamogordo.nm.us>
Sent: Tuesday, January 5, 2021 4:37 PM
To: Salazar, Kimberly, RLD <Kimberly.Salazar3@state.nm.us>
Subject: [EXT] RE: HAS ZONING BEEN APPROVED- 1115 Indiana Ave

Kim,

Has there been any plumbing/mechanical or electrical permits issued for 818 8th Street?

Thanks

City of Alamogordo

City Commission

V-2020-0002(A)

Stella Rael, City Planner
January 26, 2021

Variance Request Case: V-2020-0002(A)

Request:

The applicant has placed a 14x46 manufactured home in the rear of his property and is requesting a variance to be allowed to keep the home placed at this location

Applicant:

Pedro Perez

818 8th Street

Alamogordo, NM 88310

USE REGULATIONS 29-03-010

29-03-190. - Use regulations—District R-3.

A building or premises shall be used only for the following purposes in the two-family dwelling district:

(a) Any use permitted in the single-family dwelling district (section 29-03-010).

(b)Two-family dwellings, the same being buildings designed for occupancy by two (2) families, the word "family" being previously defined in

29-03-010. - Use regulations—District R-1.

(1)Single-family dwellings, they being buildings designed for occupancy by one (1) family. The word "family" is hereby defined as one or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel.

(2) Churches, synagogues, temples.

(3

USE REGULATIONS CONTINUED

(3) Farming and truck gardening, including the usual farm buildings and structure

(4.) Nurseries and greenhouses.

(5) Municipal parks and playgrounds.

(6) Municipal or community buildings.

(7)Telephone exchanges, provided that no public business office or no repair or storage facilities are maintained

(8)Fire stations

(9) (9)Water supply reservoirs or wells.

10) Public schools and other educational institutions having a curriculum (similar to that ordinarily given in public schools.

USE REGULATIONS CONTINUED

(11) Golf courses, except miniature courses and driving ranges operated for commercial purposes.

29-03-480.
Use regulations—District MH-1.

A building or premises shall be used for the following purposes:

(a)Any use permitted in the single-family dwelling district.

(b)Individual manufactured housing units used for residential purposes; provided, not more than one (1) manufactured housing unit shall be situated on any one (1) residential lot, and provided, further, that all regulations of the state department of public health and of the city shall be observed and complied with and provided, further, that only one (1) manufactured housing unit or one (1) residence shall be permitted to be occupied on any one (1) residential lot, but not both.

29-03-520
Use regulations—District MH-2.

A building or premises in the manufactured housing/recreational vehicle park district may be used only for the following purposes:

(B) Any use permitted in the single-family dwelling district (section

29-03-010).

(b)Parking of one (1) or more individual manufactured housing units or recreational vehicles used for residential purposes; provided that all regulations of the state department of public health and of the city shall be observed and complied with.

V-2020-0002(A)

Findings of Fact

1. The property is located at 818 8TH Street within the R-3 Two Family Dwelling District.
2. The request is for a variance to allow a 14x46 manufactured home which has been placed in the rear of his property. Property owner is requesting a variance to be allowed to keep the home placed at this location
3. The application was filed on October 15, 2020
4. The legal notice was published on November 15, 2020
5. Twenty-Three(23) letters were mailed by first class mail to all property owners of record within two hundred (200) feet from the property excluding public right-of-way, of the property for which the variance is sought.

V-2020-0002(A)

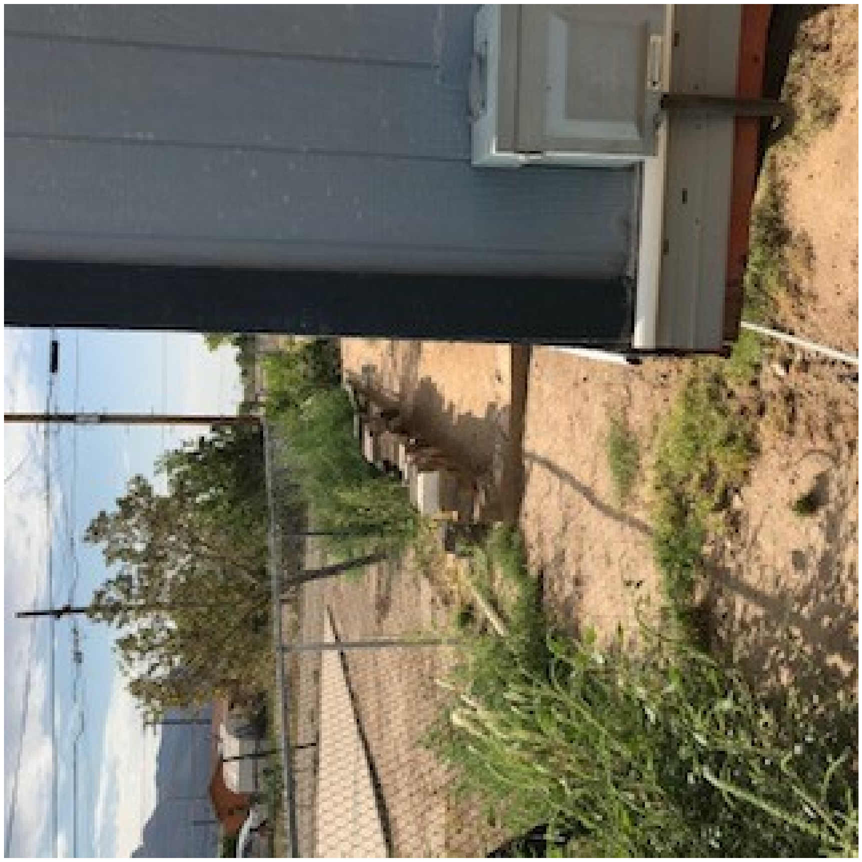
Findings of Fact Continued

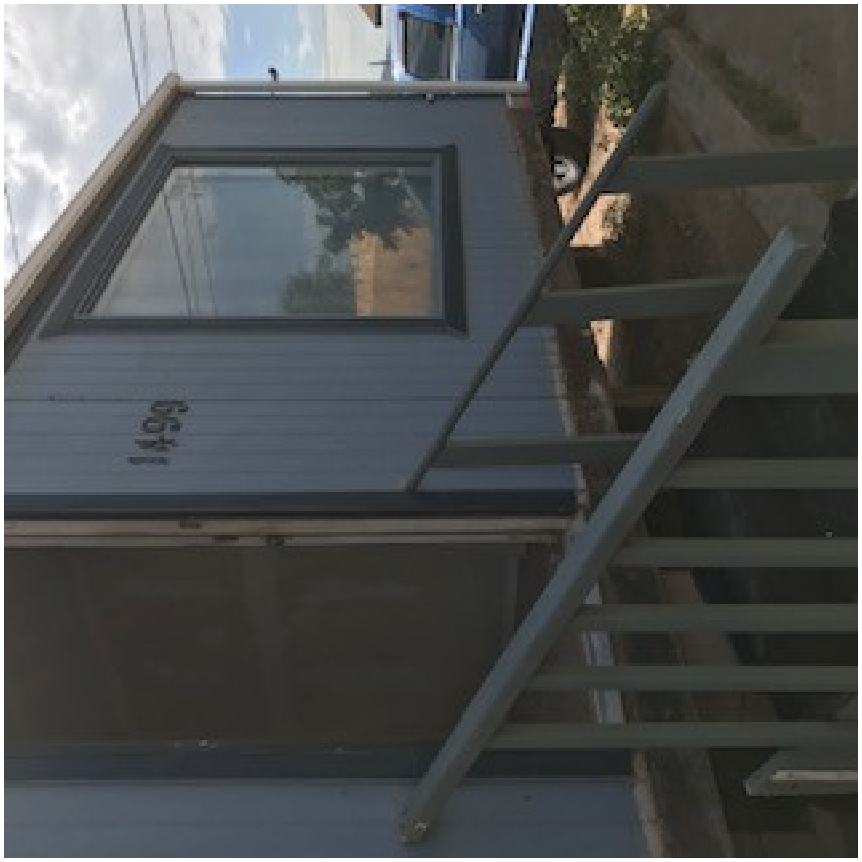
6. As of January 19, 2021 I have not received any written letters of opposition. I have received four (4) phone calls voicing opposition which I asked callers to submit letters of opposition to make part of the record. No written letters of opposition have been received.

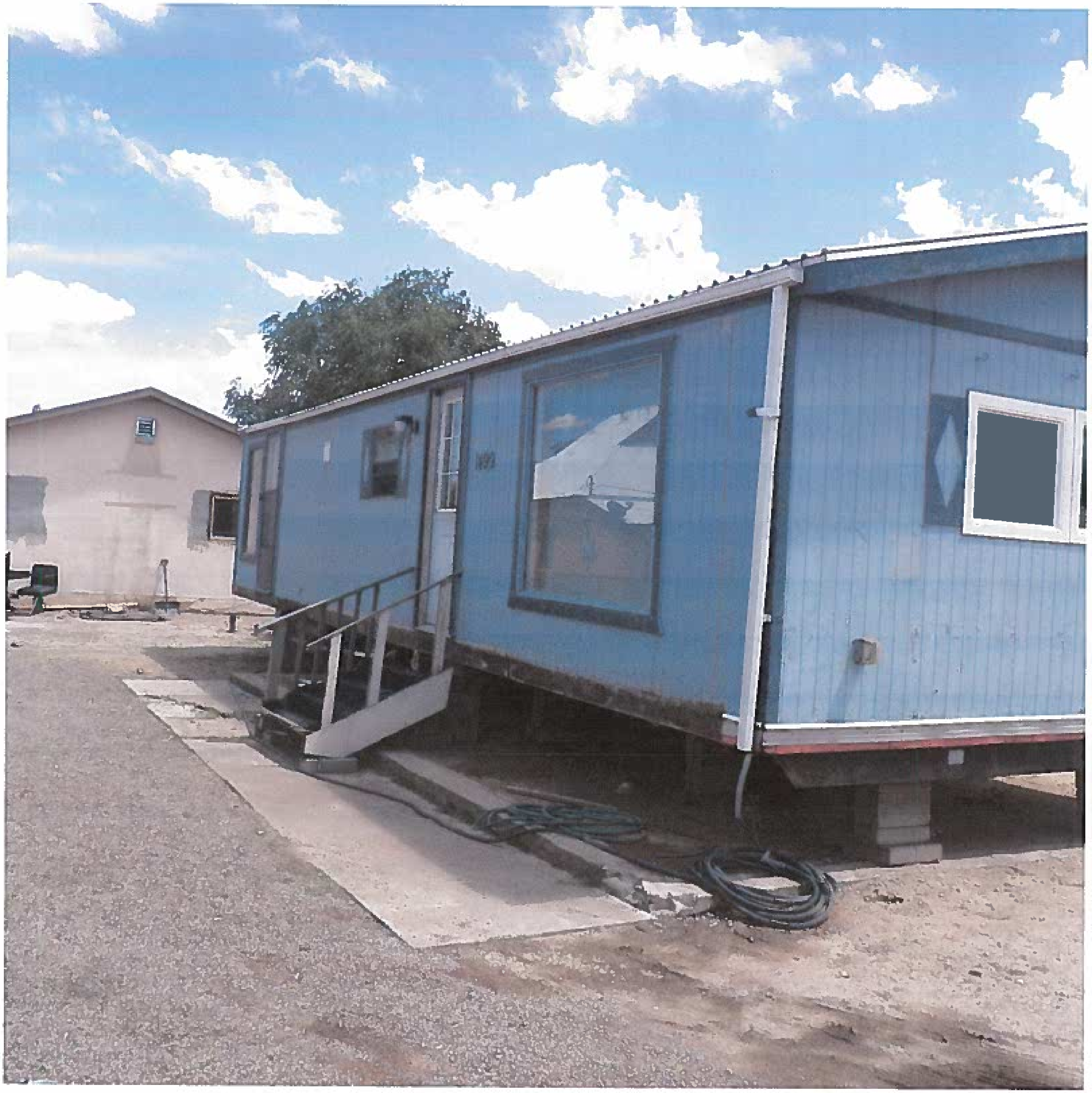
7. This item was presented to the Planning & Zoning Board on December 3, 2021. The Planning & Zoning Board recommended denial by a vote of 4-0-0.

STAFF RECOMMENDATION

- Staff recommends denial of Case V-2020-0002 (A). The placement of the manufactured home does not comply with the current zoning requirements within an R-3 Zoning District.







AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/2/2021 **Report No:** 10.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, Ordinance 1626 for first publication authorizing the execution and delivery of a loan and subsidy agreement for the amount of $2,151,300.00 between the City of Alamogordo and New Mexico Finance Authority. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact: $2,151,300.00
Amount Budgeted: $0.00
Fund: 082

Additional Fiscal Impact: Total DWSRF Loan= $2,151,300.00. Loan was awarded in the amount of $2,130,000 plus $21,300 Cost of Issuance Fee (COI). Funding breakdown: $1,075,650 DWSRF Loan / $1,064,885 DWSRF Principal Forgiveness (Grant); $21,300 COI / $10,765 DWSRF COI Forgiveness. Loan term is 20 years at 0.34% interest.

Recommendation: Approve Ordinance No. 1626 for first publication.

Background: On October 27, 2020, the City Commission approved acceptance of a Commitment Letter from NMFA for a $2,151,300.00 Drinking Water State Revolving Fund Loan to make Bonito Lake Surface Water Reservoir Improvements. Ordinance No. 1626 authorizes the execution and delivery of a loan and subsidy agreement between the City of Alamogordo and New Mexico Finance Authority. The Ordinances further establishes all terms and conditions of the loan agreement. The City will pay a principal amount of no more than $1,075,650, together with interest, expenses, if any and administrative fees thereon, and to accept a loan subsidy of no more than one million seventy-five thousand six hundred fifty dollars $1,075,650, for the purpose of financing the costs of making improvements to Bonito Lake surface water reservoir as further described in Ordinance No. 1626.

RECORD OF PROCEEDINGS RELATING TO THE ADOPTION OF ORDINANCE NO. 1626 OF THE CITY COMMISSION OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO MARCH 9, 2021

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

The City Commission (the "Governing Body") of the City of Alamogordo, New Mexico (the "Governmental Unit"), met in a regular session in full conformity with the law and the rules and regulations of the Governing Body at the City Commission Chambers, located at 1376 E. Ninth Street, Alamogordo, New Mexico. In compliance with COVID-19 Health Emergency Orders, the meeting was held virtually via zoom and livestreamed at https://www.youtube.com/channel/UCTTgU3xsQBqlyRaME7TaYrQ/live, being the meeting place of the Governing Body for the meeting held on the 9th day of March, 2021, at the hour of 6:00 p.m. Upon roll call, the following members were found to be present:

Present:

Mayor: ______________________________

Commissioners: ______________________________

____

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____

____

Absent:

____

____

Also Present:

Thereupon, there was officially filed with the City Clerk a copy of a proposed Ordinance in final form, as follows:

CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO
ORDINANCE NO. 1626

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE CITY OF ALAMOGORDO, OTERO COUNTY, 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 NO MORE THAN ONE MILLION SEVENTY-FIVE THOUSAND SIX HUNDRED FIFTY DOLLARS ($1,075,650), TOGETHER WITH INTEREST, EXPENSES, IF ANY AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN ONE MILLION SEVENTY-FIVE THOUSAND SIX HUNDRED FIFTY DOLLARS ($1,075,650), FOR THE PURPOSE OF FINANCING THE COSTS OF MAKING IMPROVEMENTS TO BONITO LAKE SURFACE WATER RESERVOIR, TO REPAIR DAMAGE RESULTING FROM A FLOOD EVEN RELATED TO THE LITTLE BEAR FIRE, INCLUDING REPAIR AND REPLACEMENT OF THE MAIN VALVE MANIFOLD AND VALVES LOCATED INSIDE THE DAM HOUSE, INSTALLATION AND EQUIPPING OF A NEW INTERIOR LADDER AND SAFETY CLIMB, CATWALK FOR ACCESS, INSTALLATION OF THREE ADDITIONAL INTAKE PORTS AND A MEASURING STRIP LOCATED ON THE EXTERIOR OF THE DAM HOUSE; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT WATER AND SEWER SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM 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 incorporated municipality under the general laws of the State; and

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

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

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

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan Agreement is to be used for governmental purposes of the Governmental Unit; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO:

Section 1. Definitions. Capitalized terms defined in this Section 1 shall, for all purposes, have the meaning 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):

"Administrative Fee" or "Administrative Fee Component" means the 0.25% annual fee payable to the Finance Authority as 0.125% of the Loan Agreement Principal Amount then outstanding as a part of each Loan Agreement Payment for the costs of originating and servicing the Loan.

"Aggregate Disbursements" means, at any time after the Closing Date, the sum of all Disbursements.

"Aggregate Forgiven Disbursements" means the amount of Subsidy provided in the form of principal forgiveness, and shall at any time after the Closing Date be equal to the product of the Subsidy times the Aggregate Disbursements, up to the Maximum Forgiven Principal.

"Aggregate Repayable Disbursements" means, at any time after the Closing Date, the Aggregate Disbursements less the Aggregate Forgiven Disbursements.

"Approved Requisition" means a requisition in the form of Exhibit "C" to the Loan Agreement, together with supporting documentation submitted to and approved by the Finance Authority pursuant to Section 4.2 of the Loan Agreement.

"Authorized Officers" means the Mayor, the Mayor Pro Tem, the Finance Manager, the City Manager and the City Clerk of the Governmental Unit.

"Bonds" means drinking water state revolving loan fund revenue bonds, if any, issued hereafter by the Finance Authority and related to the Loan Agreement and the Loan Agreement Payments.

"Closing Date" means the date of execution, delivery and funding of the Loan Agreement authorized by this Ordinance.

"Debt Service Account" means the debt service account established in the name of the Governmental Unit and administered by the Finance Authority to pay the Loan Agreement Payments under the Loan Agreement as the same become due.

"Disbursement" means an amount caused to be paid by the Finance Authority for an Approved Requisition for costs of the Project, including the Expense Fund Component.

"DWSRLF Act" means the general laws of the State, particularly the Drinking Water State Revolving Loan Fund Act, NMSA 1978, §§ 6-21A-1 through 6-21A-9, as amended; NMSA 1978, §§ 3-31-1 through 3-31-12, as amended; and enactments of the Governing Body relating to the Loan Agreement, including this Ordinance.

"Drinking Water State Revolving Loan Fund" means the drinking water state revolving loan fund established by the DWSRLF Act.

"Environmental Protection Agency" means the Environmental Protection Agency of the United States.

"Expense Fund" means the expense fund hereby created to be held and administered by the Finance Authority to pay Expenses.

"Expense Fund Component" means an amount equal to one percent (1%) of each Disbursement for the Project, minus any amount forgiven under the Loan Agreement, simultaneously withdrawn and deposited in the Expense Fund to pay Expenses.

"Expenses" means the Finance Authority's costs of issuance of the Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

"Final Loan Agreement Payment Schedule" means the schedule of Loan Agreement Payments due on the Loan Agreement following the Final Requisition, as determined on the basis of the Aggregate Repayable Disbursements.

"Final Requisition" means the final requisition of moneys to be submitted by the Governmental Unit, which shall be submitted by the Governmental Unit on or before the date provided for in Section 4.1(b) of the Loan Agreement.

"Finance Authority" means the New Mexico Finance Authority, created by the New Mexico Finance Authority Act, NMSA 1978, §§ 6-21-1 through 6-21-31, as amended.

"Fiscal Year" means the period commencing on July 1 of 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 duly organized City Commission of the Governmental Unit and any successor governing body of the Governmental Unit.

"Governmental Unit" means the City of Alamogordo, Otero County, New Mexico.

"Gross Revenues" means all income and revenues directly or indirectly derived by the Governmental Unit from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which the term is applicable, and includes, without limitation, all revenues received by the Governmental Unit, or any municipal corporation or agency succeeding to the rights of the Governmental Unit, from the System and from the sale and use of water and sanitary sewer services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefore or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Governmental Unit and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

"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.

"Interest Component" means the portion of each Loan Agreement Payment paid as interest accruing on the Aggregate Repayable Disbursements then outstanding, calculated from the date of each Disbursement.

"Interest Rate" means the rate of interest on the Loan Agreement as shown on the Term Sheet.

"Loan" means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement, up to the Maximum Principal Amount.

"Loan Agreement" means the loan and subsidy agreement and any amendments or supplements thereto, including the exhibits attached to the loan agreement.

"Loan Agreement Payment" means, collectively, the Principal Component, the Interest Component, Expenses, and the Administrative Fee Component to be paid by the Governmental Unit as payment on the Aggregate Repayable Disbursements under the Loan Agreement, as shown on Exhibit "B" thereto.

"Loan Agreement Principal Amount" means, as of any date of calculation, the Aggregate Repayable Disbursements (including the Expense Fund Component) then outstanding.

"Maximum Forgiven Principal" means the maximum amount of loan subsidy available in the form of principal forgiveness, which is equal to fifty percent (50%) of the Maximum Principal Amount. The Maximum Forgiven Principal is one million seventy-five thousand six hundred fifty dollars ($1,075,650).

"Maximum Repayable Principal" means the maximum amount of Aggregate Repayable Disbursements repayable by the Governmental Unit pursuant to the Loan Agreement, and is equal to the Maximum Principal Amount less the Maximum Forgiven Principal. The Maximum Repayable Principal is one million seventy-five thousand six hundred fifty dollars ($1,075,650).

"Maximum Principal Amount" means two million one hundred fifty-one thousand three hundred dollars ($2,151,300).

"Net Revenues" means the Gross Revenues of the System owned and operated by the Governmental Unit minus Operation and Maintenance Expenses of the System, indirect charges, amounts expended for capital replacements and repairs of the System, required set asides for debt and replacement requirements and any other payments from the gross revenues reasonably required for operation of the System.

"NMSA" means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented from time to time.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Governmental Unit directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Governmental Unit's general fund, liabilities incurred by the Governmental Unit as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Ordinance" means this Ordinance No. 1626 adopted by the Governing Body of the Governmental Unit on March 9, 2021, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet to the Loan Agreement, as supplemented from time to time in accordance with the provisions hereof.

"Parity Obligations" means any obligations of the Governmental Unit under the Loan Agreement and any other obligations now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with the Loan Agreement, including any such obligations shown on the Term Sheet.

"Pledged Revenues" means the Net Revenues of the Governmental Unit pledged to payment of the Loan Agreement Payments pursuant to this Ordinance and described on the Term Sheet.

"Project" means the project described in the Term Sheet.

"Senior Obligations" means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred, payable from or secured by a pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues superior to the lien created by the Loan Agreement, including any such obligations shown on the Term Sheet.

"State" means the State of New Mexico.

"Subordinated Obligations" means any bonds or other obligations of the Governmental Unit now outstanding or hereafter issued or incurred with a lien on the Pledged Revenues subordinate to the lien created by the Loan Agreement and subordinate to any other outstanding Parity Obligations having a lien on the Pledged Revenues, including any such obligations shown on the Term Sheet.

"Subsidy" means the subsidy in the form of principal forgiveness for the Governmental Unit, to be applied proportionally at the time of each Disbursement to the Governmental Unit, being fifty percent (50%) of such Disbursement.

"System" means the public utility designated as the Governmental Unit's joint water and wastewater system, and all improvements or additions thereto, including additions and improvements to be acquired or constructed with the proceeds of the Loan Agreement.

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

"Unrequisitioned Principal Amount" means the amount, if any, by which the Maximum Principal Amount exceeds the Aggregate Disbursements at the time the Governmental Unit submits the certificate of completion required pursuant to Section 6.3 of the Loan Agreement.

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 acquisition and completion of the Project, and the execution and delivery of the Loan Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Loan Agreement. The acquisition and completion of the Project and the method of financing the Project through execution and delivery of the Loan Agreement are hereby authorized and ordered. The Project is for the benefit and use 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. Moneys available and on hand for the Project from all sources other than the Loan Agreement are not sufficient to defray the cost of acquiring and constructing the Project.

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

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

D. The Project and the execution and delivery of the Loan Agreement in the Maximum Principal Amount pursuant to the DWSRLF Act to provide funds for the financing of the Project are necessary or advisable in the interest of the public health, safety, and welfare of the residents and the public served by the Governmental Unit.

E. The Governmental Unit will acquire and construct the Project, in whole or in part, with the net proceeds of the Loan.

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

G. The net effective interest rate on the Maximum Principal Amount does not exceed the current market rate, which is the maximum rate permitted by federal law.

Section 5. Loan Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least a three-fourths majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Governmental Unit and acquiring and constructing the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the DWSRLF Act, execute and deliver the Loan Agreement evidencing a special limited obligation of the Governmental Unit to pay a principal amount of one million seventy-five thousand six hundred fifty dollars ($1,075,650) and interest thereon, and to accept a loan subsidy in the amount of one million seventy-five thousand six hundred fifty dollars ($1,075,650) and the execution and delivery of the Loan Agreement is hereby authorized. The Governmental Unit shall use the proceeds of the Loan and Subsidy (i) to finance the acquisition and completion of the Project and (ii) to pay the Administrative Fee and Expenses of the Loan Agreement and the costs of issuance of the Bonds, if any. The Project will be owned by the Governmental Unit.

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 amount not to exceed the Maximum Principal Amount of two million one hundred fifty-one thousand three hundred dollars ($2,151,300). The Loan Agreement Principal Amount shall be payable in installments of principal due on May 1 of the years designated in the Final Loan Agreement Payment Schedule and bear interest payable on May 1 and November 1 of each of the years designated in the Final Loan Agreement Payment Schedule, at the interest rate designated in the Loan Agreement, including Exhibit "A" thereto, which rate includes the Administrative Fee.

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 City 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 Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with interest thereon and other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Ordinance, and the Loan Agreement 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 Pledged Revenues) or as imposing 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 Acquisition and Completion of the Project.

A. Debt Service Account; Disbursements. The Governmental Unit hereby consents to creation of the Debt Service Account to be held and maintained by the Finance Authority as provided in the Loan Agreement.

The proceeds derived from the execution and delivery of the Loan Agreement shall be disbursed promptly upon receipt of an Approved Requisition (as defined in the Loan Agreement).

Until the acquisition and completion of the Project or the date of the Final Requisition, the money disbursed pursuant to the Loan Agreement shall be used and paid out solely for the purpose of acquiring and constructing the Project in compliance with applicable law and the provisions of the Loan Agreement.

B. Prompt Completion of the Project. The Governmental Unit will complete the Project with all due diligence.

C. Certification of Completion of the Project. Upon the acquisition and completion of the Project, the Governmental Unit shall execute and send to the Finance

Authority a certificate stating that the completion of and payment for the Project has been completed.

D. Finance Authority Not Responsible for Application of Loan Proceeds. The Finance Authority 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 Pledged Revenues; Distributions of the Pledged Revenues and Flow of Funds.

A. Deposit of Pledged Revenues. Pledged Revenues shall be paid directly by the Governmental Unit to the Finance Authority in an amount sufficient to pay principal, interest, Administrative Fees, Expenses and other amounts due under the Loan Agreement, as provided in Section 5.2 of the Loan Agreement.

B. Termination on Deposits to Maturity. No payment shall be made into the Debt Service Account if the amount in the Debt Service Account totals a sum at least equal to the entire aggregate amount of Loan Agreement Payments to become due as to principal, interest on, Administrative Fees 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, interest and Administrative Fee requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided in Section 9.C of this Ordinance.

C. Use of Surplus Revenues. After making all the payments required to be made by this Section and any payments required by outstanding Parity Obligations, any moneys remaining in the Debt Service Account shall be transferred to the Governmental Unit on a timely basis and applied to any other lawful purpose, including, but not limited to, the payment of any Parity Obligations or bonds or obligations subordinate and junior to the Loan Agreement, or 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 Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged, and are hereby pledged, and the Governmental Unit grants a lien on the Pledged Revenues and security interest therein, for the payment of the principal, interest, Administrative Fees, 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 first lien, but not necessarily an exclusive first lien, on the Pledged Revenues as set forth herein and therein, and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement without the express prior written approval of the Finance Authority.

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 and reports in connection with the execution and delivery of the Loan Agreement, and the publication of the summary of this Ordinance set out in Section 17 of this Ordinance (with such changes, additions and deletions as may be necessary).

Section 12. Amendment of Ordinance. Prior to the Closing Date, the provisions of this Ordinance may be supplemented or amended by ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. After the Closing Date, this Ordinance may be amended 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 Closing Date, 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. 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 City Clerk, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 17 below) shall be published in a newspaper which is of general circulation in the Governmental Unit, and the Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 17. 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:

[*Remainder of page intentionally left blank.*]

[*Form of Summary of* Ordinance *for Publication.*]

City of Alamogordo, Otero County, 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. 1626, duly adopted and approved by the Governing Body of the City of Alamogordo, New Mexico (the "Governmental Unit"), on March 9, 2021. Complete copies of the Ordinance are available for public inspection during normal and regular business hours in the office of the City Clerk, 1376 E. Ninth Street, Alamogordo 88310.

The title of the Ordinance is:

CITY OF ALAMOGORDO, OTERO COUNTY, NEW MEXICO
ORDINANCE NO. 1626

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND SUBSIDY AGREEMENT ("LOAN AGREEMENT") BY AND BETWEEN THE CITY OF ALAMOGORDO, OTERO COUNTY, 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 NO MORE THAN ONE MILLION SEVENTY-FIVE THOUSAND SIX HUNDRED FIFTY DOLLARS ($1,075,650), TOGETHER WITH INTEREST, EXPENSES, IF ANY AND ADMINISTRATIVE FEES THEREON, AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN ONE MILLION SEVENTY-FIVE THOUSAND SIX HUNDRED FIFTY DOLLARS ($1,075,650), FOR THE PURPOSE OF FINANCING THE COSTS OF MAKING IMPROVEMENTS TO BONITO LAKE SURFACE WATER RESERVOIR, TO REPAIR DAMAGE RESULTING FROM A FLOOD EVEN RELATED TO THE LITTLE BEAR FIRE, INCLUDING REPAIR AND REPLACEMENT OF THE MAIN VALVE MANIFOLD AND VALVES LOCATED INSIDE THE DAM HOUSE, INSTALLATION AND EQUIPPING OF A NEW INTERIOR LADDER AND SAFETY CLIMB, CATWALK FOR ACCESS, INSTALLATION OF THREE ADDITIONAL INTAKE PORTS AND A MEASURING STRIP LOCATED ON THE EXTERIOR OF THE DAM HOUSE; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL, ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES OF THE JOINT WATER AND SEWER SYSTEM OF THE GOVERNMENTAL UNIT; SETTING AN INTEREST RATE FOR THE LOAN; APPROVING THE FORM 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.

The title sets forth a general summary of the subject matter contained in the Ordinance.

This notice constitutes compliance with NMSA 1978, § 6-14-6.

[*End of Form of Summary for Publication*.]

[*Remainder of page intentionally left blank.*]

Section 18. Execution of Agreements. The City of Alamogordo through its Governing Body agrees to authorize and execute all such agreements with the New Mexico Finance Authority as are necessary to consummate the Loan contemplated herein and consistent with the terms and conditions of the Loan Agreement and this Ordinance.

PASSED, APPROVED AND ADOPTED THIS 9TH DAY OF MARCH, 2021.

CITY OF ALAMOGORDO,
OTERO COUNTY, NEW MEXICO

By____
Richard A. Boss, Mayor

[SEAL]

ATTEST:

By____________________________
Rachel Hughs, City Clerk

[*Remainder of page intentionally left blank.*]

Governing Body Member _______________ then moved adoption of the foregoing Ordinance duly seconded by Governing Body Member ________________.

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 City Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

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

CITY OF ALAMOGORDO,
OTERO COUNTY, NEW MEXICO

By____
Richard A. Boss, Mayor

[SEAL]

ATTEST:

By____________________________
Rachel Hughs, City Clerk

[*Remainder of page intentionally left blank.*]

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

I, Rachel Hughs, the duly appointed, qualified, and acting City Clerk of the City of Alamogordo, New Mexico (the "Governmental Unit"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Commission (the "Governing Body"), constituting the governing body of the Governmental Unit, had and taken at a duly called regular meeting held at the City Commission Chambers, located at 1376 E. Ninth Street, Alamogordo, New Mexico. In compliance with COVID-19 Health Emergency Orders, the meeting was held virtually via https://www.youtube.com/channel/UCTTgU3xsQBqlyRaME7TaYrQ/live on March 9, 2021, at the hour of 6:00 p.m., insofar as the same relate to the adoption of the Ordinance and the execution and delivery of the proposed Loan Agreement, copies of which are set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, §§ 10-15-1 through 10-15-4, as amended, including, the Governing Body's Open Meetings Resolution No. 2021-01 presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of April, 2021.

CITY OF ALAMOGORDO,
OTERO COUNTY, NEW MEXICO

[SEAL]

By____
Rachel Hughs, City Clerk

EXHIBIT "A"

Affidavit of Publication of Notice of Public Hearing and Intent to Adopt Ordinance,
Notice and Agenda of Meeting and
Affidavit of Publication of Notice of Adoption of Ordinance

NEW MEXICO FINANCEAUTHORITY

Public Water System Binding Commitment Letter for DW- 5357

October 1, 2020

Via email to *bjohnson@ci.alamogordo.nm.us*

City of Alamogordo
Attn: Bob Johnson
1376 E. 9th Street
Alamogordo, NM 88310

The New Mexico Finance Authority's Board of Directors has approved the application submitted by the City of Alamogordo, and hereby commits to make a loan in the amount of $2,151,300 with a maturity of 22 years. This loan has a construction term of two (2) years, and a repayment term of 20 years. It is funded through the Drinking Water State Revolving Loan Fund and part of it may be forgivable. An interest rate of .34% over the life of the loan applies to the loan portion of this loan.

The Applicant is a qualified public water supply system under federal law, 42 U.S.C. 300j-12, and applicable state law, Sections 6-21A-1, *et seq.*, NMSA 1978, organized and existing under the Laws of New Mexico. The Applicant will finance the water project described in the application, subject to the following terms and conditions of this Binding Commitment Letter.

This Commitment requires that the Applicant submit the documents listed below, to the Finance Authority within 6 months of this commitment: April 1, 2021.

- Signed Binding Commitment Letter
- Executed copy of attached EPA form 4700-4
- Preliminary Engineering Report (PER) or technical memo acceptable to the Finance Authority;
- Cost breakdown of the project, certified by an engineer or architect;
- Detailed drawdown schedule for project payments;
- Engineering Contract Award approval by New Mexico Environment Department (NMED-CPB) and Finance Authority;
- Completion of the State Environmental Review Process approved by the Finance Authority; and
- Any additional information requested by the Finance Authority.

If the conditions set forth above are not satisfied, the commitment may be extended, in the sole discretion of the Finance Authority, for an additional 60 days, during which time the Applicant must submit the remaining documentation to the Finance Authority. Failure on the Applicant's part to submit the above documentation may result in termination of the Authority's Commitment at the sole discretion of the NMFA.

NEW MEXICO
FINANCEAUTHORITY

Public Water System Binding Commitment Letter for DW- 5357

The following documents will be required before funds will be disbursed for construction:

1) Approval of Plans and Specifications by New Mexico Environment Department (NMED-CPB) Construction Programs Bureau and Finance Authority;
2) Applicant needs to demonstrate compliance with EPA guidance on System Award Management found at the following website: (https://www.sam.gov/portal/public/SAM/)
3) Approval of Plans and Specifications by New Mexico Environment Department (NMED-DWB) Drinking Water Bureau prior to construction start;
4) Approval of Bids by NMED-CPB and Finance Authority;
5) Any additional information requested by Finance Authority.

Closing and funding of the loan has been approved by the Finance Authority's Board of Directors, subject to the terms and conditions set out in this Commitment. The construction of the project must be completed within two years from the date of closing of the loan.

Marquita D Russel
Marquita Russel, Chief Executive Officer
New Mexico Finance Authority

9.30.2020
Date

The undersigned hereby accepts and acknowledges the foregoing commitment and agrees to the terms and conditions thereof.

Applicant: Brian Cesar, City of Alamogordo

Signature of Authority

10/27/2020
Date

City Manager
Title

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 2/9/2021 **Report Date:** 2/1/2021 **Report No:** 11.

Submitted By: Teresa Gutierrez

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

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Two appointments to the Cemetery Board.

Background: **Airport Zoning Board** - One (1) City vacancy. Staff Liaison - Cheryl Otero-Baker
No applications received.

Alamogordo Public Library Board. One (1) City vacancy. Staff Liaison - Melissa Garcia.
No applications received.

Cemetery Board - Two (2) City or County vacancies. Staff Liaison - Tony Gonzales.
The following individuals are interested in being appointed:
Caleb Moore - if appointed, this will be his first term
R. Kent House - if appointed, this will be his first term
Mark A. Brown - if appointed, this will be his first term

Housing Authority Advisory Board. Two (2) vacancies. Staff Liaison - Marissa Ruiz.
No applications received.

Senior Volunteer Programs Advisory Council. One (1) vacancy. This vacancy is due to the expiring term of Ms. Xochitl Valenzuela. Staff Liaison: Neil McFarland.
No applications received.

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
JAN 2 5 2021
CITY CLERK

First Name	Caleb
Last Name	Moore
Address	1708 8th street
City	Alamogordo
State	New Mexico
Zip Code	88310
Phone Number	8053613572
Email Address	caleb.c.moore@gmail.com
Is the above address within City Limits?	Yes
Present Employer:	None
Board/Committee you would like to serve on (1st choice):	Cemetery Board
Board/Committee you would like to serve on (2nd choice):	Public Library Board
Are you related to anyone who is presently employeed by the City of Alamogordo	Yes
If so, what is their relation to you?	Spouse
Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	N/A
Experience and education relating to the Board/Committee:	Air force training and work experience on maintaining sensitive material as well as maintaining a clean well kept indoor and outdoor appearance.
Please indicate your interest in serving on a City Board/Committee:	I'm interested in expanding my horizons personally and professionally, including building positive professional and social relations with other board/committee and community individuals and parties.

RECEIVED
JAN 29 2021
CITY CLERK

City of Alamogordo
APPLICATION TO SERVE ON A CITY BOARD/COMMITTEE

Name: R. Kent House

Home Phone: 575-430-2324 Work Phone: 575-434-5253

Cell Phone: 575-430-2324 Fax No: 575-434-5259

E-mail address: kenthouse@me.com

Physical Address: 2403 Tres Lagos; Alamogordo, NM 88310

Is the above address within City limits? Yes X No ____

Mailing Address: P.O. Box 760; Alamogordo, NM 88311

Present Employer: Alamogordo Funeral Home Job Title: President

Board/Committee you wish to serve on:

First choice: Monte Vista Cemetery Board

Second choice: N/A

Are you related to anyone who is presently employed by the City of Alamogordo?

Yes ____ No X If so, what is their relation to you? ____________

Are you related to any Elected Official of the City of Alamogordo?

Yes ____ No X If so, what is their relation to you? ____________

Experience and education relating to the Board/Committee: I've worked as a funeral director in Alamogordo for 17 years. During that time, I have worked with the cemetery almost daily. We keep a full set of records of the cemetery and work with them closely. I have a BS in Funeral Service.

Please indicate your interest in serving on a City Board/ Committee: It is to my understanding the cemetery board is in need of new members. I can bring a unique knowledge base and historical perspective to the cemetery board.

Please return completed application to:

City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (575)439-4100
FAX: (575)439-4396

RECEIVED
JAN 29 2021
CITY CLERK

City of Alamogordo
APPLICATION TO SERVE ON A CITY BOARD/COMMITTEE

Name: Mark A. Brown

Home Phone: (575) 415-7918 Work Phone: (575) 434-5253

Cell Phone: (575) 415-7918 Fax No: (575) 434-5259

E-mail address: mark.brown@qwestoffice.net

Physical Address: 2301 E. First St. Alamogordo, NM 88310

Is the above address within City limits? Yes X No ____

Mailing Address: P.O. Box 760 Alamogordo, NM 88311

Present Employer: Alamogordo Funeral Home Job Title: Funeral Service Intern

Board/Committee you wish to serve on:

First choice: Cemetery Board

Second choice: ____

Are you related to anyone who is presently employed by the City of Alamogordo?

Yes ____ No X If so, what is their relation to you? ____

Are you related to any Elected Official of the City of Alamogordo?

Yes ____ No X If so, what is their relation to you? ____

Experience and education relating to the Board/Committee:

As funeral director I routinely work directly with cemetery staff on burial of deceased. It is also common occurance to assist in the sale of plots, markers, and services.

Please indicate your interest in serving on a City Board/ Committee:

Having direct working ~~w~~ relations with both staff and community, it would be benificial to express and act on each concerns.

Please return completed application to: City Clerk's Office
1376 E. Ninth Street
Alamogordo, NM 88310
PHONE: (575)439-4100
FAX: (575)439-4396