Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

November 9, 2021 - 6:00 PM
City Hall, City Commission Chambers
1376 E. Ninth St.

Richard Boss .... Mayor
Nadia Sikes ....Mayor Pro-Tem, District 2
Vacant .... 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 of 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. Lung Cancer Awareness Month Proclamation. *(Richard Boss, Mayor)*

2. Presentation regarding "Dangerous Intersection Created at Buena Vista Ct. and 18th Street". *(Gerald A. Dodd, Resident)*

PUBLIC COMMENT

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

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

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

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

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

4. Approve the award of RFP 2021-06 Water & Wastewater Analytical Services to Aqua Environmental Testing Laboratory. *(David Nunnelley, Acting Public Works Director)*

5. Consider, and act upon, Resolution 2021-42 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 November 9, 2021. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

6. Consider, and act upon, approval of CDBG Amendment No. 1, to extend the grant agreement and reallocate funds. *(Debbie Osborne, Grant Coordinator)*

ITEMS REMOVED FROM CONSENT AGENDA

NEW BUSINESS

7. Consider, and act upon, Ordinance 1639 for first publication to amend sections of Chapter 34 in the Alamogordo Code of Ordinances concerning Marijuana. *(Rachel Hughs, City Clerk and Petria Bengoechea, City Attorney)* **(Roll Call Vote Required)**

8. Consider, and act upon, Ordinance 1641 for first publication authorizing the issuance and sale of the City's debt obligation to refund the joint utility system. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

9. Consider, and act upon, Ordinance 1642 for first publication authorizing the issuance and sale of the City's debt obligation to refund the revenue debt issued on December 23, 2011. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

10. Consider, and act upon, Ordinance 1643 for first publication authorizing the issuance and sale of the City's debt obligation to refund the revenue debt issued on February 17, 2012. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

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

EXECUTIVE SESSION (Roll Call Vote Required)

12. Adjourn into Executive Session in compliance with 10-15-1(H)(2) NMSA (as amended) to discuss limited personnel matters: City Manager Evaluation. **(Roll Call Required)**

ADJOURNMENT

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

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

Submitted By: Rachel Hughs

Subject: Lung Cancer Awareness Month Proclamation. *(Richard Boss, Mayor)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Proclamation only.

Background:

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 11/02/2021 **Report No:** 2.

Submitted By: Teresa Gutierrez

Subject: Presentation regarding "Dangerous Intersection Created at Buena Vista Ct. and 18th Street". *(Gerald A. Dodd, Resident)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Presentation only.

Background: Mr. Gerald A. Dodd, resident, is requesting to make a presentation regarding the intersection at Buena Vista Ct. and 18th Street.

RECEIVED
NOV 01 2021
CITY CLERK

City of Alamogordo City Commission Meeting
AGENDA REQUEST FORM

Today's Date: ____________________

Request Date of Meeting: Tuesday - ~~8~~ 9 November 2021

Name and Title: Gerald A. Dodd - resident

Address: 1716 Buena Vista Ct
Alamogordo, NM **ZIP** 88310

Phone Number: 575-415-6197

E-Mail Address: gdoddunm70@yahoo.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

"Dangerous Intersection Created at Buena Vista CT and 18th Street"

Consider and act upon the removal of a block wall erected on the 18th Street right of-way at 1742 Buena Vista Ct.

Signature: Gerald A Dodd

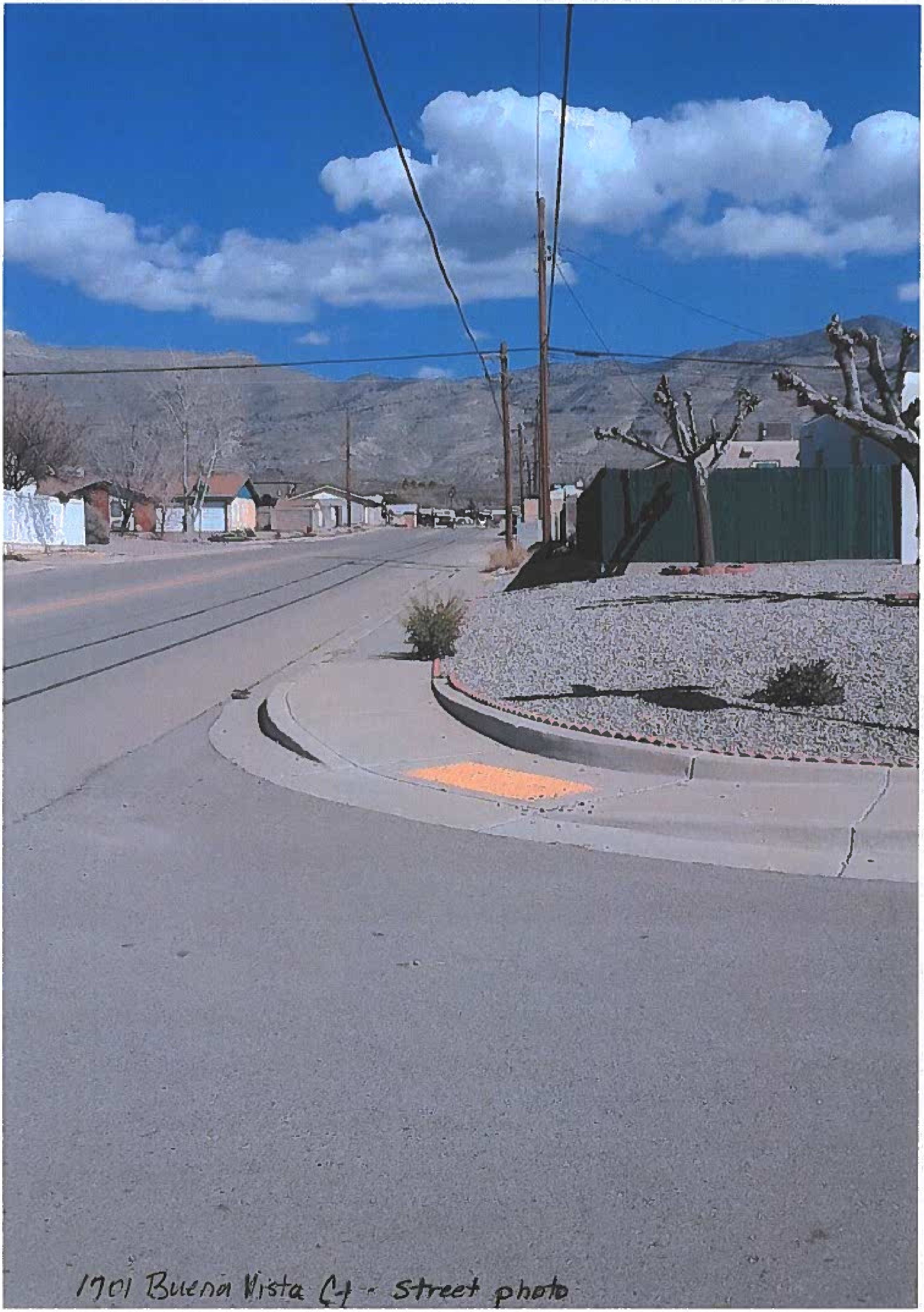
Please return to: Rachel Hughs, CMC, City Clerk
City of Alamogordo
1376 E. 9th Street
Alamogordo, NM 88310

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

1742 Buena Vista Ct - Wide View

1742 Buena Vista Ct - Stop Sign

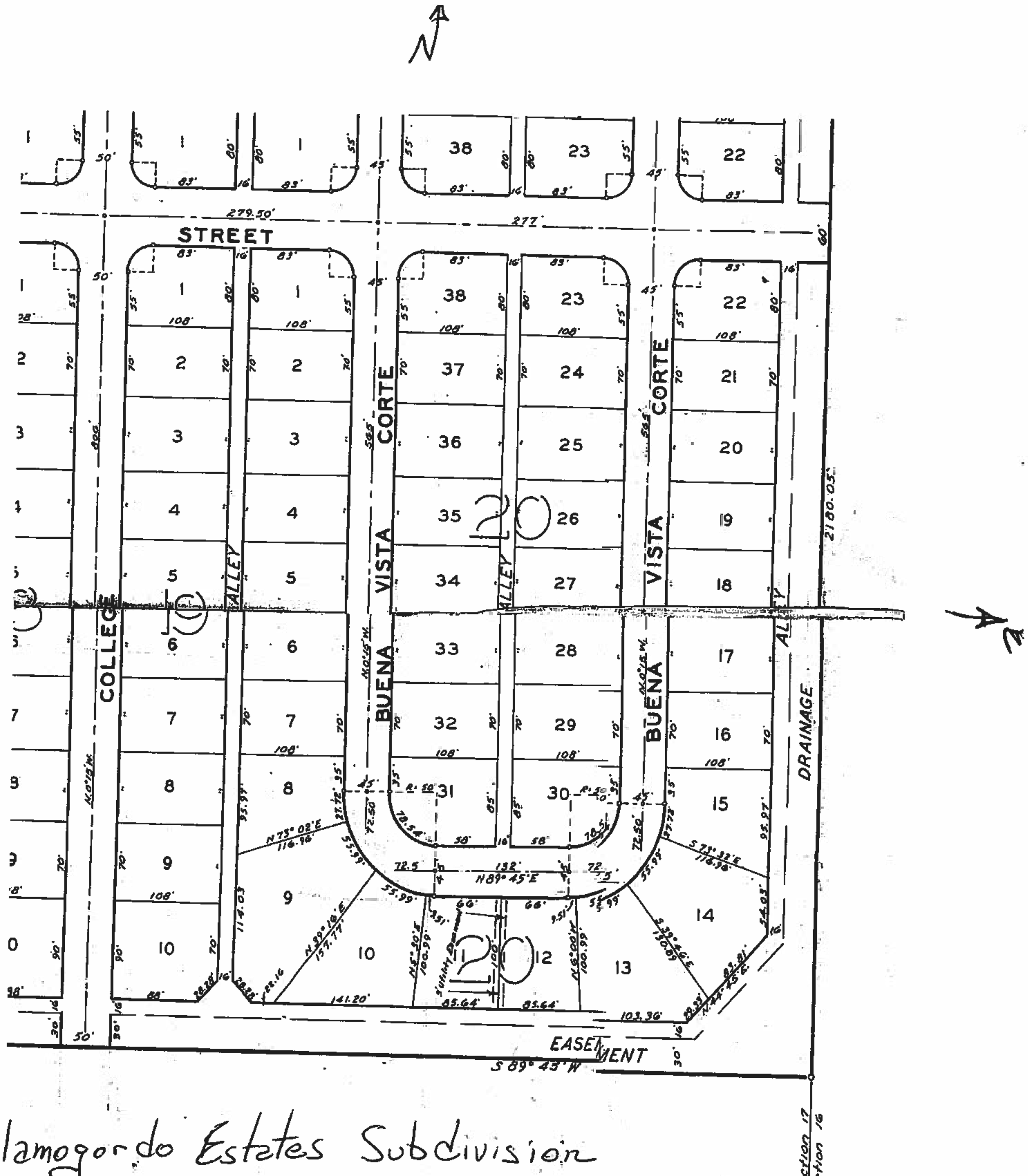
1701 Buena Vista Ct - Stop Sign



1701 Buena Vista Ct - Street photo

1742 Buena Vista Ct - Wall sidewalk

Alamo Estates Plat



Alamogordo Estates Subdivision

Block 20 - Lot 22 1742 Buena Vista Corte

Block 20 - Lot 23 1741 Buena Vista Corte

Block 20 - Lot 31 1715 Buena Vista Corte

Block 20 - Lot 11 1720 Buena Vista Corte

5/24/19

29-03-080. - Fences—District R-1.

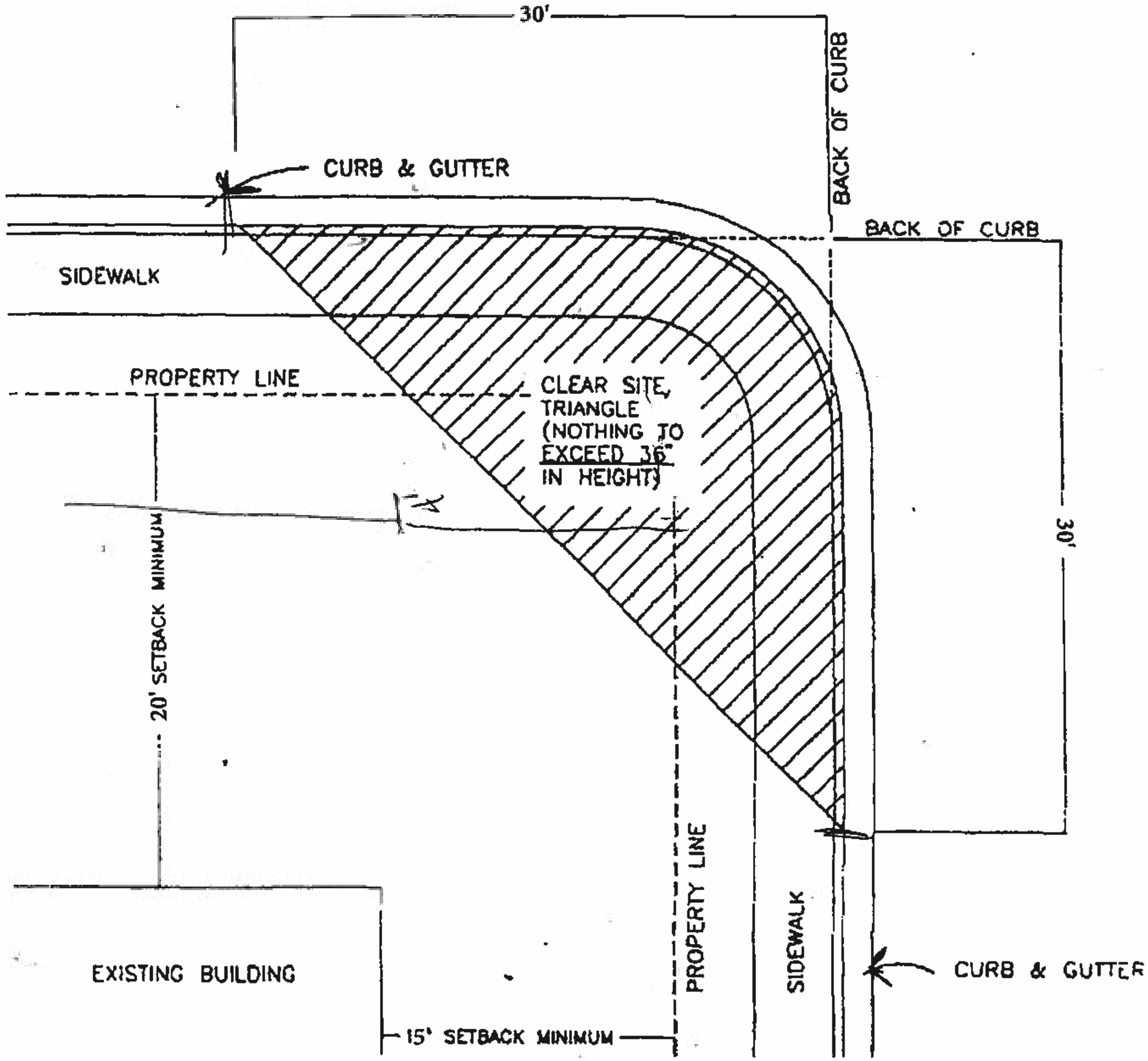
No solid fence or enclosure closer than twenty (20) feet to the front lot line shall exceed a height of four (4) feet, and no fence, hedge, or enclosure ;b1; wall on a corner lot and situated within thirty (30) feet of the intersection of two (2) street lines shall exceed a height of three (3) feet.

(Code 1960, § 11-2-8; Ord. No. 835, § 1, 10-22-91; Ord. No. 1234, § 1, 3-22-05; Ord. No. 1368, 1-12-10)

29-04-080. - Vision clearance.

On any corner lot a front yard is required by this Code, no wall, fence or other structure shall be erected and no hedge, tree, shrub or other growth shall be maintained in such location within such required front yard space as to cause danger to traffic by obstructing the view.

(Code 1960, § 11-11-9; Ord. No. 1234, § 1, 3-22-05)



CITY OF ALAMOGORDO
CLEAR SITE TRIANGLE REQUIREMENTS

1742 Building Permit

BURKE & ASSOCIATES, P.C. LTR/IMP-02

CONSULTING ENGINEERS - SURVEYORS

1909 CUBA AVENUE, SUITE 5

ALAMOGORDO, NEW MEXICO

PHONE 505-437-7074 FAX 505-437-7075

SHEET 2 OF 2

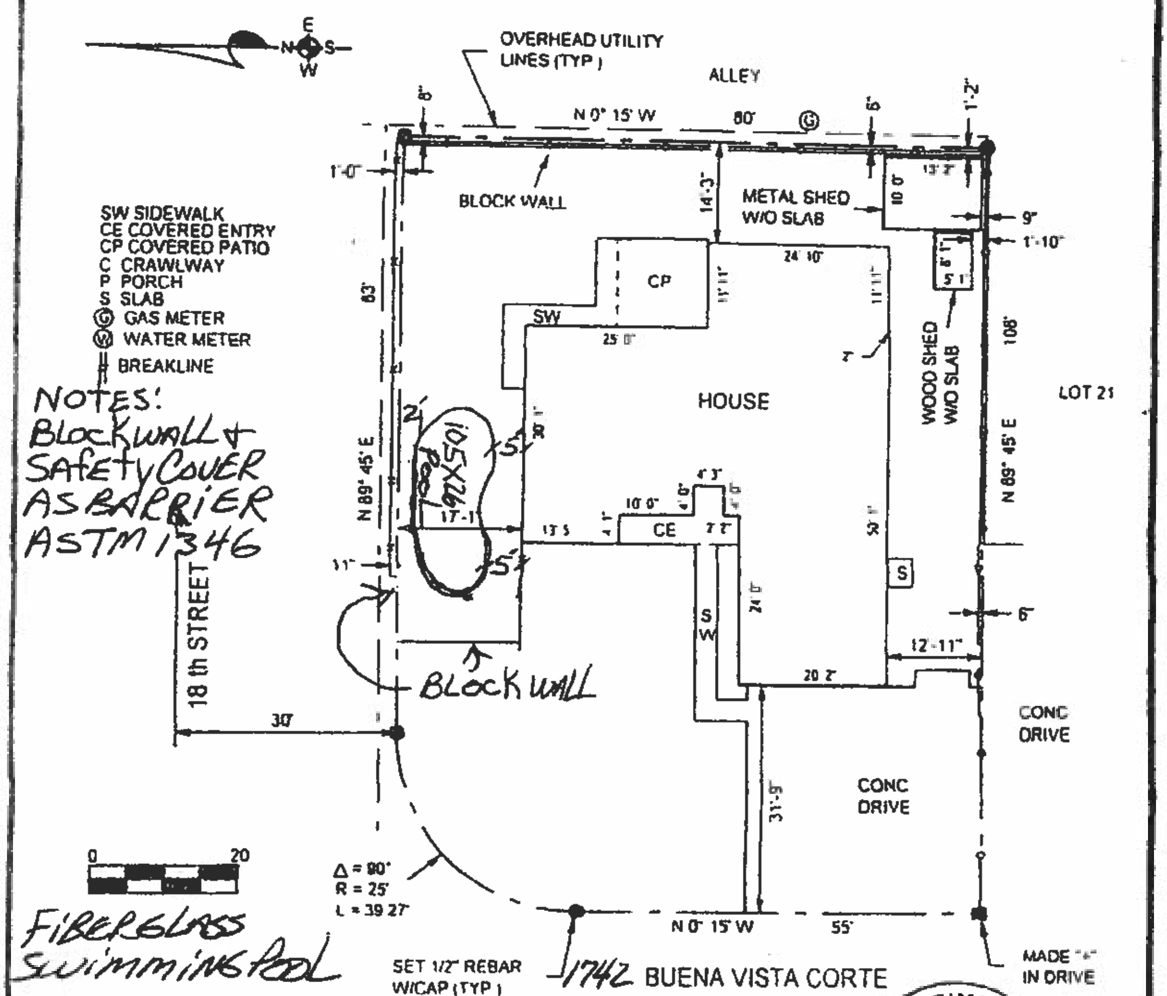
AN IMPROVEMENT PLAT OF 1742 BUENA VISTA CORTE, LOT 22, BLOCK 20, ALAMOGORDO ESTATES, ALAMOGORDO, OTERO COUNTY, NEW MEXICO.

FILED JUNE 24, 1955, RECEPTION NO 74724, OTERO COUNTY, NEW MEXICO

JOB NO 02726

SCALE 1" = 20'

DATE 09/06/02



CERTIFICATE

I, KLAD ZIMMERLE, A NEW MEXICO LICENSED PROFESSIONAL SURVEYOR CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO

KLAD ZIMMERLE NEW MEXICO 8834 PROFESSIONAL SURVEYOR

NOTE: IF THE SEAL IS NOT RED OR EMBOSSED AND THE SIGNATURE BLACK, THEN THIS IS AN UNAUTHORIZED COPY AND THE CERTIFICATIONS ARE NULL AND VOID

SUNDANCE Construction + Development LLC
Tommy Messer
2865 Birdie Loop
Alamogordo, NM 88310
575-430-5289
NM Lic. # 82525

NON FLOOD ZONE

Approved
City of Alamogordo
10-25-18
Ordinance Review Only

1742 Buena Vista Ct - Wide View

1742 Buena Vista Ct - Rear Wall

COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF ALAMOGORDO

DEC 0 2 2019

BY: S

Ordinance Violation Complaint Form

The purpose of this form is to file complaints concerning ordinances enforced by Community Development Department of the City of Alamogordo. These complaints include, but are not limited to deteriorated side walks, and complaints regarding unsafe uninhabitable structures that need to be addressed. All information on this form is public record.

Complaints involving: Violation of any New Mexico state building code, including general construction, electrical, mechanical, plumbing, liquefied petroleum and compressed natural gases, Violation of any provision of the Construction Industries Licensing Act or CID Rules and Regulations, Failure to maintain Workers' Compensation Insurance, Aiding and/or abetting an unlicensed contractor, Contracting under a name other than that on a license, Performing work beyond the scope of a license, Any change, modification or alteration to the approved building plans resulting in code violations, Abandonment of contract, conversion of funds, or a willful or fraudulent act after the matter has been adjudicated by a court should be submitted to the New Mexico Construction Industries Division (CID) on their approved form. Please visit their website at http://www.rid.state.nm.us/CID/complaint.htm or call 505-524-6320, ext.4.

Complaint Information:

Physical Address (Required):

1742 Buena Vista CT - Alamogordo

Block wall constructed approx 4 ft ONTO the 18th Street roadway right of way.

Block wall 3 ft high constructed ONTO Buena Vista CT right of way (approx 2 (two) feet and on the 18th Street roadway right of way.

Walls block safe view of egress onto 18th Street AND are a vehicle safety problem for entering 18th Street.

Optional Information:

NOTE: The following information is requested solely for the purpose of allowing us to provide you information on handling and disposition of the complaint and in case we need more information on the nature and location of the complaint. Please be aware that if serious Life safety violations are discovered during the inspection, occupants shall be immediately Removed from the premises and not allowed to return until all repairs are completed and approved by the authority having jurisdiction.

Name of Person Filing Complaint: Gerald Dodd
Address of Person: 1716 Buena Vista CT Alamogordo 88310
Work Telephone Number: (575) 415-6197

Complaints involving criminal ordinances shall be addressed to the Department of Public Safety, while complaints involving animals are handled by Animal Control. Complaint involving weeds, trash, and junk vehicles shall be addressed by DPS Code Enforcement. Please refer these complaints to DPS Code (575) 439-4375 and DPS Animal (575) 439-4330.

Suggestions

Presentation - 1742 Buena Vista Ct

Suggestions:

Direct the City Manager to remove the wall at 1742 Buena Vista CT to the street right of way

Direct the City Manager, City Attorney, City Planner to honor city street right of way property lines

Direct the City Manager and City Planner to adhere and enforce Code 29-03-080 (R-1 Fences and Vision Clearance) for corner lots

Direct the City Manager to require a permit for constructing, repairing, modifying walls and fences such that street right of ways are not built upon

ALAMOGORDO ESTATES

A SUBDIVISION

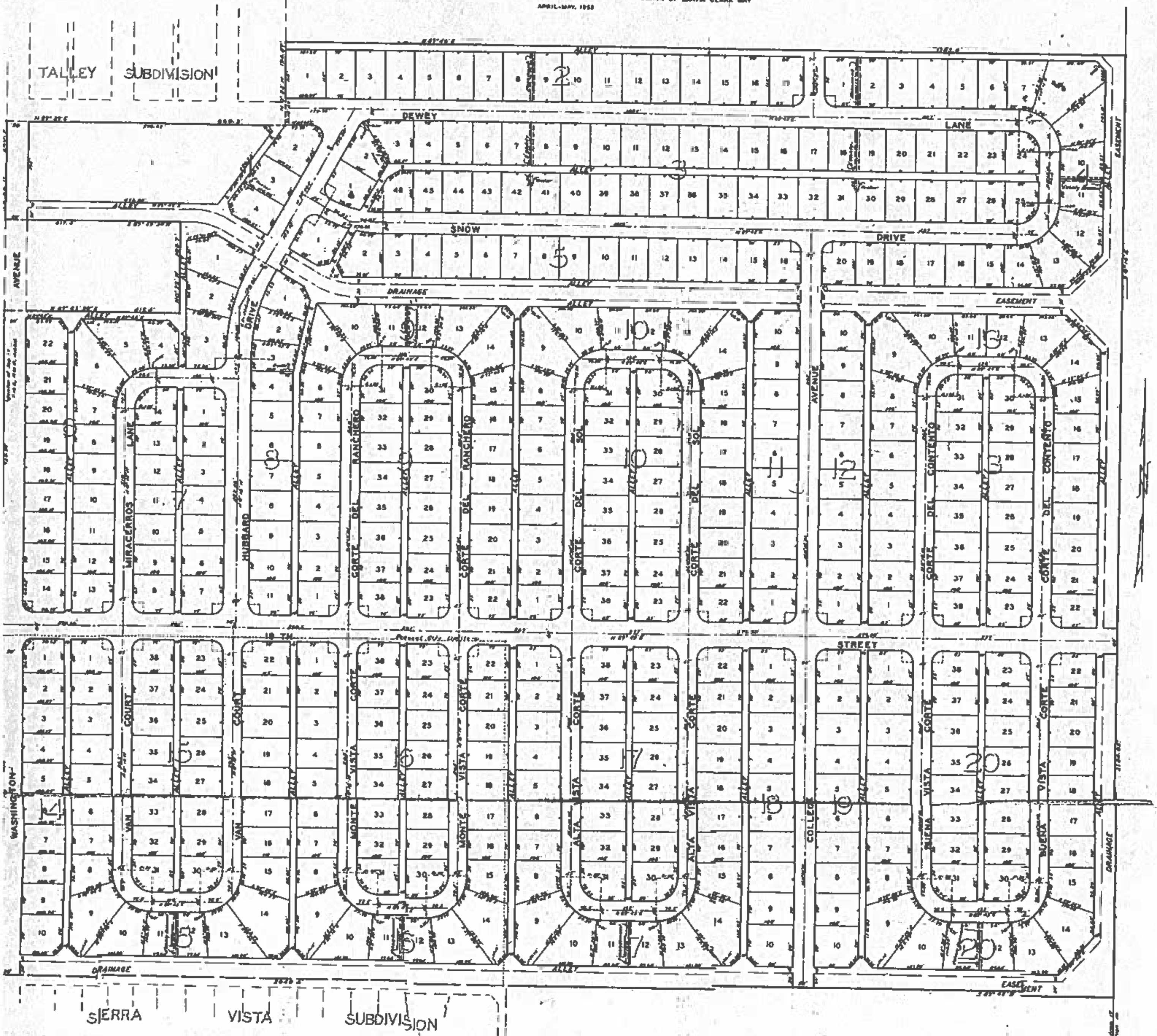
ALAMOGORDO, NEW MEXICO

SCALE 1 IN.=100 FT.

ROSS-BEYER ENGINEERING OFFICE
SURVEY BY JAMES H. THOMPSON

APRIL–MAY, 1958

ALBUQUERQUE, NEW MEXICO
DESIGN BY MARVIN CLARK MAY



THE STATE NATIONAL BANK OF EL PASO

OWNERS

AND

PROPRIETORS

STATE OF TEXAS }
COUNTY OF EL PASO }

BEFORE ME, the undersigned authority, on this day personally appeared [illegible] SCOTT, Vice President and Trust Officer of the State National Bank of El Paso, El Paso, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, as Vice President and Trust Officer of said State National Bank of El Paso, and acknowledged to me that he executed the same as the act and [illegible]

251 [illegible] 14

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** **Report No:** 3.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the October 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
6:30 P.M., COMMISSION CHAMBERS
OCTOBER 26, 2021

RICHARD BOSS, MAYOR
SHARON McDONALD, COMMISSIONER
JOSH RARDIN, COMMISSIONER
DUSTY WRIGHT, COMMISSIONER
SUSAN PAYNE, COMMISSIONER

NADIA SIKES, MAYOR PRO-TEM
BRIAN CESAR, CITY MANAGER
PETRIA BENGOECHEA, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK

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

Mayor Boss called the meeting to order at 6:30 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Reverend Warren Robinson, and the Pledge of Allegiance was led by Commissioner McDonald.

APPROVAL OF AGENDA

Commissioner Wright moved to approve the agenda.
Commissioner Payne seconded the motion.
Motion carried with a vote of 6-0-0.

PRESENTATIONS

1. Domestic Violence Awareness Month Proclamation. ***(Richard Boss, Mayor)***

Mayor Boss read the Proclamation which recognized the month of October as "Domestic Violence Awareness Month" in Alamogordo. The Proclamation was presented to Ms. Kay Gomolak, former Executive Director of the Center of Protective Environment (COPE).

PUBLIC COMMENT

Eugene Downer made the following comment:
Mr. Downer said the City owns the gazebo on South Scenic Drive, and he wondered why no one ever went in there. Perhaps the City could consider turning the gazebo into a memorial for the young woman who was recently tragically killed during the filming of a movie in New Mexico.

CITY MANAGER'S REPORT

City Manager Cesar made the following remarks:
1. City Manager Cesar said regarding the gazebo Mr. Downer was referring to, the property was adopted by Keep Alamogordo Beautiful a number of years ago. Originally it was a part of the housing development and was meant as a bus stop for the children in the area and for use by the neighborhood. He would have to pull the agreement on it to determine what it actually said.

2. City Manager Cesar said daylight savings time was next weekend, so beginning with the first meeting in November, the meetings would now be starting at 6:00 p.m.

3. City Manager Cesar said he would give the rest of his time to City Attorney Bengoechea. City Attorney Bengoechea said she and the Code Enforcement Department had been tasked by the

City Manager in really focusing on blight in the City. For this fiscal year, the City had torn down three structures and were looking at more. A press release went out on Friday letting everyone know there was a new way to report blight. The email address was blight@ci.alamogordo.nm.us. Staff was looking for reports of structures that were dangerous to the public and needed to come down. Staff was ready to move on these properties, to tear them down and to start the process. It was not a fast process. As of last Thursday, there had been ten structures reported, eight of which qualified and had already been put into the process. Anyone who reported to that email address would get a response from her.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Commissioner McDonald made the following comments:
Commissioner McDonald said she had a couple of people speak to her about the situation with the swimming pool. The Rec Center was closing down for the winter, and the citizens wanted to find out what would be feasible for Alamogordo as far as addressing a permanent swimming pool. City Manager Cesar said this was a project four or five years ago. The last time the bubble came down, it was in such a state of disrepair that we could not put a new one up. Regulations had changed and in looking at purchasing a new bubble, we would not be able to meet the air quality standards the State Environment Department had on that type of structure. At that time, the Commission had budgeted $1.2 or $1.3 million to put a permanent structure over the existing swimming pool. Once that went into design phase, there was not enough funding to put up that permanent structure because they were having to retrofit over an existing pool and building. The project was then canceled. It had come up a number of different times through the budgetary cycle, but the swimming pool itself was actually at the end of its useful life. Last year was when we expected the pool to be closed, but due to the maintenance done by staff the life of it had been extended. Through the next budgetary cycle, we would be asking the Commission to start setting aside a portion of the money in order that we could replace the swimming pool. In that design it would have the permanent structure which should be significantly less than trying to retrofit. The swimming pool would close at the end of this month for the season. The State was currently asking for tourism-related projects, Community Services and the Assistant City Manager had met to discuss various projects. He had given a few suggestions and they had their top five, one of which was the replacement pool and permanent structure.

Commissioner Payne made the following comments:
Commissioner Payne recognized County Commissioner Motherly, who was in the audience.

Mayor Boss made the following comments:
Mayor Boss read a letter he received from former Commission Jason Baldwin: "As of October 7, 2021, I will be resigning my position as Commissioner for District 1. I have officially terminated my residence at 3028 Del Cerro and am no longer eligible to perform full time duties as per our City Charter. I would like to thank all City staff for the last ten years of help, friendship, and timely advice, and I have enjoyed every minute of my time serving our wonderful community." Mayor Boss noted that he had really enjoyed the time he was able to be on the Commission with Commissioner Baldwin. He had always added a real logic to the Commission.

CONSENT AGENDA

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

3. Consider, and act upon, adoption and final publication of Ordinance 1637 Case Z-2021-0004(A) for a map amendment to correct the current zoning by changing the zoning designation of the property located at 1301 19th Street from R-1 Single Family Dwelling District to R-3 Two family dwelling district. *(Stella Rael, City Planner*) (Roll Call Vote Required)

4. Consider, and act upon, approval of Resolution No. 2021-38, updating the Senior Volunteer Programs Advisory Council to remove any references to the Retired Senior Volunteer Program. *(Neil McFarland, FGP/SCP Volunteer Coordinator)* (Roll Call Vote Required)

5. Consider, and act upon, Resolution 2021-39 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of October 26, 2021. *(Evelyn Huff, Finance Director)* (Roll Call Vote Required)

6. Consider and act upon, Resolution 2021-40, a Resolution changing the current name of Dr. Martin King Jr. Drive to Business Center Blvd. *(Stella Rael, City Planner)* (Roll Call Vote Required)

Mayor Pro-Tem Sikes removed item No. 6 from the Consent Agenda.

Commissioner Payne moved to approve the Consent Agenda as amended.
Commissioner Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

6. Consider and act upon, Resolution 2021-40, a Resolution changing the current name of Dr. Martin King Jr. Drive to Business Center Blvd. *(Stella Rael, City Planner)* (Roll Call Vote Required)

City Planner Rael said the Board of Commissioners from Otero County had submitted an application to rename the street west of Airport Road to its intended end at U.S. Highway 70, which was currently known as West Dr. Martin Luther King, Jr. Drive. She presented a map which outlined the area of the street which was being requested to be changed. The entirety of this area was in Industrial Zoning. The application was filed on August 23, 2021. The legal notice was published on September 19, 2021. Two letters were mailed by First Class mail to all property owners of record within 200 feet from the property, excluding public right-of-way of the property for which the variance was sought. As of October 15, 2021, there had been no letters returned undeliverable and she had not received any letters or phone calls of opposition. This item was presented to the Planning and Zoning Commission on October 7, 2021, and they recommended approval by a vote of 3-0-1, with one member abstaining. Staff recommended the name be changed to Business Center Blvd., and approval was recommended since this request would not be materially detrimental to surrounding property owners or the public.

County Commissioner Matherly said this had originally started from a group of people who had approached him regarding the matter of Martin Luther King, Jr. Drive ending at the jail. He took the matter to the County Commission, and it passed. Next, they went through the City's Planning and Zoning Department, and now they were requesting the City Commission approve this. Mayor Pro-Tem Sikes thanked him for taking the initiative in getting this item paid for and on the agenda. County Commissioner Matherly said the people behind this were a great group and they had real concerns, so it was worth every penny.

Commissioner Payne moved to approve.
Mayor Pro-Tem Sikes seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

NEW BUSINESS

7. Consider, and act upon, Resolution 2021-41 declaring the intent of the City of Alamogordo to adopt an ordinance authorizing the issuance and sale of its debt obligations to refund certain outstanding debt. ***(Chris Muirhead and John Archuleta)*** **(Roll Call Vote Required)**

Finance Director Huff introduced Chris Muirhead from Modrall, Sperling, Roehl, Harris & Sisk, PA, and John Archuleta from Stifel, Nicolaus & Company, Inc.

Mr. Archuleta said he had a couple of analyses from three of the City's bond issues. First was a Gross Receipts Tax (GRT) bond issue, Series 2011, through the New Mexico Finance Authority. In this particular financing, it could save $557,000 to the City. It was an interest rate transaction. The interest rate was presently around 3.69 percent, and it would be on or about 1.26 percent on this particular transaction. The particulars of the transaction would all remain the same. The only thing which would be changed was the interest rate. On the Series 2012 bond issue which was also a New Mexico Finance Authority loan, the savings would be about $189,810. When two of those GRT bonds were combined, they were looking at pretty close to $700,000 in GRT savings. The next issue was the water and sewer issue, which was also a 2011 issue. On this particular issue, there would be savings in excess of $695,000. Again, they were looking at somewhere around 2.6 percent, which would be brought down to around 1.25 percent. Keep in mind that the interest rates with the New Mexico Finance Authority changed on a weekly basis. Since the first time the rates were run about a month ago, they had experienced a little bit of a drop of about $15,000 in overall savings. The market had moved a little bit, but we were still doing extremely good as far as the interest rate savings on the transaction. By the time we went through the whole process of adopting the Ordinance and getting approval from the New Mexico Finance Authority Board, the closing would be on or about the first of January 2022. This would allow meeting all of the legal publications and notifications, and the rates would be set on or about the first or second week of December. By that time, they should be able to give the exact overall savings. Normally the Department of Finance and Administration required a minimum of 3 percent present value savings. For the water and sewer bonds, they were looking at a little over 11 percent, the smaller GRT bonds were at 5.3 percent, and the 2011 issue was at a little over 12 percent. We more than met the minimum requirements concerning the present value savings for this particular transaction.

Commissioner Rardin asked if the 2011 Bond was the quality-of-life bond. Mr. Muirhead said the 2011 issue closed in December 2011 for various street projects. Commissioner Rardin asked the initial amount. Mr. Muirhead said it was $7,640,000, and we were down to $4,385,000 on that one. The second State shared GRT issue closed in February 2012, and it was for various public projects and some refunding. The refunding portion of the loan had been paid off. It was initially in the amount of $8,130,000, and it was now outstanding in the amount of $3,525,000. The wastewater utility system issue closed in November 2011, initially in the amount of $9,812,674, and outstanding now was the amount of $5,591,000. That one was for wastewater treatment plant improvements, and a little bit of a refunding component which had been paid off. At this point the refunding was really to refund the capital investment from 2011. In terms of refunding capital improvements, this would not extend these loans any longer than they were originally issued, so the useful life of the projects was critical when financing them at a particular time, not only for the Internal Revenue Service but also for State law. At the time they were issued, they were for 15, 20, or 25 years, but that was not being extended. These ones were staying at the same maturities, and the useful life still matched as they were still consistent with the original term of those bonds. This was just to substitute much lower interest rates. The pledges remained the same and the maturities remained the same.

Mr. Muirhead said the Resolution in front of the Commission authorized submitting the applications to the Finance Authority and directing the consultants and staff to move forward and try to maximize the savings. The process was for the first reading of the Ordinances at the next Commission meeting, and probably targeting the first meeting after Thanksgiving for adoption of the Ordinances. At that point everything would be laid out in front of them. The key points would remain the same as they would be pledging the same pledged revenues, they didn't have a lien on the general obligation, and they didn't have a lien on any local option taxes. The joint utility deal didn't have a lien on any GRT as it was solely system revenues. Today they would just be authorizing getting the ball rolling so we could try and strike while the market was the best.

Commissioner Rardin said when he was a Commissioner before, they refunded one or two of these bonds and borrowed additional money since the interest rates were lower. They had done a very large street repaving project in two phases. He wondered if that was something we could look at doing since rates were substantially low right now. There were a lot of roads that needed repairing, but they didn't necessarily have the money to do the infrastructure underneath them. Would we be shooting ourselves in the foot by refinancing it now and getting a lower rate, but then be locking ourselves in to where they couldn't be refinanced in the near future if need be. Mr. Muirhead said each of these bonds had a traditional 10-year call protection which was normal in the municipal market and the Finance Authority required that. Post ten years there was flexibility to do it at any time. The art of what Mr. Archuleta did was to try and figure out when that was, and of course as he mentioned, the markets changed weekly. This was when we first could do it, and generally that was when people did it because if the market was cooperating then they would see the ability to replace the maturities at the far end from the original deal and then bring them back in at the front end at much lower rates. That was what drove it in terms of the timing.

Mr. Muirhead said regarding the other question on whether they should try to move at the same time and the same financing to finance new capital projects because they had now increased the capacity with the GRT, the City now had less debt service it was required to pay from the State shared GRT. Looking at the annual income, they had now created capacity and it was very common and legally they could combine capital improvements with the refunding. The City had done that in the past. In consultation with the staff, this would certainly be a time to look at capital needs to see if there was an opportunity to do that. Commissioner Rardin said he just wanted to make sure we were not locking ourselves in to where we could not refinance down the road. Mr. Muirhead said given the short maturities remaining on these three deals, once they were refinanced the Finance Authority probably would have a prohibition on refinancing because it was within that 10-year period. However, it was unlikely that the interest rates would go much lower than they were now.

Mr. Archuleta said one of the things they could do was an analysis depending on how much money was coming in on the GRT, which was the money being pledged for this debt. What they were looking at now was releasing about $80,000 per year for the next five to ten years. An analysis would give them an idea of what they could actually do as far as additional financing. That would give them a better idea as far as being able to plan for what they could do and when. They would make an analysis available to the Commission. Commissioner Rardin said in the event we did the refunding and got the lower rates, it would probably be two or three years down the road before they could even look at refinancing it again to borrow additional money. Mr. Archuleta said with these particular issues, they would not be able to have an early call because one was a 10-year bond, and normally the New Mexico Finance Authority only allowed calls for ten years or longer. The other one was out for six years, so it would not have a call option on it either. Because of the low interest rate market right now, they were better off just going ahead and doing it instead of waiting and trying to do something else in the future. However, he could come up with something for them to do additional financing and then wrap it around the two issues they presently had outstanding and give the flexibility of doing additional financing.

Commissioner Rardin moved to approve.
Commissioner Payne seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

8. Consider and act upon case V-2021-0003(A), the property owner of 1714 N. Florida Ave is requesting a Variance to allow a rear setback of eleven (11") feet vs twenty-seven (27') feet required per ordinance for the construction of an addition totaling 817 square feet within the R-4 Multiple Family Dwelling District. *(Stella Rael, City Planner)*

City Planner Rael said the applicant, Richard Young, had applied for a variance to allow the rear setback of 11 feet. There was already a duplex there, and he was wanting to add square footage to the rear of the property. Per Ordinance, it must have a 30-foot rear setback or 20 percent of the lot depth, whichever was less. Because he did not meet that, he had applied for a variance. The property was surrounded by R-4 Multiple Family Dwelling District and R-1 Single Family Dwelling District. The application was filed on August 31, 2021, and legal notice was published on September 19, 2021. Twenty-one letters were mailed by First Class mail to all property owners of record within 200 feet. As of October 15, 2021, there had been no letters returned undeliverable and she had not received any letters or phone calls of opposition. The item was presented to the Planning and Zoning Commission on October 7, 2021, and they recommended approval by a vote of 4-0-1. The one abstention was Commissioner Crabbe because she was a property manager of this property. Staff recommended approval since it would not be materially detrimental to surrounding property owners or the public.

Commissioner Payne moved to approve.
Commissioner Rardin seconded the motion.

Motion carried with a vote of 6-0-0.

9. Consider and act upon Ordinance 1640 Approving the transfer for a Local Economic Development Project for secured financial assistance proposed by Ultra Health, LLC. *(Petria Bengoechea, City Attorney)* (Roll Call Vote Required)

City Attorney Bengoechea said she had made a mistake in the Ordinance which referred to “Downtown Venture Corporation”, and she would correct it to read “Ultra Health, LLC”.

City Attorney Bengoechea said Ultra Health had recently purchased the old “Cookie Factory” at 1301 Lavelle Road. They were opening their business and would soon be manufacturing there. Unfortunately, the previous LEDA project was never secured when it was entered into with Western Baking Corporation which meant they had purchased it without a City obligation on it. Ultra Health understood that this had been a big deal to the City for many years and they had agreed to actually pay off, via job creation, Western Baking’s or Sunbaked Biscuits’, or Marietta Baking’s obligation. This was not going to be secured because it had not been secured for many, many years. However, they had agreed in writing that if for some reason they went out of business and they didn’t create jobs, that they would pay the obligation back in cash. We had no reason to believe that they would not do so at this time. They had been very communicative, and she had spoken often with their attorney. Truly Ultra Health did not have to recognize the outstanding LEDA obligation here and in the creation of jobs like they were agreeing to. Therefore, staff was recommending approval.

Mayor Pro-Tem Sikes said the obligation was actually listed and was well over $300,000. She wondered if they had provided a plan on how they would pay this back, number of jobs, hourly rates for the jobs, etc. City Attorney Bengoechea said it was outlined in the Project Participation Agreement, and it worked the same way it always did with the job credit. When she spoke with their attorney, their plan was that they believed they would have the payroll to pay it off within 18 months, if not sooner. Because there currently were hiring challenges within the community, it was written in at 24 months and we certainly would be willing to work with them if hiring employees was a bar to that. When staff sent the first proposal to them with wages set at $9 per hour, they immediately sent back that their minimum starting wage was $13 per hour. They believed they would be able to pay it back more quickly. If they had not agreed to this project, the City’s plan was to invoice Western Baking, which was a company that didn’t even really exist any longer. It most likely would have gone to collections and then would have had to be written off in a couple of years. This was the best case for the City, even though this unsecured deal had been in place since approximately 2012 to 2014. Mayor Pro-Tem Sikes clarified that Ultra Health had not requested LEDA. City Attorney Bengoechea said no; they had actually been very firm that they did not need incentives and didn’t want to take help. They were doing this 100 percent on their own, which they were very proud of, as they should be.

City Clerk Hughs clarified that this was for approval of first publication of the Ordinance, and not approval of the Ordinance itself.

Mayor Pro-Tem Sikes moved to approve for first publication.
Commissioner Wright seconded the motion.
Roll Call Vote was taken.
Motion carried with a vote of 6-0-0.

Commissioner Payne moved to adjourn at 7:22 p.m.
Commissioner Rardin seconded the motion.
Motion carried with a vote of 6-0-0.

ADJOURNMENT

____
Mayor Richard Boss

ATTEST:

____
City Clerk Rachel Hughs

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

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 10/27/2021 **Report No:** 4.

Submitted By: Barbara Pyeatt

Subject: Approve the award of RFP 2021-06 Water & Wastewater Analytical Services to Aqua Environmental Testing Laboratory. *(David Nunnelley, Acting Public Works Director)*

Fiscal Impact:
Amount Budgeted: $97,427
Fund: 081-5603-432-5747 and 081-5703-461-5747

Additional Fiscal Impact:

Recommendation: Approve the award and authorize staff to proceed with a professional services agreement.

Background: RFP 2021-06 scope of work is to provide the City of Alamogordo with a full-time professional analytical laboratory and testing services of the various components of its water and wastewater operations.

The RFP was advertised on September 5th 2021 in both the Alamogordo Daily News and the Albuquerque Journal. One responsive proposal was received on September 24th 2021. Aqua Environmental Testing Labrotaory.

The proposal was reviewed and determined to be acceptable and in compliance with the terms and conditions of the RFP.

Copies of the proposal from Aqua Environmental Testing Labroatory is available at the Purchasing Department.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 11/02/2021 **Report No:** 5.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Resolution 2021-42 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 November 9, 2021. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: Beginning Cash Balances $69,595,645
Revenues $ 547,688 Increase
Expenditures $ 1,542,860 Increase
Transfers In $ 995,172 Increase
Transfers Out $ 995,172 Increase

Recommendation: Approve the Resolution

Background: The City Commission adopted the FY 2021-2022 budget on May 11, 2021. The Department of Finance & Administration granted approval of the City of Alamogordo's Fiscal Year 2021-2022 Final Budget on August 12, 2021. Resolution 2021-42 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.

RESOLUTION NO. 2021-42

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 2021-22.

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 final approval to the City of Alamogordo, New Mexico's annual budget on August 12, 2021, for fiscal year 2021-2022; and

WHEREAS, the City of Alamogordo, New Mexico, has tabulated on the following pages the additional resources and expenditures for fiscal year 2021-2022.

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 2022 be and hereby is revised as of November 9, 2021, to reflect a more true and accurate projection of the actual revenues and expenditures for fiscal year 2021-2022 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 November 9, 2021, as a more true and accurate projection of the actual revenues and expenditures for fiscal year 2021-2022.

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

1/12TH REQ RSRV
1,632,595
1/12TH REQ RSRV
0
Fund Reserve Policy
560,074
Bal. Remaining
3,272,696

ALL FUNDS SUMMARY
BUDGET 2021-2022

FY22 BUDGET - RESOLUTION 2021-42 (#5) NOVEMBER 9, 2021

FUND NO.	FY 2021-2022 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	14,022,061	19,505,705	1,000,000	9,471,255	(8,471,255)	19,591,145	5,465,366	2,192,669	3,272,696
12	INTERNAL SERVICE FUND	80,006	448,777	4,549,706	0	4,549,706	4,926,008	152,481		$152,481
15	CORRECTIONS-JAIL	45,984	75,994	45,000	248	44,752	161,000	5,730		$5,730
16	LODGER'S TAX-PROMOTIONAL FUND	314,183	218,407	1,936	1,405	531	190,952	342,169		$342,169
17	POLICE COURT BOND	7,938	0	0	0	0	0	7,938		$7,938
19	COURT AUTOMATION FUND	8,582	50,000	0	10,571	(10,571)	40,895	7,116		$7,116
20	LODGER'S TAX-CITY	169,504	364,007	0	70,150	(70,150)	253,770	209,591		$209,591
21	D.A.R.E. DONATIONS FUND	22,409	2,165	0	0	0	8,109	16,465		$16,465
24	GRANT CAPITAL IMPROVEMENT	0	3,114,417	15,414	0	15,414	2,609,361	520,470		$520,470
27	MUNICIPAL COURT OPERATIONS	26,309	13,000	450,000	16,009	433,991	450,691	22,609		22,609
28	POLICE CONTINGENCY	69,213	2,549	0	0	0	10,000	61,762		$61,762
31	CEMETERY-PERPETUAL CARE	816,480	20,140	0	0	0	0	836,620		$836,620
32	COMMUNITY SERVICES	438,488	468,409	4,704,888	617,373	4,087,515	4,988,434	5,978		$5,978
33	FIRE PROTECTION	689,963	662,583	0	0	0	1,262,643	89,903		$89,903
35	HIDTA GRANT FUND	0	17,400	0	0	0	17,400	0		$0
36	LAW ENFORCEMENT FUND	4,818	55,200	0	0	0	60,018	(0)		($0)
37	STATE HIGHWAY FUND	147,869	70,751	0	0	0	128,828	89,792		$89,792
38	TRAFFIC SAFETY FUND	54,656	10,491	0	0	0	10,000	55,147		$55,147
39	STATE JUDICIAL	2,749	75,500	0	0	0	75,500	2,749		$2,749
42	1984 GROSS RECEIPTS TAX	2,385,672	1,730,991	0	2,150,774	(2,150,774)	22,675	1,943,214	252,119	$1,691,095
44	TRANSPORTATION FUND	165,480	1,239,016	1,976,537	140,914	1,835,623	3,235,453	4,666		$4,666
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	3,911,631	1,781,383	0	2,742,303	(2,742,303)	1,150,657	1,800,054	268,391	$1,531,663
50	PROPERTY ACQUISITION	85,010	0	0	0	0	0	85,010		$85,010
53	GENERAL OBLIGATION	908,523	1,062,849	0	0	0	1,114,058	857,314	557,029	$300,285
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	16,239	0	16,239	16,239	21,967		$21,967
56	99 GRT FLOOD CONTROL BOND PROJ	7	29,091	1,830,905	19,476	1,811,429	1,608,382	232,145		$232,145
59	REVENUE BOND P & I FUND	150,101	7,363	2,679,243	0	2,679,243	2,679,243	157,464		$157,464
61	MUNICIPAL INFRASTRUCTURE .0625%	890,520	437,756	0	468,000	(468,000)	5,669	854,607		$854,607
63	COMMUNITY DEVELOPMENT	6,519	0	505,090	37,143	467,947	472,434	2,032		$2,032
69	1994 GROSS RECEIPTS	2,560,463	1,755,150	0	1,956,102	(1,956,102)	22,675	2,336,836	553,051	$1,783,785
71	ALAMO SENIOR CENTER	2,079	912,161	815,000	0	815,000	1,701,193	28,047		$28,047
74	ALAMO SENIOR CENTER GIFT	138,081	21,238	0	0	0	71,996	87,323		$87,323
75	RETIRED & SENIOR VOL. PROGRAM	14,328	176,851	46,000	16,102	29,898	205,231	15,846		$15,846
81	WATER/SEWER OPERATING	5,996,510	17,987,667	3,703,413	1,855,098	1,848,315	20,025,294	5,807,198	1,463,850	$4,343,348
82	98 JT WATER/SEWER BOND P&I	1,583,799	32,886	1,893,605	0	1,893,605	1,893,607	1,616,683		$1,616,683
86	SOLID WASTE COLLECTION SYS.	584,696	2,107,151	0	135,438	(135,438)	2,153,773	402,636	178,583	$224,053
88	BONITO CAMPGROUND	394,450	3,498	0	0	0	4,000	393,948		$393,948
89	ESGRT .0625%	2,538,217	458,704	0	1,406,625	(1,406,625)	995,582	594,714		$594,714
90	GOLF COURSE	72,040	1,473,298	660,000	91,334	568,666	2,110,514	3,490		$3,490
91	AIRPORT	17,373	712,425	65,000	53,178	11,822	740,750	870		$870

94	OTERO GREENTREE REG LANDFILL	4,909,828	1,379,465	0	725	(725)	4,528,855	1,759,713		$1,759,713
96	SELF-INSURED FUND	561,415	64,595	0	150,000	(150,000)	75,628	400,382		$400,382
98	PAYROLL CLEARING	291,874	0	0	0	0	0	291,874		$291,874
104	UTILITY DEPOSITS	653,070	0	0	0	0	0	653,070		$653,070
105	ECONOMIC DEVELOPMENT	4,508,656	925,576	0	0	0	423,257	5,010,975		$5,010,975
107	SELF INSURED/LIABILITY	1,176,628	6,805	0	0	0	635,000	548,433		$548,433
109	2004 GRT CAPITAL OUTLAY	15,469,629	3,593,680	0	4,354,058	(4,354,058)	9,102,805	5,606,446	534,452	$5,071,994
114	SIDEWALKS REVOLVING LOANS	143,001	1,454	0	0	0	0	144,455		$144,455
115	CORP ESCROW ACCOUNT RESERVE	1,000	0	0	0	0	0	1,000		$1,000
119	2012 GRT REF/IMP REVBD	407,932	29,960	0	0	0	154,384	283,508		$283,508
121	2015 GO BONDS-FUN CENTER	90,064	914	0	0	0	0	90,978		$90,978
122	2015 GO BONDS-STREETS	174,516	1,771	0	0	0	0	176,287		$176,287
124	AMERICAN RESCUE PLAN ACT	0	3,952,892	0	0	0	3,952,892	0		$0
901	HOUSING LOW RENT OPERATING	1,146,135	822,703	0	0	0	1,063,881	904,957	354,627	$550,330
903	HOUSING HOMEOWNERSHIP OPER	713,222	1,525	0	0	0	17,921	696,826		$696,826
904	HOUSING CAPITAL FUND PROJECTS	0	1,333,878	0	0	0	1,333,878	0		$0
	TOTALS FY2022	**69,595,645**	**69,720,191**	**25,764,281**	**25,764,281**	**0**	**97,608,985**	**41,706,851**	**6,354,771**	**35,352,080**

ALL FUNDS SUMMARY

BUDGET 2021-2022

1/12TH REQ RSRV
1,632,595
1/12TH REQ RSRV
0
Fund Reserve Policy
560,074
Bal. Remaining
4,267,868

FY22 BUDGET - RESOLUTION 2021-42 (#5) NOVEMBER 9, 2021

FUND NO.	FY 2021-2022 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	14,022,061	18,980,417	1,000,000	8,476,083	(7,476,083)	19,065,857	6,460,538	2,192,669	4,267,868
	Revision #3-TRD GRT Settlement		525,288			0	525,288	0		0
	Revision #4-Facility Maint. Vehicles				400,172	(400,172)	0	(400,172)		(400,172)
	Revision #5-Radio System Upgrades				595,000	(595,000)	0	(595,000)		(595,000)
	Total Revised Fund 11	**14,022,061**	**19,505,705**	**1,000,000**	**9,471,255**	**(8,471,255)**	**19,591,145**	**5,465,366**	**2,192,669**	**3,272,696**
12	INTERNAL SERVICE FUND	80,006	448,777	3,554,534	0	3,554,534	3,930,836	152,481		$152,481
	Revision #4-Facility Maint. Vehicles			400,172		400,172	400,172	0		$0
	Revision #5-Radio System Upgrades			595,000		595,000	595,000	0		$0
	Total Revised Fund 12	**80,006**	**448,777**	**4,549,706**	**0**	**4,549,706**	**4,926,008**	**152,481**		**152,481**
15	CORRECTIONS-JAIL	45,984	75,994	45,000	248	44,752	161,000	5,730		$5,730
	Total Revised Fund 15	**45,984**	**75,994**	**45,000**	**248**	**44,752**	**161,000**	**5,730**		**5,730**
16	LODGER'S TAX-PROMOTIONAL FUND	314,183	218,407	1,936	1,405	531	190,952	342,169		$342,169
	Total Revised Fund 16	**314,183**	**218,407**	**1,936**	**1,405**	**531**	**190,952**	**342,169**		**342,169**
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	8,582	50,000	0	10,571	(10,571)	40,895	7,116		$7,116
	Total Revised Fund 19	**8,582**	**50,000**	**0**	**10,571**	**(10,571)**	**40,895**	**7,116**		**7,116**
20	LODGER'S TAX-CITY	169,504	364,007	0	70,150	(70,150)	253,770	209,591		$209,591
	Total Revised Fund 20	**169,504**	**364,007**	**0**	**70,150**	**(70,150)**	**253,770**	209,591		**209,591**
21	D.A.R.E. DONATIONS FUND	22,409	2,165			0	8,109	16,465		$16,465
	Total Revised Fund 21	**22,409**	**2,165**	**0**	**0**	**0**	**8,109**	**16,465**		**16,465**
24	GRANT CAPITAL IMPROVEMENT	0	3,102,617	15,414	0	15,414	2,597,561	520,470		$520,470
	Revision #1-CDWI Overtime Grant		5,000			0	5,000	0		$0
	Revision #6-Bulletproof Vest Grant		6,800			0	6,800	0		$0
	Total Revised Fund 24	**0**	**3,114,417**	**15,414**	**0**	**15,414**	**2,609,361**	**520,470**		**520,470**
27	MUNICIPAL COURT OPERATIONS	26,309	13,000	450,000	16,009	433,991	450,691	22,609		$22,609
	Total Revised Fund 27	**26,309**	**13,000**	**450,000**	**16,009**	**433,991**	**450,691**	**22,609**		**22,609**
28	POLICE CONTINGENCY	69,213	2,549			0	10,000	61,762		$61,762
	Total Revised Fund 28	**69,213**	**2,549**	**0**	**0**	**0**	**10,000**	**61,762**		**61,762**
31	CEMETERY-PERPETUAL CARE	816,480	20,140			0		836,620		$836,620
	Total Revised Fund 31	**816,480**	**20,140**	**0**	**0**	**0**	**0**	**836,620**		**836,620**
32	COMMUNITY SERVICES	438,488	468,409	4,704,888	617,373	4,087,515	4,988,434	5,978		$5,978
	Total Revised Fund 32	**438,488**	**468,409**	**4,704,888**	**617,373**	**4,087,515**	**4,988,434**	**5,978**		**5,978**
33	FIRE PROTECTION	689,963	662,583	0	0	0	1,262,643	89,903		$89,903
	Total Revised Fund 33	**689,963**	**662,583**	**0**	**0**	**0**	**1,262,643**	**89,903**		**89,903**

35	HIDTA GRANT FUND	0	0			0	0	0		$0
	Revision #2-H.I.D.T.A. Grant		17,400			0	17,400	0		$0
	Total Revised Fund 35	**0**	**17,400**	**0**	**0**	**0**	**17,400**	**0**		**0**
36	LAW ENFORCEMENT FUND	4,818	55,200	0	0	0	60,018	(0)		($0)
	Total Revised Fund 36	**4,818**	**55,200**	**0**	**0**	**0**	**60,018**	**(0)**		**(0)**
37	STATE HIGHWAY FUND	147,869	70,751	0	0	0	128,828	89,792		$89,792
	Total Revised Fund 37	**147,869**	**70,751**	**0**	**0**	**0**	**128,828**	**89,792**		**89,792**
38	TRAFFIC SAFETY FUND	54,656	10,491	0	0	0	10,000	55,147		$55,147
	Total Revised Fund 38	**54,656**	**10,491**	**0**	**0**	**0**	**10,000**	**55,147**		**55,147**
39	STATE JUDICIAL	2,749	75,500			0	75,500	2,749		$2,749
	Total Revised Fund 39	**2,749**	**75,500**	**0**	**0**	**0**	**75,500**	**2,749**		**2,749**
42	1984 GROSS RECEIPTS TAX	2,385,672	1,730,991	0	2,150,774	(2,150,774)	22,675	1,943,214	252,119	$1,691,095
	Total Revised Fund 42	**2,385,672**	**1,730,991**	**0**	**2,150,774**	**(2,150,774)**	**22,675**	**1,943,214**	**252,119**	**1,691,095**
44	TRANSPORTATION FUND	165,480	1,239,016	1,976,537	140,914	1,835,623	3,235,453	4,666		$4,666
	Total Revised Fund 44	**165,480**	**1,239,016**	**1,976,537**	**140,914**	**1,835,623**	**3,235,453**	**4,666**		**4,666**
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	3,911,631	1,781,383	0	2,742,303	(2,742,303)	1,150,657	1,800,054	268,391	$1,531,663
	Total Revised Fund 49	**3,911,631**	**1,781,383**	**0**	**2,742,303**	**(2,742,303)**	**1,150,657**	**1,800,054**	**268,391**	**1,531,663**
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	908,523	1,062,849			0	1,114,058	857,314	557,029	$300,285
	Total Revised Fund 53	**908,523**	**1,062,849**	**0**	**0**	**0**	**1,114,058**	**857,314**	**557,029**	**300,285**
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	16,239	0	16,239	16,239	21,967		$21,967
	Total Revised Fund 54	**21,967**	**0**	**16,239**	**0**	**16,239**	**16,239**	**21,967**		**21,967**
56	99 GRT FLOOD CONTROL BOND PROJ	7	29,091	1,830,905	19,476	1,811,429	1,608,382	232,145		$232,145
	Total Revised Fund 56	**7**	**29,091**	**1,830,905**	**19,476**	**1,811,429**	**1,608,382**	**232,145**		**232,145**
59	REVENUE BOND P & I FUND	150,101	7,363	2,679,243		2,679,243	2,679,243	157,464		$157,464
	Total Revised Fund 59	**150,101**	**7,363**	**2,679,243**	**0**	**2,679,243**	**2,679,243**	**157,464**		**157,464**
61	MUNICIPAL INFRASTRUCTURE .0625%	890,520	437,756	0	468,000	(468,000)	5,669	854,607		$854,607
	Total Revised Fund 61	**890,520**	**437,756**	**0**	**468,000**	**(468,000)**	**5,669**	**854,607**		**854,607**
63	COMMUNITY DEVELOPMENT	6,519	0	505,090	37,143	467,947	472,434	2,032		$2,032
	Total Revised Fund 63	**6,519**	**0**	**505,090**	**37,143**	**467,947**	**472,434**	**2,032**		$2,032
69	1994 GROSS RECEIPTS	2,560,463	1,755,150	0	1,956,102	(1,956,102)	22,675	2,336,836	553,051	$1,783,785
	Total Revised Fund 69	**2,560,463**	**1,755,150**	**0**	**1,956,102**	**(1,956,102)**	**22,675**	**2,336,836**	**553,051**	**1,783,785**
71	ALAMO SENIOR CENTER	2,079	912,161	815,000	0	815,000	1,701,193	28,047		$28,047
	Total Revised Fund 71	**2,079**	**912,161**	**815,000**	**0**	**815,000**	**1,701,193**	**28,047**		**28,047**
74	ALAMO SENIOR CENTER GIFT	138,081	21,238	0	0	0	71,996	87,323		$87,323
	Total Revised Fund 74	**138,081**	**21,238**	**0**	**0**	**0**	**71,996**	**87,323**		**87,323**

75	RETIRED & SENIOR VOL. PROGRAM	14,328	176,851	46,000	16,102	29,898	205,231	15,846		$15,846
	Total Revised Fund 75	**14,328**	**176,851**	**46,000**	**16,102**	**29,898**	**205,231**	**15,846**		**15,846**
81	WATER/SEWER OPERATING	5,996,510	17,987,667	3,703,413	1,855,098	1,848,315	20,025,294	5,807,198	1,463,850	$4,343,348
	Total Revised Fund 81	**5,996,510**	**17,987,667**	**3,703,413**	**1,855,098**	**1,848,315**	**20,025,294**	**5,807,198**	**1,463,850**	**4,343,348**
82	98 JT WATER/SEWER BOND P&I	1,583,799	32,886	1,893,605		1,893,605	1,893,607	1,616,683		$1,616,683
	Total Revised Fund 82	**1,583,799**	**32,886**	**1,893,605**	**0**	**1,893,605**	**1,893,607**	**1,616,683**		**1,616,683**
86	SOLID WASTE COLLECTION SYS.	584,696	2,107,151	0	135,438	(135,438)	2,153,773	402,636	178,583	$224,053
	Total Revised Fund 86	**584,696**	**2,107,151**	**0**	**135,438**	**(135,438)**	**2,153,773**	**402,636**	**178,583**	**224,053**
88	BONITO CAMPGROUND	394,450	3,498			0	4,000	393,948		$393,948
	Total Revised Fund 88	**394,450**	**3,498**	**0**	**0**	**0**	**4,000**	**393,948**		**393,948**
89	ESGRT .0625%	2,538,217	458,704	0	1,406,625	(1,406,625)	995,582	594,714		$594,714
	Total Revised Fund 89	**2,538,217**	**458,704**	**0**	**1,406,625**	**(1,406,625)**	**995,582**	**594,714**		**594,714**
90	GOLF COURSE	72,040	1,473,298	660,000	91,334	568,666	2,110,514	3,490		$3,490
	Total Revised Fund 90	**72,040**	**1,473,298**	**660,000**	**91,334**	**568,666**	**2,110,514**	**3,490**		**3,490**
91	AIRPORT	17,373	712,425	65,000	53,178	11,822	740,750	870		$870
	Total Revised Fund 91	**17,373**	**712,425**	**65,000**	**53,178**	**11,822**	**740,750**	**870**		**870**
94	OTERO GREENTREE REG LANDFILL	4,909,828	1,379,465	0	725	(725)	4,528,855	1,759,713		$1,759,713
	Total Revised Fund 94	**4,909,828**	**1,379,465**	**0**	**725**	**(725)**	**4,528,855**	**1,759,713**		**1,759,713**
96	SELF-INSURED FUND	561,415	64,595	0	150,000	(150,000)	75,628	400,382		$400,382
	Total Revised Fund 96	**561,415**	**64,595**	**0**	**150,000**	**(150,000)**	**75,628**	**400,382**		$400,382
98	PAYROLL CLEARING	291,874	0	0	0	0	0	291,874		$291,874
	Total Revised Fund 98	**291,874**	**0**	**0**	**0**	**0**	**0**	**291,874**		**291,874**
104	UTILITY DEPOSITS	653,070	0	0	0	0	0	653,070		$653,070
	Total Revised Fund 104	**653,070**	**0**	**0**	**0**	**0**	**0**	**653,070**		**653,070**
105	ECONOMIC DEVELOPMENT	4,508,656	925,576	0	0	0	423,257	5,010,975		$5,010,975
	Total Revised Fund 105	**4,508,656**	**925,576**	**0**	**0**	**0**	**423,257**	**5,010,975**		**5,010,975**
107	SELF INSURED/LIABILITY	1,176,628	6,805	0	0	0	635,000	548,433		$548,433
	Total Revised Fund 107	**1,176,628**	**6,805**	**0**	**0**	**0**	**635,000**	**548,433**		**548,433**
109	2004 GRT CAPITAL OUTLAY	15,469,629	3,593,680	0	4,354,058	(4,354,058)	9,102,805	5,606,446	534,452	$5,071,994
	Total Revised Fund 109	**15,469,629**	**3,593,680**	**0**	**4,354,058**	**(4,354,058)**	**9,102,805**	**5,606,446**	**534,452**	**5,071,994**
114	SIDEWALKS REVOLVING LOANS	143,001	1,454	0	0	0	0	144,455		$144,455
	Total Revised Fund 114	**143,001**	**1,454**	**0**	**0**	**0**	**0**	**144,455**		**144,455**
115	CORP ESCROW ACCOUNT RESERVE	1,000	0	0	0	0	0	1,000		$1,000
	Total Revised Fund 115	**1,000**	**0**	**0**	**0**	**0**	**0**	**1,000**		**1,000**
119	2012 GRT REF/IMP REVBD	407,932	29,960	0	0	0	154,384	283,508		$283,508
	Total Revised Fund 119	**407,932**	**29,960**	**0**	**0**	**0**	**154,384**	**283,508**		**283,508**
121	2015 GO BONDS-FUN CENTER	90,064	914	0	0	0	0	90,978		$90,978
	Total Revised Fund 121	**90,064**	**914**	**0**	**0**	**0**	**0**	**90,978**		**90,978**
122	2015 GO BONDS-STREETS	174,516	1,771	0	0	0	0	176,287		$176,287
	Total Revised Fund 122	**174,516**	**1,771**	**0**	**0**	**0**	**0**	**176,287**		**176,287**
124	AMERICAN RESCUE PLAN ACT	0	3,952,892	0	0	0	3,952,892	0		$0
	Total Revised Fund 124	**0**	**3,952,892**	**0**	**0**	**0**	**3,952,892**	**0**		**0**
901	HOUSING LOW RENT OPERATING	1,146,135	822,703	0	0	0	1,063,881	904,957	354,627	$550,330
	Total Revised Fund 901	**1,146,135**	**822,703**	**0**	**0**	**0**	**1,063,881**	**904,957**	**354,627**	**550,330**
903	HOUSING HOMEOWNERSHIP OPER	713,222	1,525	0	0	0	17,921	696,826		$696,826
	Total Revised Fund 903	**713,222**	**1,525**	**0**	**0**	**0**	**17,921**	**696,826**		**696,826**
904	HOUSING CAPITAL FUND PROJECTS	0	1,333,878	0	0	0	1,333,878	0		$0
	Total Revised Fund 904	**0**	**1,333,878**	**0**	**0**	**0**	**1,333,878**	**0**		**0**
				0	0	0				
	TOTALS FY2022	**69,595,645**	**69,720,191**	**25,764,281**	**25,764,281**	**0**	**97,608,985**	**41,706,851**	**6,354,771**	**35,352,080**

Resolution # 2021-42 (#5) - November 9, 2021

RECURRING/ NON-RECURRING	FUND NO.	LINE ITEM NO.	LINE ITEM DESCRIPTION	ORIGINAL BUDGET AMOUNT	INCREASE (DECREASE)	REVISED BUDGET AMOUNT
	REVISION #1					
	This budget revision is to recognize the CDWI Grant for FY22. Reimbursement is now administered through the Otero County DWI office.					
	24	**GRANT CAPITAL IMPROVEMENT FUND**				
		Revenues				
		024-4604-317.16-13	State Grant	0	**5,000**	5,000
			Total Revenue	0	**5,000**	5,000
		Expenditures				
		024-4604-420.20-04	Overtime	0	**5,000**	5,000
			Total Expenditures	0	**5,000**	5,000
	REVISION #2					
	This budget revision is to recognize the High Intensity Drug Trafficking Act Grant for FY22.					
	35	**H.I.D.T.A. GRANT FUND**				
		Revenues				
		035-0000-317.16-50	H.I.D.T.A. Grant	0	**17,400**	17,400
			Total Revenue	0	**17,400**	17,400
		Expenditures				
		035-0004-429.20-04	Overtime	0	**17,400**	17,400
			Total Expenditures	0	**17,400**	17,400
	REVISION #3					
	This budget revision is to budget funds received from the Taxation & Revenue Department settlement. These funds are being put into these line-items until we have more direction from DFA and City Management on revenue recording and planned activities.					
	11	**GENERAL FUND**				
		Revenues				
	GC2203	011-0000-316.15-01	Refunds & Collections	1,217	**525,288**	526,505
			Total Revenue	1,217	**525,288**	526,505
		Expenditures				
	GC2203	011-2400-419.57-72	Contingencies	342,814	**525,288**	868,102
			Total Expenditures	342,814	**525,288**	868,102
	REVISION #4					
	This budget revision is to replace 3 service trucks, a bucket truck, and repair the line truck at Facility Maintenance. These vehicles have reached the end of their life cycle and are no longer functional.					
	11	**GENERAL FUND**				
		Transfers Out				
		011-0000-491.18-12	Trans to (12) Internal Service Fund	2,064,884	**400,172**	2,465,056
			Total Transfers Out	2,064,884	**400,172**	2,465,056
	12	**INTERNAL SERVICE FUND**				
		Transfers In				
		012-0000-391.19-11	Trans fr (11) General Fund	2,064,884	**400,172**	2,465,056
			Total Transfers In	2,064,884	**400,172**	2,465,056
		Expenditures				
	CERFAC	012-3303-419.61-60	Capital Equipment	3,911	**400,172**	404,083
			Total Expenditures	3,911	**400,172**	404,083
	REVISION #5					
	This budget revision is to used to upgrade the radio system used by the police department and other City departments.					
	11	**GENERAL FUND**				
		Transfers Out				
		011-0000-491.18-12	Trans to (12) Internal Service Fund	2,465,056	**595,000**	3,060,056
			Total Transfers Out	2,465,056	**595,000**	3,060,056
	12	**INTERNAL SERVICE FUND**				
		Transfers In				
		012-0000-391.19-11	Trans fr (11) General Fund	2,465,056	**595,000**	3,060,056
			Total Transfers In	2,465,056	**595,000**	3,060,056
		Expenditures				
		012-3303-419.61-60	Capital Equipment	404,083	**595,000**	999,083
			Total Expenditures	404,083	**595,000**	999,083
	REVISION #6					
	This budget revision is to recognize a new Bulletproof Vest Grant award for FY22 and attaches this funding to Project No. PSBV22.					
	24	**GRANT CAPITAL IMPROVEMENT FUND**				
		Revenues				
	PSBV22	024-000-317.16-73	Federal Grant	3,169	**6,800**	9,969
			Total Revenue	3,169	**6,800**	9,969
		Expenditures				
	PSBV22	024-0000-419.31-05	Uniforms	4,582	**6,800**	11,382
			Total Expenditures	4,582	**6,800**	11,382

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 11/01/2021 **Report No:** 6.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, approval of CDBG Amendment No. 1, to extend the grant agreement and reallocate funds. *(Debbie Osborne, Grant Coordinator)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: No fiscal impact.

Recommendation: Accept CDBG Amendment No. 1.

Background: We experienced delays in starting the CDBG project as a result of the pandemic in 2020. Additionally, the cost for the design phase of the project was higher than what was originally estimated in the project budget that we submitted to DFA in 2020. The City sent a letter to DFA in October, 2021, requesting an amendment to extend the end date of the CDBG project from June 10, 2022, to May 30, 2023, in addition to a request to reallocate $58,926.62 CDBG funds and $57,623.00 leveraging funds from construction activities to architect/engineer activities. DFA granted both requests and has sent Amendment No. 1 for signature.

City of Alamogordo

OFFICE OF THE MAYOR
1376 E. Ninth Street • Alamogordo, NM 88310 • (575) 439-4205

October 18, 2021

Mr. David A. Buchen
Community Development Project Manager
Local Government Division
Bataan Memorial Bldg. Rm 202
407 Galisteo St.
Santa Fe, NM 87501

RE: CDBG 19-CNR-I-01-G-18, Construction of ADA-compliant Sidewalks

Dear Mr. Buchen,

On behalf of the City of Alamogordo, I want to thank the New Mexico Finance and Administration, Local Government Division for all the assistance we have received to date on CDBG project number 19-CNR-I-01-G-18, Construction of ADA-compliant Sidewalks. This project is important to the City because it will enhance the lives of the citizens of Alamogordo, particularly those requiring ADA-compliant structures. This project will provide a safe means of access and increased mobility for a significant portion of the city.

Unfortunately, during the first year of this project we experienced delays in progress due to the Covid-19 pandemic. Particularly, the environmental review process took significantly longer than usual, as it was hard to reach departments and staff members involved in the process. As the 2021 new year began and some restrictions were relaxed, we were able to proceed with advertising the project for architect/engineer design services through the Request for Qualifications (RFQ) process. A successful proposal was selected; however, design fees had increased dramatically due to the pandemic and the cost of the design was higher than originally estimated. We are currently in the design phase, with plans and specifications in production for the bidding phase. The final design/plan set is expected to be ready by the end of January 2022, and we anticipate the construction to begin in August 2022, and continue through April 2023. We have estimated a conservative schedule for construction, due to Covid-19 related labor and materials shortages.

As a result of the delays due to the pandemic, the City is requesting an amendment to the budget, reallocating $58,926.62 CDBG funds and $57,623.00 leveraging funds from construction activities to architect/engineer activities. Additionally, we are requesting the amendment to include an extension of this project from June 10, 2022, to May 30, 2023. We have enclosed a revised Exhibit 1-B and Exhibit-C reflecting these changes.

We appreciate your consideration of this request and look forward to making continued progress in bringing this project to fruition. Please contact Debbie Osborne, at (575) 439-4257, or dosborne@ci.alamogordo.nm.us should you have any questions or need further information. Thank you.

Sincerely,

Richard Boss, Mayor
City of Alamogordo

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
GRANT AGREEMENT AMENDMENT NO. 1

Project No. **# 19-CR-I-01-G-18**

THIS AMENDMENT, hereinafter referred to as the "Amendment," is made and entered into by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Suite 202, Bataan Memorial Building, Santa Fe, New Mexico, 87501, hereinafter referred to as the "Division," and City of Alamogordo, hereinafter referred to as the "Grantee." Upon being duly executed by the Division, this Amendment shall be effective as of _________________.

RECITALS

WHEREAS, on October 2, 2019, the Community Development Council awarded the Grantee $500,000.00 for Construction of ADA-Compliant Sidewalks (hereinafter referred to as "Project"); and

WHEREAS, the Grantee and the Division entered into a Grant Agreement, effective June 10, 2020 in the amount of $500,000.00 for the completion of the Project, hereinafter referred to as the "Grant Agreement;" and

WHEREAS, the Grantee requests an amendment to extend the length of the Agreement from June 10, 2022 to May 30, 2023; and

WHEREAS, the Grantee requests to move "CDBG funds" of $58,926.62 from the "Construction" line item and $57,623.00 from the Construction "Leverage funds" to the "Architect/Engineer" line item);

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby mutually agree to amend the Grant Agreement as follows:

1. The "Exhibit 1-B" of the Grant Agreement is hereby replaced in its entirety with "Exhibit 1-B" attached hereto.
2. The "Exhibit 1-C" of the Grant Agreement is hereby replaced in its entirety with "Exhibit 1-C" attached hereto.

All other provisions of the Grant Agreement not amended herein remain in full force and effect.

IN WITNESS WHEREOF, the parties do hereby execute this Amendment.

THIS AMENDMENT has been approved by:

GRANTEE

____ _____________________

Chief Elected Official/Authorized Signatory Date

____

(Type or Print Name)

LOCAL GOVERNMENT DIVISION

By: ____ _____________________

Date

STATE OF NEW MEXICO)
)ss.
COUNTY OF SANTA FE)

EXHIBIT 1-B **PROJECT SCHEDULE**

Grantee Name: City of Alamogordo	Project Start Date	Project Completion Date
	6/10/2020	5/31/2023
CDBG Project Number: 19-CNR-I-01-G-18		

Project Description Construction of Sidewalks, Ramps and Aprons	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter		
ADMINISTRATION/PROFESSIONAL SERVICES	Year: 2019-2022											
	J	F	M	A	M	J	J	A	S	O	N	D
Milestones:												
1. Organize and Set Up Files												XXXX
2. Set Up CDBG Accounting 2020								XXXXX	XXXX	XXXX		
3. Complete Environmental Review Record	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXXX	XXXX	XXXX	XXXX	XXXX
4. Prepare RFP/Notice for Professional Services	XXXX	XXXX										
5. LGD Review/Approval of Engineering Agreement and Related Documents					XXXX							
DESIGN:	Year: 2020-2021 2022											
Milestones:												
6. Complete Plans/Specs and Bid Documents	XXXX											
7. LGD Review/Approval of Plans/Specs and Bid Documents		XXXX	XXXX	XXXX								
8. Publish Bid Notice and Award Prime Contract					XXXX							
9. LGD Review/Approval of Prime Contract & Related Documents						XXXX						
CONSTRUCTION/CLOSEOUT	Year: 2021-2022 2022-2023											
Milestones:												
10. Pre-Construction Conference							XXXX					
11. Issue Notice to Proceed								XXXXX				
12. Construction 2022								XXXXX	XXXX	XXXX	XXXX	XXXX
12. Construction 2023	XXXX	XXXX	XXXX	XXXX								
13. Final Inspection/Closeout					XXXX							

Entity Name:	City of Alamogordo	☑ Grant Agreement		**CDBG Amount:**	$500,000.00
CDBG Project Number:	19-CNR-I-01-G-18	☐ Grant Amendment		**Other Amount:**	$806,305.00

Project Cost Activities	Project Funding Sources					Total Project Cost
	CDBG Funds	Other Sources (identify other local, state, federal, or private)				
		Cash Match	Leverage			
Administration (Contractual)						$ -
Architect/Engineer	$ 107,623.00	$ 50,000.00	$ 57,623.00			$ 215,246.00
Other Professional						$ -
Inspection (Testing)			$ 20,000.00			$ 20,000.00
Property Acquisition						$ -
Property Rehabilitation						$ -
Construction	$ 392,377.00		$ 678,682.00			$1,071,059.00
						$ -
						$ -
						$ -
						$ -
						$ -
						$ -
Totals	**$ 500,000.00**	**$ 50,000.00**	**$ 756,305.00**	**$ -**	**$ -**	**$1,306,305.00**

EXHIBIT 1-B | **PROJECT SCHEDULE**

Grantee Name: City of Alamogordo

CDBG Project Number: 19-C-NR-I-01-G-18

Project Start Date 3/1/2020 | Project Completion Date 3/1/2022

Project Description

Construction of Sidewalks, Ramps and Aprons

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter		
	Year: 2020												Year: 2021												Year: 2022		
ADMINISTRATION/PROFESSIONAL SERVICES	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
Milestones:																											
1. Organize and Set Up Files		XXXX																									
2. Set Up CDBG Accounting			XXXX	XXXX																							
3. Complete Environmental Review Record			XXXX	XXXX	XXXX																						
4. Prepare RFP/Notice for Professional Services			XXXX	XXXX	XXXX																						
5. LGD Review/Approval of Engineering Agreement and Related Documents						XXXX																					
DESIGN:																											
Milestones:	Year: 2020												Year: 2021												Year: 2022		
6. Complete Plans/Specs and Bid Documents							XXXX	XXXX	XXXX	XXXX																	
7. LGD Review/Approval of Plans/Specs and Bid Documents											XXXX																
8. Publish Bid Notice and Award Prime Contract												XXXX	XX														
9. LGD Review/Approval of Prime Contract & Related Documents													XX	XX													
CONSTRUCTION/CLOSEOUT																											
Milestones:	Year: 2020												Year: 2021												Year: 2022		
10. Pre-Construction Conference														XX													
11. Issue Notice to Proceed														X	XXXX												
12. Construction																XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX				
13. Final Inspection/Closeout																								XXXX	XXXX	XXXX	XXXX

Exhibit 1-C

Project Cost/Financing Summary

Entity Name: City of Alamogordo	☑ **Grant Agreement**		**CDBG Amount:**	$500,000.00
CDBG Project Number: 19-C-NR-I-01-G-18	☐ **Grant Amendment**		**Other Amount:**	$ 806,305.00

Project Cost Activities	**Project Funding Sources**			**Total Project Cost**
	CDBG Funds	**Other Sources**		
		Cash Match	**Leverage**	
Architect/Engineer	$ 50,000.00	$ 50,000.00		**$ 100,000.00**
Inspection (Testing)			$ 20,000.00	**$ 20,000.00**
Construction	$ 450,000.00		$ 736,305.00	**$ 1,186,305.00**
Totals	**$ 500,000.00**	**$ 50,000.00**	**$ 756,305.00**	**$ 1,306,305.00**

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 11/02/2021 **Report No:** 7.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, Ordinance 1639 for first publication to amend sections of Chapter 34 in the Alamogordo Code of Ordinances concerning Marijuana. *(Rachel Hughs, City Clerk and Petria Bengoechea, City Attorney)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance 1639 for first publication.

Background:

<u>Proposed changes to the current Marijuana Ordinance</u>

- Added “Producer” and “Retail" to definitions
- Removed “Dispenser” from the title of Article 34.02 as there are 3 types of licenses
- Added “city” to clerk as there are different types of clerks in our city government (Utility Clerk, Court Clerk)
- Added Cannabis Control Division name
- Removed "Hearing" as the New Mexico Cannabis Control Division does not require a Public Hearing from the Local Governing Body concerning cannabis
- Added “per location” since an applicant may have more than one location
- Removed “Dispenser” and "Producer" from the license fee section to coincide with Cannabis Control Division language
- Added Manufacturer license per annum $500.00
- Changed the issuance date of licenses

ORDINANCE NO. 1639

AN ORDINANCE AMENDING CERTAIN SECTIONS OF *THE ALAMOGORDO* CODE OF ORDINANCES CONCERNING MARIJUANA

WHEREAS, the New Mexico Legislature Legalized Marijuana through the Cannabis Regulation Act during the 2021 Special Session; and,

WHEREAS, the State of New Mexico continues to make changes to regulations concerning cannabis; and,

WHEREAS, the New Mexico Cannabis Control Division does not require a Public Hearing regulation from the Local Governing Body concerning cannabis; and,

THEREFORE, BE IT ORDAINED by the City Commission of the City of Alamogordo that the following sections of the *Code of Ordinances* be amended to read as follows:

34-01-010. Definitions.

The words and phrases below, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. "Consume," "Consuming," and "Consumption" mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

B. "Consumer" means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.

C. "Cultivate" and "Cultivation" mean to propagate, breed, grow, prepare and package marijuana.

D. "Department" means the State of New Mexico Department of Health Services or its successor agency.

E. "Manufacture" and "Manufacturing" means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

F. "Marijuana"
   1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
   2. Includes cannabis as defined in N.M.R.S. §26-2B-4, §26-2B-53. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis,

oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink or other products.

G. “Marijuana Establishment” means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

H. “Marijuana Products” means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

I. “Marijuana Testing Facility” means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

J. “Open Space” means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

K. “Person” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

L. “Process” and “Processing” means to harvest, dry, cure, trim or separate parts of the marijuana plant.

M. “Producer” is a business that grows, harvests, dries, trims, cures or packages cannabis for sale to a wholesaler or retailer. They may also produce and sell cannabis plants, seeds, plant tissue culture and other immature plants or parts of cannabis plants to other cannabis producer licensees.

N. “Public Place” has the same meaning prescribed in the Dee Johnson Clean Indoor Air Act, N.M.R.S. §24-16-3.

O. “Retailer” is a business that typically buys goods from a manufacturer, wholesaler, producer, or other distributor and resell them to the public.

P. “Smoke” means to inhale, exhale, burn, carry, or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

ARTICLE 34-02. MARIJUANA ~~DISPENSERS~~ LICENSES

34-02-020. Application.

Applications for a license to sell marijuana within the city shall be made to the city clerk on a form prescribed by the clerk. Each application shall include a copy of the ~~application to the state department of cannabis control~~ cannabis license for the location from the New Mexico Cannabis Control Division and shall be accompanied by a fee of fifty dollars ($50.00) to cover the expense of investigations. ~~Upon receipt of the application, the clerk shall determine if preliminary approval of the issuance or transfer of the license has been made pursuant to the Cannabis Control Act. Upon determining that such preliminary approval has been made, the clerk shall set the application for hearing.~~ An investigation shall be made of the applicant, the matters stated in the application, and for compliance by the applicant and the proposed location of the licensed premises for compliance with all applicable codes.

34-02-030. License Fee.

The fee for licenses ~~to sell marijuana~~ per location is as follows:

Retailer~~'s/Dispensers~~ license, per annum:	$250.00
~~Growers~~ Producer license, per annum:	$250.00
Manufacturer license, per annum:	$500.00

All licenses shall be issued for the period ~~July 1 to the following June 30~~ January 1 to December 31. The license fee shall not be refunded or prorated. The above does not include business registration fees.

PASSED, APPROVED AND ADOPTED this _______ day of ____________, 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: 11/9/2021 **Report Date:** **Report No:** 8.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Ordinance 1641 for first publication authorizing the issuance and sale of the City's debt obligation to refund the joint utility system. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1641 for first publication.

Background: Chris Muirhead from Modrall, Sperling, Roehl, Harris & Sisk,PA and John Archuleta from Stifel, Nicolaus & Company, Inc. presented three refunding opportunities for the current City held debt at the 10/26/2021 Commission Meeting. Attached is the Ordinance being presented for refunding of the joint utility system.

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. 1641

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT NOT TO EXCEED $6,000,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF (1) REFINANCING, PAYING AND DISCHARGING THE GOVERNMENTAL UNIT'S OUTSTANDING JOINT UTILITY SYSTEM REVENUE DEBT ISSUED ON NOVEMBER 18, 2011, (2) FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; AND (3) PAYING EXPENSES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES FROM THE GOVERNMENTAL UNIT'S JOINT UTILIITY SYSTEM; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN AGREEMENT PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; RATIFYING ACTIONS HERETOFORE TAKEN; APPROVING THE FORMS OF THE LOAN AGREEMENT AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT

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

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

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

WHEREAS, the Governmental Unit may use the Net Revenues to finance the Refunding Project and the Refunding Project will provide for the public health, peace and safety of the Governmental Unit and its residents; and

WHEREAS, The Governmental Unit now owns, operates and maintains water and sewer facilities, which the Governmental Unit hereby declares shall be continued to be operated as a joint public utility; and

WHEREAS, the Governmental Unit has heretofore provided for the imposition of rates and charges against users of the System; and

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

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

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

WHEREAS, the Loan Agreement shall be executed and delivered pursuant to the Act, and with an irrevocable first lien, but not necessarily an exclusive first lien, on the Net Revenues; and

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

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

WHEREAS, the Governing Body hereby determines that the Refunding Project to be financed with the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a “private activity bond” as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governmental Unit previously entered into a loan agreement with the New Mexico Finance Authority on November 18, 2011 pursuant to Ordinance No. 1405 adopted on October 11, 2011, in the original aggregate principal amount of $9,812,674, of which there is presently outstanding a principal amount of $5,591,632; and

WHEREAS, the payments due on the 2011 NMFA Loan Agreement are subject to redemption at the option of the Governmental Unit at 100% of the principal amount then outstanding, plus accrued interest to the date of redemption; and

WHEREAS, the Governmental Unit hereby determines that the execution and delivery of the Loan Agreement, under current market conditions, for the purpose of the Refunding Project will result in an over-all reduction of debt service payments to be made by the Governmental Unit from Net Revenues to the benefit of the Governmental Unit, and consequently will provide for the public health, safety and welfare of the Governmental Unit and its residents; and

WHEREAS, pursuant to Sections 6-14-8 through 6-14-12 NMSA 1978, as amended (the “Supplemental Public Securities Act”), the Governing Body is authorized to adopt a Ordinance delegating to one or more of its members, officers, or employees the authority to sign a pricing certificate setting forth the terms of the Loan so long as such terms are within the parameters established by an authorizing ordinance or Ordinance adopted in conformity with the Supplemental Public Securities Act; and

WHEREAS, in order to allow the Governmental Unit flexibility, the Governing Body desires to grant to the Mayor and the City Clerk or any other employee of the Governmental Unit when designated by a certificate signed by the Mayor (collectively, the "Designated Officers"), the authority (a) to determine any or all of the following terms of the Loan: (i) the interest and principal payment dates, (ii) the principal amounts, denominations, and maturity dates, (iii) the sale prices, (iv) the interest rates, (v) the interest payment periods, and (vi) the amount of underwriting discount, if any; and (b) to make any changes with respect thereto from those terms which were before the Governing Body at the time of adoption of this Ordinance, provided such terms do not exceed the parameters set forth for such terms in this Ordinance; and

WHEREAS, the Governmental Unit will approve the specific terms of the Loan and authorize execution of the Loan Agreement in a certification of the Designated Officers pursuant to the terms of this Ordinance as set forth in the Pricing Certificate; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO THAT:

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

"2011 NMFA Loan Agreement" means the Governmental Unit's outstanding loan agreement with the Finance Authority dated November 18, 2011 in the original aggregate par amount of $9,812,674 and presently outstanding in the principal amount of $5,591,632.

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12 and Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement, including this Ordinance.

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

"Authorized Officers" means, in the case of the Governmental Unit, the Mayor and Finance Director, and in the case of the Finance Authority the Chairman, Vice-Chairman and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

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

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

"Completion Date" means the date of final payment of the cost of the Refunding Project.

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

"Finance Authority" means the New Mexico Finance Authority.

"Finance Authority Debt Service Account" means the debt service account in the name of the Governmental Unit within the Debt Service Fund as defined in the Indenture held and administered by the Finance Authority to pay principal and interest on the Loan Agreement as the same become due.

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

"Governing Body" means the City Commission of the Governmental Unit, and any future successor governing body of the Governmental Unit.

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

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

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

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

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

"Loan Agreement" means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provides for the financing of the Refunding Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

"Loan Agreement Principal Amount" means the original principal amount of the Loan Agreement as shown on the Term Sheet and approved in the Pricing Certificate.

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

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

"Net Revenues" means the revenues of the System after deducting Operation and Maintenance Expenses of the System that are pledged to payment of the Loan Agreement Payments pursuant to the Ordinance and described on the Term Sheet.

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

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

"Ordinance" means this Ordinance as adopted by the Governing Body on November 30, 2021, approving the Loan Agreement and pledging the Net Revenues to the payment of the Loan Agreement, as amended from time to time.

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

"Pricing Certificate" means one or more certificates executed by the Mayor or Finance Director, pursuant to and as authorized by Section 6-14-10.2, NMSA 1978, setting forth the final terms of the Loan.

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

"Refunding Project" means refunding, paying and discharging the Governmental Unit's outstanding 2011 NMFA Loan Agreement maturing on and after November 18, 2021, on the date of execution and delivery of the Loan Agreement.

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

"State" means the State of New Mexico.

"Term Sheet" means <u>Exhibit "A"</u> to the Loan Agreement.

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

Section 2. <u>Ratification</u>. 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 Refunding Project and the execution and delivery of the Loan Agreement be, and the same hereby are, ratified, approved and confirmed.

Section 3. <u>Authorization of the Refunding Project and the Loan Agreement</u>. The Refunding Project and the method of financing the Refunding Project through execution and delivery of the Loan Agreement are hereby authorized and ordered. The Refunding Project is for the benefit of the Governmental Unit.

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

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

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

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

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

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

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

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

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

I. The Refunding Project will result in debt service savings for the Governmental Unit in the amount of at least 3% present value savings.

Section 5. Loan Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and completing the Refunding Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount not to exceed $6,000,000, plus interest, and the execution and delivery of the Loan Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the Refunding Project, (ii) fund the Loan Agreement Reserve Account, and (iii) pay Expenses.

B. Detail. The Loan Agreement shall be in substantially the form presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an aggregate principal amount not to exceed $6,000,000, shall be payable in installments of principal due on May 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, commencing on May 1, 2022 at the rates designated in Exhibit "B" to the Loan Agreement, all as approved in the Pricing Certificate. The

Loan shall be placed in a private sale at par and shall have a maximum term of 10 years. The underwriter's discount for the Loan shall not exceed 2% of the par amount of the Loan.

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

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

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

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

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

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

B. Completion of the Refunding Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that payment for the Refunding Project has been completed. As soon as practicable after the Completion Date, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.

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

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

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

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

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

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

Section 11. Authorized Officers; Delegation. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Loan Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement, and the publication of the summary of this Ordinance set out in Section 17 of this Ordinance (with such changes, additions and deletions as may be necessary).

Pursuant to the Supplemental Public Securities Act, Section 6-14-8 et seq., NMSA 1978, the Mayor and Finance Director are each hereby delegated authority to accept and to determine any or all of the final terms of the Loan Agreement and to execute the Pricing Certificate, subject to the parameters and conditions contained in this Ordinance. The Mayor or the Finance Director shall present the Pricing Certificate and the final terms of the Loan Agreement to the Governing Body in a timely manner, before or after execution and delivery of the Loan Agreement, at a regularly scheduled public meeting of the Governing Body.

Section 12. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance or resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended by ordinance of the Governing Body without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

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

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 the City Clerk of the Governmental Unit, 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, or posted in accordance with law, and such 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:

(Form of Summary of Ordinance for Publication)

City of Alamogordo, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. __________ duly adopted and approved by the City Commission of the City of Alamogordo, New Mexico, on November 30, 2021. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 1376 East Ninth Street, Alamogordo, New Mexico.

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. __________

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (THE “FINANCE AUTHORITY”), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT NOT TO EXCEED $6,000,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF (1) REFINANCING, PAYING AND DISCHARGING THE GOVERNMENTAL UNIT’S OUTSTANDING JOINT UTILITY SYSTEM REVENUE DEBT ISSUED ON NOVEMBER 18, 2011, (2) FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; AND (3) PAYING EXPENSES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES FROM THE GOVERNMENTAL UNIT’S JOINT UTILIITY SYSTEM; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN AGREEMENT PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; RATIFYING ACTIONS HERETOFORE TAKEN; APPROVING THE FORMS OF THE LOAN AGREEMENT AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; 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

(End of Form of Summary for Publication)

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF NOVEMBER, 2021.

CITY OF ALAMOGORDO, NEW MEXICO

ATTEST:

____
Mayor

____
City Clerk

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

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

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Ordinance 1642 for first publication authorizing the issuance and sale of the City's debt obligation to refund the revenue debt issued on December 23, 2011. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1642 for first publication.

Background: Chris Muirhead from Modrall, Sperling, Roehl, Harris & Sisk,PA and John Archuleta from Stifel, Nicolaus & Company, Inc. presented three refunding opportunities for the current City held debt at the 10/26/2021 Commission Meeting. Attached is the Ordinance being presented for refunding of the revenue debt issued on December 23, 2011.

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. 1642

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF UP TO $4,750,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COST OF REFUNDING, PAYING AND DISCHARGING THE GOVERNMENTAL UNIT'S OUTSTANDING GROSS RECEIPTS TAX IMPROVEMENT REVENUE DEBT ISSUED ON DECEMBER 23, 2011; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES RECEIVED BY THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-1-6.4, NMSA 1978 (THE "STATE-SHARED GROSS RECEIPTS TAX"); PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE STATE-SHARED GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; DELEGATING AUTHORITY TO MAKE CERTAIN DETERMINATIONS CONCERNING THE TERMS OF THE LOAN AGREEMENT AND THE INTERCEPT 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 AND THE INTERCEPT AGREEMENT.

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

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

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

WHEREAS, the Governmental Unit may use the Pledged Revenues to finance the Refunding Project and the Refunding Project will provide for the public health, peace and safety of the Governmental Unit and its citizens; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978, as amended, the Governmental Unit now receives monthly from the Distributing State Agency from the gross receipts tax imposed on any person engaging in business in New Mexico, a distribution of the gross receipts tax which is to be in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA, 1978, equal to the product of the quotient of 1.225% divided by the tax rate imposed by Section 7-9-4 NMSA, 1978 (currently 5.125%), times the net receipts (i.e., the total gross receipts tax from business locations within the Governmental Unit and other places designated in Section 7-1-6.4, NMSA 1978), which provides for the Pledged Revenues; 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, except as described in the Term Sheet, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

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

WHEREAS, the Governmental Unit desires to provide that distributions of the Pledged Revenues be redirected to the Finance Authority or its assigns pursuant to the Intercept Agreement between the Governmental Unit and the Finance Authority (the “Intercept Agreement”) for the payment of amounts due under the Loan Agreement; and

WHEREAS, the Loan Agreement shall be executed and delivered pursuant to Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and with an irrevocable first lien, but not necessarily an exclusive first lien, on the Pledged Revenues; and

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

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

WHEREAS, the Governing Body hereby determines that the Refunding Project to be financed with the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a “private activity bond” as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governmental Unit previously entered into a loan agreement with the New Mexico Finance Authority on December 23, 2011 pursuant to Ordinance No. 1410 adopted on November 15, 2011, in the original aggregate principal amount of $7,640,000, of which there is presently outstanding a principal amount of $4,385,000; and

WHEREAS, the payments due on the 2011 NMFA Loan Agreement are subject to redemption at the option of the Governmental Unit at 100% of the principal amount then outstanding, plus accrued interest to the date of redemption; 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 Refunding Project, and (iii) the authorization, execution and delivery of the Loan Agreement and Intercept Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO THAT:

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

"2011 NMFA Loan Agreement" means the Governmental Unit's outstanding loan agreement with the Finance Authority dated December 23, 2011 in the original aggregate par amount of $7,640,000 and presently outstanding in the principal amount of $4,385,000.

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended and Sections 7-1-6.4, 7-1-6.15 and 7-9-4, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and the Intercept Agreement, including this Ordinance.

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

"Authorized Officers" means, in the case of the Governmental Unit, the Mayor and Finance Director, and in the case of the Finance Authority the Chairman, Vice-Chairman and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

"Bonds" means public Refunding Project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

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

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

"Completion Date" means the date of final payment of the cost of the Refunding Project.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

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

"Finance Authority" means the New Mexico Finance Authority.

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

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

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

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

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

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

"Intercept Agreement" means the Intercept Agreement dated the Closing Date between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

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

"Loan Agreement" means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provide for the financing of the Refunding Project and require payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

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

"Loan Agreement Reserve Account" means the loan agreement reserve account established in the name of the Governmental Unit under the Indenture for the Loan funded by the Governmental Unit pursuant to the terms of the Loan Agreement and administered by the Trustee pursuant to the Indenture. The Loan Agreement Reserve Account is to be funded only upon the circumstances provides in Section 5.2(c) of the Loan Agreement.

"Loan Agreement Reserve Requirement" means the amount shown as the Loan Agreement Reserve Account deposit on the Term Sheet which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements for each Loan under the Loan Agreement; or (iii) the maximum annual principal and interest requirements for each Loan under the Loan Agreement. The Loan Agreement Reserve Requirement, if any, shall be calculated every year on or about June 1.

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

"Ordinance" means this Ordinance No. __________ as adopted by the Governing Body on November 30, 2021, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement, as amended from time to time.

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

"Pledged Revenues" means the revenues from the State gross receipts tax derived pursuant to Section 7-9-4, NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted monthly by the Distributing State Agency to the Governmental Unit as authorized by Sections 7-1-6.1 and 7-1-6.4, NMSA 1978, and which remittances as of the date of adoption of this Ordinance are equal to one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported to the Governmental Unit for the month for which such remittance is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the Governmental Unit under applicable law, such additional amounts shall be included as revenues pledged pursuant to the Ordinance; and provided further that the amount of revenues pledged pursuant to the Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the Governmental Unit as set forth above, or (ii) the maximum amount at any time provided hereinafter to be remitted to the Governmental Unit under applicable law; and provided further, the Governmental Unit intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Ordinance.

"Pricing Certificate" means one or more certificates executed by the Mayor or Finance Director, pursuant to and as authorized by Section 6-14-10.2, NMSA 1978, setting forth the final terms of the Loan.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan

Agreement for disbursal to the Governmental Unit for payment of the costs of the Refunding Project.

"Refunding Project" means refunding, paying and discharging the Governmental Unit's outstanding 2011 NMFA Loan Agreement maturing on and after December 23, 2021, on the date of execution and delivery of the Loan Agreement.

"State" means the State of New Mexico.

"Term Sheet" mean Exhibit "A" to each Loan Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Loan Agreement and Intercept Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and completing the Refunding Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing special, limited obligation of the Governmental Unit to pay a combined principal amount of up to $4,750,000, plus interest, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the Refunding Project, (ii) make a deposit to the Finance Authority Debt Service Account, and (iii) pay Expenses.

B. Detail. The Loan Agreement and Intercept Agreement shall be in substantially the forms presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in the aggregate principal amount of up to $4,750,000, shall be payable in installments of principal due on the dates designated in Exhibit "B" to the Loan Agreement and bear interest payable on the dates and at the rates designated in Exhibit "B" to the Loan Agreement, all as approved by the Pricing Certificate. The Loan shall be placed in a private sale at par and shall have a maximum term of ten years. The underwriter's discount for the Loan shall not exceed 2% of the par amount of the Loan.

Section 6. Approval of Loan Agreement and Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement with such changes, insertions and omissions as are consistent with this Ordinance and 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 the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept 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 and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance or in the Loan Agreement, or any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues) as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

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

A. Program Account, Loan Agreement Reserve Account and Finance Authority Debt Service Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held and maintained by the Finance Authority and to the Program Account and Loan Agreement Reserve Account to be held and maintained by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves: (i) the deposit of a portion of the proceeds of each Loan Agreement in the Program Account and the Finance Authority Debt Service Account, all as set forth in the Term Sheet.

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

Until the Completion Date, the money in the Program Account shall be used and paid out solely for the Refunding Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

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

B. Completion of the Refunding Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that payment for the Refunding Project has been completed. As soon as practicable after the Completion Date, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.

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

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

A. Deposit of Pledged Revenues. Pursuant to the Intercept Agreement, the Pledged Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal, interest, premium, if any, and other amounts due under the Loan Agreement.

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

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

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

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, the Intercept 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, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and Agreement contained in this Ordinance, the Loan Agreement and the Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the Intercept 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). Pursuant to Section 6-14-10.2, NMSA 1978, the Mayor and Finance Director are each individually hereby delegated authority to execute the Pricing Certificate, and to determine any or all of the final terms of the Loan Agreement, subject to the parameters and conditions contained in this Ordinance. The Mayor or the City Manager shall present the Pricing Certificate to the Governing Body in a timely manner, before or after delivery of the Loan Agreement, at a regularly scheduled public meeting of the Governing Body.

Section 12. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance or resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended by ordinance of the Governing Body without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

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

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 the City Clerk of the Governmental Unit, 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 maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and such 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:

(Form of Summary of Ordinance for Publication)

City of Alamogordo, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. ___________ duly adopted and approved by the City Commission of the City of Alamogordo, New Mexico, on November 30, 2021. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 1376 East Ninth Street, Alamogordo, New Mexico.

The title of the Ordinance is:

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. __________

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF UP TO $4,750,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COST OF REFUNDING, PAYING AND DISCHARGING THE GOVERNMENTAL UNIT'S OUTSTANDING GROSS RECEIPTS TAX IMPROVEMENT REVENUE DEBT ISSUED ON DECEMBER 23, 2011; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES RECEIVED BY THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-1-6.4, NMSA 1978 (THE "STATE-SHARED GROSS RECEIPTS TAX"); PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE STATE-SHARED GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; DELEGATING AUTHORITY TO MAKE CERTAIN DETERMINATIONS CONCERNING THE TERMS OF THE LOAN AGREEMENT AND THE INTERCEPT 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 AND THE INTERCEPT AGREEMENT.

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

(End of Form of Summary for Publication)

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF N0VEMBER, 2021.

CITY OF ALAMOGORDO, NEW MEXICO

ATTEST:

____

Mayor

____

City Clerk

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** **Report No:** 10.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Ordinance 1643 for first publication authorizing the issuance and sale of the City's debt obligation to refund the revenue debt issued on February 17, 2012. *(Evelyn Huff, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve Ordinance No. 1643 for first publication.

Background: Chris Muirhead from Modrall, Sperling, Roehl, Harris & Sisk,PA and John Archuleta from Stifel, Nicolaus & Company, Inc. presented three refunding opportunities for the current City held debt at the 10/26/2021 Commission Meeting. Attached is the Ordinance being presented for refunding of the revenue debt issued on February 17, 2012..

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. 1643

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (THE “FINANCE AUTHORITY”), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF UP TO $3,750,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COST OF REFUNDING, PAYING AND DISCHARGING THE GOVERNMENTAL UNIT’S OUTSTANDING GROSS RECEIPTS TAX IMPROVEMENT REVENUE DEBT ISSUED ON FEBRUARY 17, 2012; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES RECEIVED BY THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-1-6.4, NMSA 1978 (THE “STATE-SHARED GROSS RECEIPTS TAX”); PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE STATE-SHARED GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; DELEGATING AUTHORITY TO MAKE CERTAIN DETERMINATIONS CONCERNING THE TERMS OF THE LOAN AGREEMENT AND THE INTERCEPT 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 AND THE INTERCEPT AGREEMENT.

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

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

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

WHEREAS, the Governmental Unit may use the Pledged Revenues to finance the Refunding Project and the Refunding Project will provide for the public health, peace and safety of the Governmental Unit and its citizens; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978, as amended, the Governmental Unit now receives monthly from the Distributing State Agency from the gross receipts tax imposed on any person engaging in business in New Mexico, a distribution of the gross receipts tax which is to be in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA, 1978, equal to the product of the quotient of 1.225% divided by the tax rate imposed by Section 7-9-4 NMSA, 1978 (currently 5.125%), times the net receipts (i.e., the total gross receipts tax from business locations within the Governmental Unit and other places designated in Section 7-1-6.4, NMSA 1978), which provides for the Pledged Revenues; 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, except as described in the Term Sheet, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

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

WHEREAS, the Governmental Unit desires to provide that distributions of the Pledged Revenues be redirected to the Finance Authority or its assigns pursuant to the Intercept Agreement between the Governmental Unit and the Finance Authority (the "Intercept Agreement") for the payment of amounts due under the Loan Agreement; and

WHEREAS, the Loan Agreement shall be executed and delivered pursuant to Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and with an irrevocable first lien, but not necessarily an exclusive first lien, on the Pledged Revenues; and

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

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

WHEREAS, the Governing Body hereby determines that the Refunding Project to be financed with the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a "private activity bond" as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governmental Unit previously entered into a loan agreement with the New Mexico Finance Authority on February 17, 2012 pursuant to Ordinance No. 1414 adopted on January 10, 2012, in the original aggregate principal amount of $8,130,000, of which there is presently outstanding a principal amount of $3,525,000; and

WHEREAS, the payments due on the 2012 NMFA Loan Agreement are subject to redemption at the option of the Governmental Unit at 100% of the principal amount then outstanding, plus accrued interest to the date of redemption; 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 Refunding Project, and (iii) the authorization, execution and delivery of the Loan Agreement and Intercept Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO THAT:

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

"2012 NMFA Loan Agreement" means the Governmental Unit's outstanding loan agreement with the Finance Authority dated February 17, 2012 in the original aggregate par amount of $8,130,000 and presently outstanding in the principal amount of $3,525,000.

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended and Sections 7-1-6.4, 7-1-6.15 and 7-9-4, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and the Intercept Agreement, including this Ordinance.

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

"Authorized Officers" means, in the case of the Governmental Unit, the Mayor and Finance Director, and in the case of the Finance Authority the Chairman, Vice-Chairman and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

"Bonds" means public Refunding Project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

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

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

"Completion Date" means the date of final payment of the cost of the Refunding Project.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

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

"Finance Authority" means the New Mexico Finance Authority.

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

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

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

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

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

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

"Intercept Agreement" means the Intercept Agreement dated the Closing Date between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

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

"Loan Agreement" means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provide for the financing of the Refunding Project and require payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

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

"Loan Agreement Reserve Account" means the loan agreement reserve account established in the name of the Governmental Unit under the Indenture for the Loan funded by the Governmental Unit pursuant to the terms of the Loan Agreement and administered by the Trustee pursuant to the Indenture. The Loan Agreement Reserve Account is to be funded only upon the circumstances provides in Section 5.2(c) of the Loan Agreement.

"Loan Agreement Reserve Requirement" means the amount shown as the Loan Agreement Reserve Account deposit on the Term Sheet which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements for each Loan under the Loan Agreement; or (iii) the maximum annual principal and interest requirements for each Loan under the Loan Agreement. The Loan Agreement Reserve Requirement, if any, shall be calculated every year on or about June 1.

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

"Ordinance" means this Ordinance No. __________ as adopted by the Governing Body on November 30, 2021, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement, as amended from time to time.

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

"Pledged Revenues" means the revenues from the State gross receipts tax derived pursuant to Section 7-9-4, NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted monthly by the Distributing State Agency to the Governmental Unit as authorized by Sections 7-1-6.1 and 7-1-6.4, NMSA 1978, and which remittances as of the date of adoption of this Ordinance are equal to one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported to the Governmental Unit for the month for which such remittance is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the Governmental Unit under applicable law, such additional amounts shall be included as revenues pledged pursuant to the Ordinance; and provided further that the amount of revenues pledged pursuant to the Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the Governmental Unit as set forth above, or (ii) the maximum amount at any time provided hereinafter to be remitted to the Governmental Unit under applicable law; and provided further, the Governmental Unit intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Ordinance.

"Pricing Certificate" means one or more certificates executed by the Mayor or Finance Director, pursuant to and as authorized by Section 6-14-10.2, NMSA 1978, setting forth the final terms of the Loan.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan

Agreement for disbursal to the Governmental Unit for payment of the costs of the Refunding Project.

"Refunding Project" means refunding, paying and discharging the Governmental Unit's outstanding 2012 NMFA Loan Agreement maturing on and after February 17, 2022, on the date of execution and delivery of the Loan Agreement.

"State" means the State of New Mexico.

"Term Sheet" mean Exhibit "A" to each Loan Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

Section 5. Loan Agreement and Intercept Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and completing the Refunding Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing special, limited obligation of the Governmental Unit to pay a combined principal amount of up to $3,750,000, plus interest, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the Refunding Project, (ii) make a deposit to the Finance Authority Debt Service Account, and (iii) pay Expenses.

B. Detail. The Loan Agreement and Intercept Agreement shall be in substantially the forms presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in the aggregate principal amount of up to $3,750,000, shall be payable in installments of principal due on the dates designated in Exhibit "B" to the Loan Agreement and bear interest payable on the dates and at the rates designated in Exhibit "B" to the Loan Agreement, all as approved by the Pricing Certificate. The Loan shall be placed in a private sale at par and shall have a maximum term of ten years. The underwriter's discount for the Loan shall not exceed 2% of the par amount of the Loan.

Section 6. Approval of Loan Agreement and Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement with such changes, insertions and omissions as are consistent with this Ordinance and 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 the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept 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 and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance or in the Loan Agreement, or any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues) as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

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

A. Program Account, Loan Agreement Reserve Account and Finance Authority Debt Service Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held and maintained by the Finance Authority and to the Program Account and Loan Agreement Reserve Account to be held and maintained by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves: (i) the deposit of a portion of the proceeds of each Loan Agreement in the Program Account and the Finance Authority Debt Service Account, all as set forth in the Term Sheet.

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

Until the Completion Date, the money in the Program Account shall be used and paid out solely for the Refunding Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

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

B. Completion of the Refunding Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that payment for the Refunding Project has been completed. As soon as practicable after the Completion Date, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.

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

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

A. Deposit of Pledged Revenues. Pursuant to the Intercept Agreement, the Pledged Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal, interest, premium, if any, and other amounts due under the Loan Agreement.

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

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

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

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, the Intercept 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, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and Agreement contained in this Ordinance, the Loan Agreement and the Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the Intercept 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). Pursuant to Section 6-14-10.2, NMSA 1978, the Mayor and Finance Director are each individually hereby delegated authority to execute the Pricing Certificate, and to determine any or all of the final terms of the Loan Agreement, subject to the parameters and conditions contained in this Ordinance. The Mayor or the City Manager shall present the Pricing Certificate to the Governing Body in a timely manner, before or after delivery of the Loan Agreement, at a regularly scheduled public meeting of the Governing Body.

Section 12. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance or resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended by ordinance of the Governing Body without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

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

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 the City Clerk of the Governmental Unit, 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 maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and such 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:

(Form of Summary of Ordinance for Publication)

City of Alamogordo, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. __________ duly adopted and approved by the City Commission of the City of Alamogordo, New Mexico, on November 30, 2021. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 1376 East Ninth Street, Alamogordo, New Mexico.

The title of the Ordinance is:

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. __________

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF UP TO $3,750,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COST OF REFUNDING, PAYING AND DISCHARGING THE GOVERNMENTAL UNIT'S OUTSTANDING GROSS RECEIPTS TAX IMPROVEMENT REVENUE DEBT ISSUED ON FEBRUARY 17, 2012; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTIONS OF THE REVENUES RECEIVED BY THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-1-6.4, NMSA 1978 (THE "STATE-SHARED GROSS RECEIPTS TAX"); PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE STATE-SHARED GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; DELEGATING AUTHORITY TO MAKE CERTAIN DETERMINATIONS CONCERNING THE TERMS OF THE LOAN AGREEMENT AND THE INTERCEPT 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 AND THE INTERCEPT AGREEMENT.

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

(End of Form of Summary for Publication)

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF N0VEMBER, 2021.

CITY OF ALAMOGORDO, NEW MEXICO

ATTEST:

____
Mayor

____
City Clerk

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 11/04/2021 **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: One appointment each to the Airport Advisory Board, the Airport Zoning Board, the Alamogordo Public Library, the Cemetery Board, and the Senior Volunteer Programs Advisory Council, and two appointments to the Mayor's Committee on Aging.

Background: Airport Advisory Board - One (1) vacancy due to the expiring term of Lance Grace.
The following individual is interested in being reappointed:
Lance Grace - If reappointed, this will be his eighth term.

Airport Zoning Board - One (1) vacancy due to the expiring term of Lee Scholes.
The following individual is interested in being reappointed:
Lee Scholes - If reappointed, this will be his second term.

Alamogordo Disability Council - Seven (7) vacancies.
The following individuals are interested in being appointed:
Christina Hastings - If appointed, this will be her first term
Chandi Bankston Rajnicek - If appointed, this will be her first term
Racquel Morris - If appointed, this will be her first term.

Alamogordo Promotion Board - One (1) vacancy for a Lodging Representative position due to the expiring term of Jessica Blackwell.
No applications received.

Alamogordo Public Library Board - Two (2) vacancies.
The following individual is interested in being appointed:
Jessica Meyer - If appointed, this will be her first term.

Cemetery Board - One (1) vacancy.
The following individual is interested in being appointed:
Mark A. Brown - If appointed, this will be his first term.

Mayor's Committee on Aging - Two (2) vacancies, with one of the vacancies due to the expiring term of Sue Kent.
The following individuals are interested in being (re)appointed:
Sue Kent - If reappointed, this will be her second term
Karen LeComte - If appointed, this will be her first term.

Parks and Recreation Board - One (1) vacancy due to the expiring term of Colleen Moon.
No applications received.

Senior Volunteer Programs Advisory Council - Two (2) vacancies, with one of the vacancies due to the expiring term of Chris Ward.
The following individual is interested in being reappointed:
Chris Ward - If reappointed, this will be his second term.

If anyone is interested in serving on a board or committee, you may apply with the City Clerk's office, or online at the City's website.

OCT 27 2021
City clerk
RECEIVED
OCT 27 2021
CITY CLERK

City of Alamogordo

APPLICATION TO SERVE ON A CITY BOARD/COMMITTEE

Name: Lance Grace

Home Phone: — Work Phone: —

Cell Phone: (575) 491-4260 Fax No: —

E-mail address: LanceCGrace@gmail.com

Physical Address: 404 Marble Canyon Dr

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

Mailing Address: Same

Present Employer: Self Job Title: —

Board/Committee you wish to serve on:

First choice: AAB

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:

Current AAB board chairman

BS×2, MS×9, Test Pilot School Grad, USAF Command Pilot 4500+ hr

GAG,

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

Interested in growing ALM.

RJs

Please return completed application to:

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

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OCT 2 5 2021

CITY CLERK

PLEASE COMPLETE THE FOLLOWING INFORMATION AND RETURN TO:
tgutierrez@ci.alamogordo.nm.us
Or mail to: Teresa Y. Gutierrez
Deputy City Clerk
City of Alamogordo
1376 E. Ninth Street
Alamogordo, NM 88310

Airport Zoning Board

X Yes, I am interested in reappointment.

☐ No, I am no longer interested in serving on this Board.

Printed Name: Lee Scholes

Home Phone: 575-838-7498 Work Phone: 575-838-7498

Cell Phone: 575-838-7498

E-mail address: LeeScholes1@gmail.com

Physical Address: 2336 Union Ave, Alamogordo, NM 8810

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

Mailing Address: 2336 Union Ave. Alamogordo, NM 88310

Present Employer: New Mexico Outdoor Properties Job Title: Owner

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? ____

Please indicate your interest in continuing to serve on this Board/Committee: I am eager for the virus issues to clear and with the growth of Alamogordo and Otero County, my experience in the aviation community will put to more use.

--Lee Scholes-- 10/22/21

Signature Date

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SEP 2 4 2021
CITY CLERK

City of Alamogordo Application to Serve on a City Board/Committee

First Name:	Christina
Last Name:	Hastings
Phone Number:	5759212193
Email Address:	muhrerin@yahoo.com
Physical Address:	3006 Del Sur
City:	Alamogordo
State:	NM
Zip Code:	88310
Is the above address within City Limits?	Yes
Mailing Address:	3006 Del Sur
City:	Alamogordo
State:	NM
Zip Code:	88310
Present Employer:	ILRC
Job Title:	Personal Care provider
Board/Committee you would like to serve on (1st choice):	Alamogordo Promotion Board
Board/Committee you would like to serve on (2nd choice):	Alamogordo Disability Council (ADC)
Are you related to anyone who is presently employed by the City of Alamogordo?	No

If so, what is their relation to you?	*Field not completed.*
Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	*Field not completed.*
Experience and education relating to the Board/Committee:	Co-founder of the Otero County Advocates for Developmental Disabilities, CFPSW (certified family peer support worker),member of steering committee Alamogordo Project Search, advocate and parent of a young lady with Autism,
Please indicate your interest in serving on a City Board/Committee:	As an advocate, the local government is the closest for me where I can have the most influence serving the community. Local advocates live in the community and have personal relations to the community. Otero County Advocates for Developmental Disabilities was co-founded by myself and another mother. I saw a need of a family support group here in Alamogordo and we have been active since 2019. We are a family support group and our mission is to support community inclusion, self-advocacy and supported employment for individuals with intellectual and developmental disabilities. I am also actively involved in the Alamogordo Project Search steering committee, Otero County Health council, UNM CDD Partners for Employment etc. It is really important to guide the city commissioners in disability questions, especially when it comes to our IDD (intellectual and developmental disabilities) community.

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SEP 29 2021
CITY CLERK

Application to Serve on a Board/Committee

City of Alamogordo Application to Serve on a City Board/Committee

First Name:	CHANDI
Last Name:	BANKSTON RAJNICEK
Phone Number:	575-491-1010
Email Address:	doctormomma@outlook.com
Physical Address:	14 CANYON DRAW
City:	ALAMOGORDO
State:	NM
Zip Code:	88310
Is the above address within City Limits?	Yes
Mailing Address:	14 CANYON DRAW
City:	ALAMOGORDO
State:	NM
Zip Code:	88310
Present Employer:	RETIRED PHYSICIAN
Job Title:	PHYSICIAN
Board/Committee you would like to serve on (1st choice):	Alamogordo Disability Council (ADC)
Board/Committee you would like to serve on (2nd choice):	Alamogordo Disability Council (ADC)
Are you related to anyone who is presently employed by the City of Alamogordo?	No

If so, what is their relation to you?	*Field not completed.*
Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	*Field not completed.*
Experience and education relating to the Board/Committee:	I am a retired family physician who has worked with many person with disabilities as well as being the coordinator for Special Olympics for 10 years. I also have a son who is developmentally disabled and is now 26 years old. I retired in 2015 to stay home and care for him when he graduated high school.
Please indicate your interest in serving on a City Board/Committee:	Alamogordo needs to become more diverse and accommodating to the disability community and I would love to help with that by serving on this committee.

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CITY CLERK

City of Alamogordo Application to Serve on a City Board/Committee

First Name:	Racquel
Last Name:	Morris
Phone Number:	15754462017
Email Address:	nmbugsmorris@gmail.com
Physical Address:	91 Mountain Meadows Rd
City:	Alamogordo
State:	NM
Zip Code:	88310
Is the above address within City Limits?	No
Mailing Address:	1111 Tenth St #515
City:	Alamogordo
State:	NM
Zip Code:	88310
Present Employer:	Disabled
Job Title:	*Field not completed.*
Board/Committee you would like to serve on (1st choice):	Alamogordo Disability Council (ADC)
Board/Committee you would like to serve on (2nd choice):	Mayor's Committee on Aging
Are you related to anyone who is presently employed by the City of Alamogordo?	No
If so, what is their relation to you?	*Field not completed.*

Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	*Field not completed.*
Experience and education relating to the Board/Committee:	Mother of two autistic young men. I had to home school due to the lack of services in the schools.
Please indicate your interest in serving on a City Board/Committee:	To help our community provide more access to all citizens, including those with conditions that make life more challenging.

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OCT 18 2021
CITY CLERK

Application to Serve on a Board/Committee

City of Alamogordo Application to Serve on a City Board/Committee

First Name:	Jessica
Last Name:	Meyer
Phone Number:	7702625592
Email Address:	jameyer30@gmail.com
Physical Address:	456 Tierra Bella Dr
City:	Alamogordo
State:	NM
Zip Code:	88310
Is the above address within City Limits?	Yes
Mailing Address:	456 Tierra Bella Dr
City:	Alamogordo
State:	NM
Zip Code:	88310
Present Employer:	N/A
Job Title:	*Field not completed.*
Board/Committee you would like to serve on (1st choice):	Public Library Board
Board/Committee you would like to serve on (2nd choice):	*Field not completed.*
Are you related to anyone who is presently employed by the City of Alamogordo?	No

If so, what is their relation to you?	*Field not completed.*
Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	*Field not completed.*
Experience and education relating to the Board/Committee:	I have worked in both public and private libraries as well as museums and university archives in the past.
Please indicate your interest in serving on a City Board/Committee:	I am interested in helping the Alamogordo Public Library develop and grow in order to serve all members of the community.

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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 ~~sr~~ 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

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OCT 28 2021
CITY CLERK

PLEASE COMPLETE THE FOLLOWING INFORMATION AND RETURN TO:

tgutierrez@ci.alamogordo.nm.us

Or mail to: *Teresa Y. Gutierrez*
Deputy City Clerk
City of Alamogordo
1376 E. Ninth Street
Alamogordo, NM 88310

Mayor's Committee on Aging

q *Yes, I am interested in reappointment.*

q *No, I am no longer interested in serving on this Board.*

Printed Name: Sue Kent
Home Phone: 575 921-3076 Work Phone: n/a
Cell Phone: ____
E-mail address: suecrk@yahoo.com
Physical Address: 1101 Jefferson Ave, Alamogordo, NM 88310
Is the above address within City limits? Yes ✓ No ____
Mailing Address: same as above
Present Employer: retired Job Title: n/a

Are you related to anyone who is presently employed by the City of Alamogordo?
Yes ____ No ✓ If so, what is their relation to you? ____

Are you related to any Elected Official of the City of Alamogordo?
Yes ____ No ✓ If so, what is their relation to you? ____

Please indicate your interest in continuing to serve on this Board/Committee:
I joined this committee just before Covid came to the forefront. I feel as though my ability to be an effective member has been hampered by this, and I look forward to

Sue Kent 10/26/21
Signature *Date*

participating as a vaxed and boostered committee member.

Teresa Gutierrez

From:	noreply@civicplus.com
Sent:	Monday, November 1, 2021 12:56 PM
To:	Rachel Hughs; Teresa Gutierrez; Sarah Crawford
Subject:	Online Form Submittal: Application to Serve on a Board/Committee

Application to Serve on a Board/Committee

City of Alamogordo Application to Serve on a City Board/Committee

First Name:	Karen
Last Name:	LeComte
Phone Number:	575-446-5840
Email Address:	klecomte@gcrmc.org
Physical Address:	27 Villa Virginia
City:	La Luz
State:	NM
Zip Code:	88337
Is the above address within City Limits?	~~Yes~~ No
Mailing Address:	27 Villa Virginia
City:	La Luz
State:	NM
Zip Code:	88337
Present Employer:	GCRMC
Job Title:	Physician
Board/Committee you would like to serve on (1st choice):	Mayor's Committee on Aging
Board/Committee you would like to serve on (2nd choice):	*Field not completed.*

Are you related to anyone who is presently employed by the City of Alamogordo?	No
If so, what is their relation to you?	*Field not completed.*
Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	*Field not completed.*
Experience and education relating to the Board/Committee:	MD Neurologist Expert in Dementia Senior citizen (>65) Daughter of Senior Citizens
Please indicate your interest in serving on a City Board/Committee:	As a physician relatively new to the area (3 years), I have noted that while Alamogordo has been a magnet community for aging and retired military, there comes a point where there seems not to be enough support for those who are between total independent living (so could attend the Senior center safely) and those who need supervision. There are not enough facilities for these people or their (working) families if they are fortunate enough to have them nearby. Do others see this problem and be willing work together as a community to address this? There are other issues as well related to seniors on which I would be willing to work.

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OCT 28 2021
CITY CLERK

PLEASE COMPLETE THE FOLLOWING INFORMATION AND RETURN TO:

tgutierrez@ci.alamogordo.nm.us

Or mail to: *Teresa Y. Gutierrez*
Deputy City Clerk
City of Alamogordo
1376 E. Ninth Street
Alamogordo, NM 88310

Senior Volunteer Programs Advisory Council

q *Yes, I am interested in reappointment.*

q *No, I am no longer interested in serving on this Board.*

Printed Name: CHRIS WARD
Home Phone: 404-934-9160 Work Phone: SAME
Cell Phone: SAME
E-mail address: chrisward2.2016.gmail.com
Physical Address: 1101 Jefferson Ave ALAMOGORDO NM 88310
Is the above address within City limits? Yes X No ____
Mailing Address: Same as above
Present Employer: Retired Job Title: PAINTER

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? ____________

Please indicate your interest in continuing to serve on this Board/Committee: ____
As a senior myself, I believe we can benefit greatly from City services & on the other hand help provide guidance on a volunteer basis.

Signature [signature]

Date 10/28/21

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 11/9/2021 **Report Date:** 10/14/2021 **Report No:** 12.

Submitted By: Petria Bengoechea

Subject: Adjourn into Executive Session in compliance with 10-15-1(H)(2) NMSA (as amended) to discuss limited personnel matters: City Manager Evaluation. **(Roll Call Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation:

Background: