

Commission Meeting Agenda



Mayor

Samuel D. Cobb

City Commission

Marshall R. Newman

Jonathan Sena

Patricia A. Taylor

Joseph D. Calderón

Garry A. Buie

Don R. Gerth

City Manager

J. J. Murphy

July 5, 2016



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

Tuesday, July 5, 2016 - 6:00 p.m.

Sam D. Cobb, Mayor

Marshall R. Newman
Commissioner - District 1

Jonathan Sena
Commissioner - District 2

Patricia A. Taylor
Commissioner - District 3

Joseph D. Calderón
Commissioner - District 4

Garry A. Buie
Commissioner - District 5

Don R. Gerth
Commissioner - District 6

A G E N D A

*City Commission Meetings are
Broadcast Live on KHBX FM 99.3 Radio*

CALL TO ORDER AND ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes of the June 20, 2016, Regular Commission Meeting

PROCLAMATIONS AND AWARDS OF MERIT

2. Proclamation Proclaiming July as "*Parks and Recreation Month*" (*Doug McDaniel*)

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

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

3. Resolution No. 6455 - Determining that Certain Structures are Ruined, Damaged and Dilapidated Requiring Removal from the Municipality (212 South Turner and 100 West Taos, Apt. A-103) (*Raymond Bonilla*)
4. Resolution No. 6456- Authorizing a Contract with the Non-Metro Area Agency on Aging for the Hobbs Senior Center for Potential Grant Funding in the Amount of \$158,978.00 (*Doug McDaniel*)
5. Resolution No. 6457 - Authorizing Participation in the Local Government Road Fund Program Administered by the New Mexico Department of Transportation and Authorizing Approval of Cooperative Agreement SP-2-17(962), L200348, for Improvements to Existing Traffic Signals at Various Signalized Intersections (*Todd Randall*)

DISCUSSION

ACTION ITEMS (Ordinances, Resolutions, Public Hearings)

6. **PUBLICATION**: Proposed Ordinance Repealing Chapter 10 of the Hobbs Municipal Code in its Entirety; Repealing Section 1.12.100 of the Hobbs Municipal Code; and Adopting a New Chapter 10 Titled the "Uniform Traffic Ordinance"; and Adopting a Penalty Assessment Program (*Efren Cortez and Police Capt. Michael Walker*)
7. **PUBLICATION**: Proposed Ordinance Approving a Real Estate Purchase to Sell and Convey a Parcel of Land Comprised of Lot 1 Within the Hobbs Industrial Airpark South Subdivision, Containing 3.61 Acres, to Bridgeway Properties, LLC, for the Purchase Price of \$83,200.00 (*Kevin Robinson*)
8. **PUBLICATION**: Proposed Ordinance Consenting to the Navajo Annexation of 1.3169 Acres, Which is Presently Not Included in the City Limits, as Requested by the Property Owners and as Approved by the Planning Board (*Kevin Robinson*)

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

9. Next Meeting Date:

- ▶ Regular Meeting - ***Monday, July 18, 2016***, at 6:00 p.m.

ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the above meeting, please contact the City Clerk's Office at (575) 397-9207 at least 72 hours prior to the meeting or as soon as possible.



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

SUBJECT: City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: June 29, 2016
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The following minutes are submitted for approval:

- ▶ Regular Commission Meeting of June 20, 2016

Fiscal Impact:

Reviewed By: _____
Finance Department

N/A

Attachments:

Minutes as referenced under "Summary".

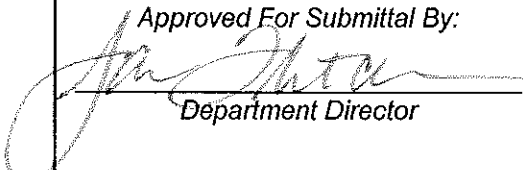
Legal Review:

Approved As To Form: _____
City Attorney

Recommendation:

Motion to approve the minutes as presented.

Approved For Submittal By:



Department Director

City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

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

Minutes of the regular meeting of the Hobbs City Commission held on Monday, June 20, 2016, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico.

Call to Order and Roll Call

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

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

Also present:

J. J. Murphy, City Manager
Mike Stone, City Attorney
Chris McCall, Police Chief
Brian Dunlap, Deputy Police Chief
Michael Walker, Police Captain
Manny Gomez, Fire Chief
Barry Young, Deputy Fire Chief
Ronny Choate, General Services Director
Ron Roberts, Information Technology Director
Todd Randall, City Engineer
Nicholas Goulet, Human Resources Director
Tim Woomeer, Utilities Director
Raymond Bonilla, Community Services Director
Art De La Cruz, Code Enforcement Superintendent
Doug McDaniel, Parks and Recreation Director
Matt Hughes, Golf Superintendent
Britt Lusk, Teen Center Supervisor
Toby Spears, Finance Director
Deborah Corral, Assistant Finance Director
Meghan Mooney, Director of Communications
Sandy Farrell, Library Director
Ann Betzen, Executive Assistant/Risk Manager
Mollie Maldonado, Deputy Clerk
Jan Fletcher, City Clerk
14 citizens

Invocation and Pledge of Allegiance

Commissioner Sena delivered the invocation and Commissioner Buie led the Pledge of Allegiance.

Mayor Cobb stated Item No. 9 - Resolution No. 6453 - Approving an Encroachment Agreement to Permit Existing Structures in the City Right-of-Way at Property Located Southwest of the Intersection of Llano Drive and Brazos Avenue is being withdrawn and removed from the agenda.

Closed Sessions

The City Commission convened in closed session on Wednesday, June 15, 2016, at 4:30 p.m., for discussion of limited personnel matters, specifically the City Manager's performance evaluation and contract. The matters discussed in the closed meeting were limited only to discussion of limited personnel matters, specifically the City Manager's performance evaluation and contract. No action was taken during the meeting.

The City Commission convened in closed session on Monday, June 20, 2016, at 5:30 p.m., for discussion of purchase, acquisition or disposal of real property, specifically the disposal of real property owned by the City of Hobbs located at 105 West Broadway and disposal of property located within the Hobbs Industrial Air Park. The matters discussed in the closed meeting were limited only to discussion of purchase, acquisition or disposal of real property as referenced. No action was taken during the meeting.

Approval of Minutes

Commissioner Calderón moved that the minutes of the regular meeting and work session held on June 6, 2016, be approved as presented. Commissioner Buie seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried.

Proclamations and Awards of Merit

Hobbs Police Department - Recognition of Officers. Police Chief Chris McCall recognized Officer Doug Evans, Sergeant Ahmaad White, Officer Brendan Ast and Sergeant Shawn Hardison for outstanding service to the City. Chief McCall stated on June 17, 2015, these four HPD employees were involved in a very serious life-and-death situation where police officers could have been harmed. He briefly described the encounter and each Officer's involvement in the situation. Chief McCall presented the following awards to the Officer for their quick action and response to the incident:

- ▶ Officer Doug Evans - Hobbs Police Department Medal of Valor
- ▶ Sergeant Ahmaad White - Hobbs Police Department Medal of Valor
- ▶ Officer Brendan Ast - Police Meritorious Award
- ▶ Sergeant Shawn Hardison - Police Meritorious Award

Mayor Cobb thanked Police Chief McCall and all emergency responders for all they do in the community.

Public Comments

Dr. Evelyn Rising of the University of the Southwest stated four undergraduate students from the University of New Mexico Heroes Program are present at tonight's meeting. She explained the overall focus of the program is to mold and provide future physicians for rural areas of the State. Dr. Rising introduced the four undergraduate students to the Commission.

Mr. Corey Needham, Lea County Director of Public Works, reported on the success of FlyHobbs Aviation Day and Fly-In that was held on Saturday, June 18, 2016, at the Lea County Regional Airport. He stated the FlyHobbs Aviation Day and Fly-In displayed over 120 aircraft such as experimental, traditional, World War II Warbirds, helicopters, and modern military aircraft. Mr. Needham stated there were approximately 3,500 spectators at the event which was free to the public. He stated although the temperature was very hot, all of the spectators seemed to really enjoy the event.

Mr. Mike Gallagher, Lea County Manager, stated the Lea County is hosting the New Mexico Association of Counties (NMAC) Annual Conference this week in Hobbs. He stated there are over 700 attendees who have registered for the Conference. Mr. Gallagher stated 1,650 hotel room nights have been reserved during the week-long Conference. He stated the Conference will add to the economy of Hobbs and Lea County. Mr. Gallagher stated one of the biggest selling points to host the Conference was the Rockwind Community Links Golf Course. He thanked the Golf Course staff and Public Transit Department for their assistance and help during the planning and hosting of the Conference.

Mayor Cobb expressed his appreciation to Mr. Gallagher and his staff for all their efforts in hosting the NMAC Conference in Hobbs.

Commissioner Newman stated the City will soon be hosting the New Mexico Municipal League Annual Conference in August, 2016. Mayor Cobb concurred and stated many people in New Mexico have never been to Hobbs and that this will be a great time to showcase Hobbs and Lea County.

Mr. Thomas Blackman, a 20-year Veteran of the U. S. Air Force, stated the HIAP Airbase would be a great location for the Veterans Memorial. He recommended the City of Hobbs coordinate with Lea County to construct one nice Veterans Memorial rather than undertaking two different projects. He commented that any progress is currently at a

standstill. Mayor Cobb reminded Mr. Blackman that government projects overall take much longer than those of the private sector.

In response to Mr. Blackman's question, Mayor Cobb stated the Veterans Memorial is included in the City of Hobbs' Master Plan but an exact location has not been selected. He further stated there has been conversation about locating a World War II Memorial at Taylor Ranch.

Commissioner Sena stated he would like to see the World War II Memorial placed at the Taylor Ranch area.

Mr. Murphy stated he has visited with Mr. Blackman on this issue, and that Mr. Blackman has also visited with the Lea County Veterans Committee.

Consent Agenda

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

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

Resolution No. 6451- Authorizing a Memorandum of Understanding with Lea County Regarding the 2016 Edward Byrne Memorial Justice Assistance Grant Program.

Resolution No. 6452 - Authorizing the Removal of Uncollectible Accounts Receivable from Water, Sewer and Garbage Service Accounts Determined to be Uncollectible in the Amount of \$13,189.16.

Consideration of RFP #481-16 to Furnish Janitorial Services for Various Buildings and Recommendation to Accept Proposal from Community Maintenance.

Consideration of Approval of Bid No. 1547-16 to Furnish Medications for Hobbs Animal Adoption Center and Recommendation to Accept Bid from Lambert Vet Supply.

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

Discussion

Presentation of the City of Hobbs' Financial Transparency Website. Mr. Toby Spears, Finance Director, and Ms. Deb Corral, Assistant Finance Director, presented an online demonstration of how the new Hobbs Citizen Transparency site will function. Mr. Spears stated the Hobbs Citizen Transparency site provides financial transparency to the public with easy access to the City of Hobbs' expenditure, revenue and budget information for the current fiscal year, as well as a historical view of previous years. He further stated this interactive website can be used to search details of municipal expenses and revenues by category, department, fund, government area and vendor. Mr. Spears stated the financial data within this site covers every level of government finances, from total activity by fiscal year to individual vendor payments. He stated payroll information is also available by department, not individual name. Mr. Spears stated Hobbs Citizen Transparency is hosted by Tyler Technology.

In reply to Commissioner Newman's question, Mr. Spears stated the new Hobbs Citizen Transparency feature will launch this week and can be viewed on the City's website.

Mayor Cobb thanked Mr. Spears and Ms. Corral for the great job on introducing the new feature and helping make Hobbs' financial data more transparent for the citizens.

Action Items

Resolution No. 6454 - Approving Amendment No. 2 - Surface Nondisturbance Land Use Restriction or Condition ("LURC") with the Commissioner of Public Lands, New Mexico State Land Office. Mr. Mike Stone, City Attorney, stated the City entered into a Development Agreement with Suerte Land Group, LLC, concerning the installation of public infrastructure upon the developer's property in exchange for the fee simple transfer of 13+ acres for the Health Wellness and Learning Center (HWLC) site. He stated the amendment modifies the allowable drilling area, which does not impact the HWLC property.

Commissioner Calderón moved that Resolution No. 6454 be adopted as presented. Commissioner Sena seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

Consideration of Approval of an Annual Pavement Agreement Work Order to Ramirez & Sons for Goings Lane Roadway Extension. Mr. Todd Randall, City Engineer, explained the agreement and stated the City has entered into a Development agreement with Pilot Retail Fuel Center, Dagger Draw, LLC, and an undeveloped property owner for

the extension of water, sewer and roadway improvements for Goings Road. He stated the City received full payment for fair share frontage assessment from Pilot and Dagger Draw. Mr. Randall stated the owner of the undeveloped property will pay their fair share when it is developed.

Commissioner Buie moved to approve the annual pavement agreement work order for the Goings Lane Roadway Extension to Ramirez and Sons in the amount of \$97,248.79 with gross receipts tax included, as presented. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

Consideration of Approval of an Annual Pavement Agreement Work Order to Ramirez & Sons for Grimes and College Lane Intersection Improvements. Mr. Randall explained the work order and stated the City has received a MAP Grant from the NMDOT for the North Grimes Improvements. He stated the project will consist of reconstruction of the Grimes/College Lane intersection including pavement reconstruction and geometric modifications to create a left turn lane at this intersection. Mr. Randall stated the work for this project will be performed under the Annual Concrete/Paving Agreement with Ramirez and Sons. He further stated the work order will not be issued until the NMDOT review and certification process is complete.

Mayor Cobb stated the intersection at Grimes and College Lane is a very busy area and needs improved lighting as well. He recommended Engineering staff to coordinate with Xcel Energy regarding improved lighting before the paving is reconstructed so the pavement will not need to be torn up if it is determined lighting is needed. Mr. Randall stated he will coordinate with Xcel Energy.

Commissioner Buie thanked the Engineering Department for moving forward on the North Grimes Improvements in the College Lane area as it is badly needed due to heavy traffic.

Commissioner Newman moved to approve the annual pavement agreement work order for the Grimes and College Lane Intersection Improvements to Ramirez and Sons in the amount of \$400,000.00 as presented. Commissioner Buie seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

Consideration of Approval of a Final Adjusting Change Order on the Dal Paso Street Rehabilitation Project Bid No. 1513-14. Mr. Randall explained the Change Order and stated the Dal Paso Street Rehabilitation Project is substantially complete. He stated the

final change order is necessary to modify the contract for the as-built quantities. Mr. Randall further stated this project is based on unit prices and quantities for over 100 construction items. He added that major change in costs are attributed to additional reconstruction of residential side streets in order to meet ADA slopes at Dal Paso Street intersections. Mr. Randall stated on May 12, 2016, NMDOT did a final inspection of the project site and a review of grant documentation on which deficiencies were noted on the final inspection report. He stated final payment will be held until all deficiencies are corrected.

Commissioner Sena stated that while construction is always difficult for neighbors, they do appreciate it. He expressed appreciation to staff for working with business owners during the construction process.

Commissioner Newman moved to approve the change order for the Dal Paso Street Rehabilitation Project to Constructors, Inc., in the amount of \$109,436.23 as presented. Commissioner Sena seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

Consideration of Approval of Task Order #1 with Molzen Corbin Engineering to Provide Engineering Services for the Underground Storage/Recovery Demonstration Project.

Mr. Tim Woomer, Utilities Director, explained the task order and stated as a component of the City of Hobbs Effluent Reuse Project, Molzen Corbin, Inc. (Engineer), has conducted soil boring, percolation testing, groundwater modeling, and water analysis. He stated this is to determine the suitability of using Class 1B reclaimed water for underground storage and recovery (USR) via surface infiltration basins on City owned property adjacent to the treatment facility. Mr. Woomer stated through USR, reclaimed water available during the cooler months would be allowed to percolate through the soil into the immediate aquifer and then withdrawn out of the aquifer during the summer months when irrigation demand is at its highest. He further stated the results of this pilot study indicates: (1) area ground conditions do permit groundwater recharge; (2) reclaimed water from the Hobbs WWRF consistently meets and exceeds Class 1B criteria; and (3) proposed USR operation would not impact municipal or private water supply wells.

Mr. Woomer stated that on June 3, 2016, the Engineer and City staff met with representatives of the New Mexico Office of the State Engineer (OSE) and New Mexico Environmental Ground Water Quality Bureau (NMED) to present the results of the USR pilot study and review the requirements for obtaining a demonstration permit. He stated as a result of this meeting, the Engineer has prepared a scope of work to prepare a Capability Report, including project design drawings for submission of a USR

demonstration project application, and issuance of a ground water permit, for construction of a demonstration USR facility. Mr. Woomer stated the demo facility would receive between 100,000 to 250,000 gallons per day (gpd) for a seven-month period which would be from October to April with the stored water then being recovered during a five-month period which would be May to September using a recovery well. He stated the recovered water would be pumped to the reclamation facility for distribution via the effluent reuse infrastructure. Mr. Woomer stated the scope of work also includes the preparation of public notices, incorporation of comments received, and negotiating final conditions of the OSE demonstration permit and the NMED groundwater discharge permit. He stated included within the scope of work is a contingency for the Engineer to provide design related services should additional treatment of the reclaimed water be required to meet NMED conditions of discharge.

In response to Mayor Cobb's inquiry, Mr. Woomer stated the City currently has effluent water that is close to Class 1A but in the future, it would be 100% Class A.

After a lengthy discussion, Mr. Woomer stated the stored water could be utilized as pond water and irrigate City parks which uses 316 million gallons of water per day. He stated 250,000 to 300,000 gallons of water would be saved per day by restoring the water.

Mr. Murphy stated the City enforced a water conservation plan last year at a savings of 350 million gallons per day.

Mayor Cobb stated the State requires cities to have a 40-year plan on water conservation but Hobbs has a 100-year plan.

Commissioner Buie expressed his appreciation to Mr. Woomer and staff for being proactive in water conservation and installing new effluent lines out to Rockwind Community Links. Mr. Woomer stated his goal is to conserve water.

Commissioner Sena stated he has received complaints from constituents that struggle to water their grass during the designated times as required by the City. He stated he would like to discuss revising the requirements in the future. Mr. Woomer stated it should not be a problem, and he suggested that customers consider watering a portion of their property during the morning watering time and then water the remaining portion of their lawn during the event watering time on their designated watering days. Mr. summarized that not all of the watering has to be done at one time.

Commissioner Taylor moved to approve the task order to provide engineering services for the underground storage/recovery demonstration project to Molzen Corbin Engineering in the amount not to exceed \$305,128.03 as presented. Commissioner Buie seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

Consideration of Approval of a Professional Services Agreement with the Boys and Girls Club of Hobbs in the Amount of \$69,000.00 for Summer Recreation Program Activities.

Mr. Doug McDaniel, Parks and Recreation Director, explained the agreement and stated the Boys and Girls Club of Hobbs (Club) has the technical and professional experience to operate a nine-week Summer Program for the City. He stated the Club will also operate, concurrently, a Special Needs Program and provide transportation to and from the Summer Sports Program on the campus of Hobbs High School. Mr. McDaniel further stated the Club will also enter into a contract with Gus Macker for the operation of the Gus Macker 3-on-3 Basketball Tournament.

Mr. Mike Clampitt, Director of the Boys and Girls Club of Hobbs, stated there were 260 participants at the Club in the first week of the Summer Program and 283 in the second week.

Mayor Cobb recognized Mr. Tres Hicks of the Board of the Boys and Girls Club of Hobbs in the audience.

In response to Commissioner Newman's question, Mr. Clampitt stated 1,200 children participated in the Summer Program last year.

Mayor Cobb thanked Mr. Clampitt for doing a great job at the Boys and Girls Club of Hobbs.

Commissioner Calderón moved to approve the agreement for the Summer Recreational Program Activities to Boys & Girls Club of Hobbs, Inc., in the amount of \$109,436.23 as presented. Commissioner Buie seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

Comments by City Commissioners, City Manager

Mr. Murphy stated Dr. Steve McCleery will be attending his last meeting at the New Mexico Junior College as he is retiring. He stated Dr. McCleery will be truly missed in the community.

Mr. Murphy thanked Mr. Spears and Ms. Corral for introducing the City of Hobbs' Financial Transparency Website.

Mr. Murphy stated he attended the Juneteenth Celebration and it was well attended by both adults and youth.

Mr. Murphy recalled, during his younger years, the fear he had for his father's safety when his father was on the Police Force. He stated it is great to see police officers, who lay their lives on the line daily to protect citizens, recognized with awards for the difficult job they do.

Commissioner Gerth expressed his appreciation to City staff for doing a fantastic job in presenting items to the Commission so they will understand them.

Commissioner Sena introduced Mr. Sammy Martinez, Hobbs Freshman School student, who is in the audience. He stated Mr. Martinez has a hopeful future and he sees him as being a great leader one day.

Commissioner Taylor stated the Juneteenth Celebration had a great turnout. She thanked the Hobbs Police Department and the Parks and Recreation Department for their assistance and presence at the event.

Commissioner Taylor stated it is great to recognize our Police Officers with awards.

Commissioner Buie thanked Police Chief McCall and his staff for all the hard work they do in the community.

Commissioner Buie wished his wife, Mrs. Cynthia Buie, a Happy Birthday and stated tomorrow will be their 41st Wedding Anniversary.

Commissioner Newman expressed his appreciation to Police Chief McCall.

Commissioner Newman stated the visual art revealing at the Teen Center was great. He stated the artists were very humble.

Mayor Cobb recognized Lea County Commissioner candidate Hector Ramirez in the audience.

Adjournment

There being no further discussion or business, Commissioner Calderón moved that the meeting adjourn. Commissioner Buie seconded the motion. The vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Buie yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 7:20 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, parks and recreation programs and facilities are an integral part of communities throughout this country, including Hobbs; and

WHEREAS, our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS, parks and recreation programs build healthy, active communities and also improve the mental and emotional health of all citizens; and

WHEREAS, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS, parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS, parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

WHEREAS, our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS, the U. S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS, Hobbs recognizes the benefits derived from parks and recreation resources.

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

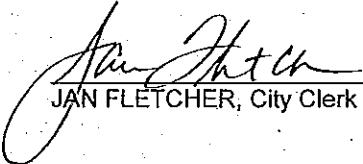
"PARKS AND RECREATION MONTH"

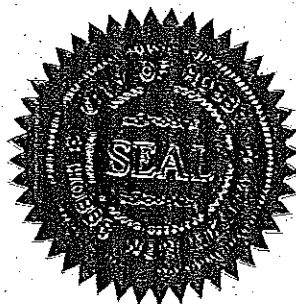
in the City of Hobbs.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of July, 2016, and cause the seal of the City of Hobbs to be affixed hereto.

SAM D. COBB, Mayor

ATTEST:


JAN FLETCHER, City Clerk





CONSENT AGENDA



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

SUBJECT: Condemnation Recommendation Structure Contained on Attachment "A"

DEPT. OF ORIGIN: Community Services

DATE SUBMITTED: June 29, 2016

SUBMITTED BY: Raymond Bonilla, Community Services Division Head

Summary:

In its continuing promotion of safety and clean up efforts in the City of Hobbs, the Environmental Division of the Hobbs Community Services has identified two structures which present safety and fire hazards which warrant their destruction. These structures are in dire need of repair. Attachment A contains information of the properties.

Fiscal Impact:

Reviewed By: _____

[Signature]
Finance Department

The demolition and clean up of these properties will cost approximately \$20,000.00. The current budget in the "Professional Services" line item of the Environmental Budget (01340-42601) does not have an adequate balance to sustain this expenditure; however, the next fiscal budget beginning July 1st, 2016 will provide budget with adequate funds for "Professional Services" line.

Attachments:

1. Resolution
2. Photos of Structures contained in Attachment A.

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

The City Commission approve the adoption of the Resolution determining the structures are ruined, damaged and dilapidated and a menace to public health and safety. It requires removal from the real properties.

Approved For Submittal By:

[Signature]
Department Director

[Signature] ACM
City Manager

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

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

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

CITY OF HOBBS

RESOLUTION NO. 6455

**A RESOLUTION DETERMINING THAT CERTAIN
STRUCTURES ARE RUINED, DAMAGED AND DILAPIDATED,
ARE A MENACE TO PUBLIC COMFORT, HEALTH AND
SAFETY AND REQUIRES REMOVAL FROM THE MUNICIPALITY**

WHEREAS, pursuant to Section 8.24.010 of the Hobbs Municipal Code, and Section 3-18-5 NMSA, as amended, the City has inspected the premises described in Attachment "A", attached hereto and incorporated herein by reference, and finds that the structures thereon are ruined, damaged and dilapidated, are a menace to the public comfort, health and safety and requires removal from the municipality.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the structures described in Attachment "A" are found to be ruined, damaged and dilapidated, are a menace to the public comfort, health and safety, and should be removed.

BE IT FURTHER RESOLVED that a copy of this Resolution be served on the owner, occupant or agent in charge of such premises; or, if such service cannot be had, that a copy of this Resolution be posted on the premises; and that a copy of the same be published as required by law.

BE IT FURTHER RESOLVED that unless the owner, occupant or agent in charge of such premises, within ten (10) days from such service or posting and publication of this Resolution, has commenced removing such structures from the real property or has filed written objection with the City, the City shall cause the removal of such structures at the cost and expense of the property owner.

BE IT FURTHER RESOLVED that in cases where the City removes a structure so condemned, a lien shall be levied by the City against the real property involved in an amount equal to the reasonable cost of the services rendered, which lien may be foreclosed in default of satisfaction.

PASSED, ADOPTED AND APPROVED this 5th day of July, 2016.

ATTEST:

SAM D. COBB , Mayor

JAN FLETCHER, City Clerk

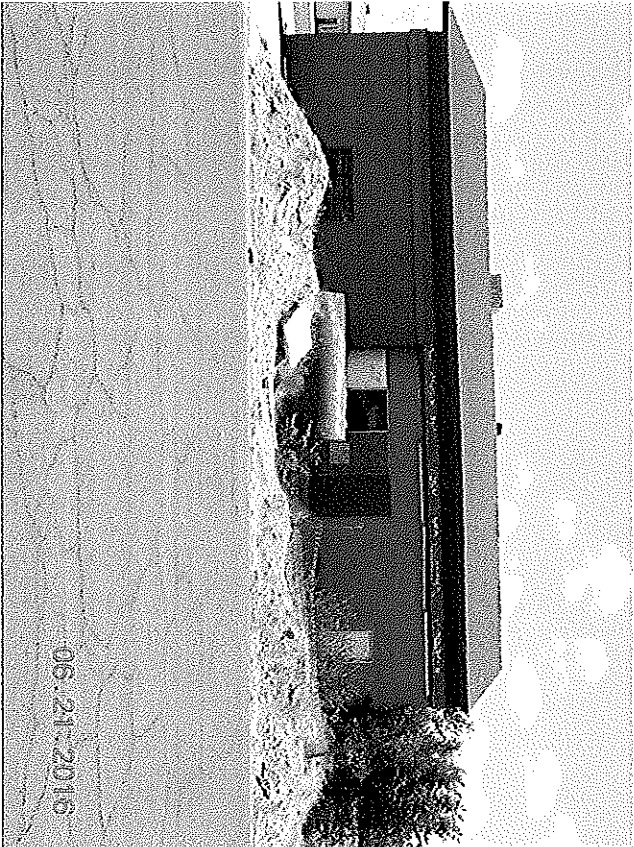
Attachment A

	Address	Owner	Owner's Address	Estimated Cost of Demolition
1	201 S. Turner St. Lot 1-4, Unit 50 Original Hobbs Addition Hobbs, Lea County, New Mexico	John Knotts	201 S. Turner Hobbs, NM 88240	\$ 5,000.00
2	100 W. Taos Apt. A-103 5 AC LOC NW4- SEC 22 TOWNSHIP 18 RANGE 38 Hobbs, Lea County, New Mexico	Wolfcamp Lodge I LLC	4801 NW Loop 410 Suite 530 San Antonio, TX 78229	\$ 15,000.00

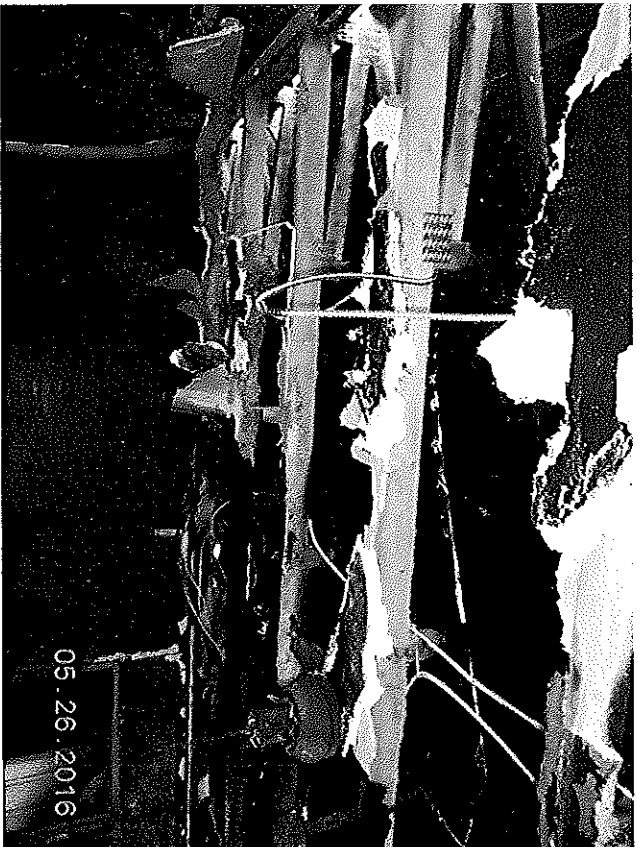
201 S TURNER



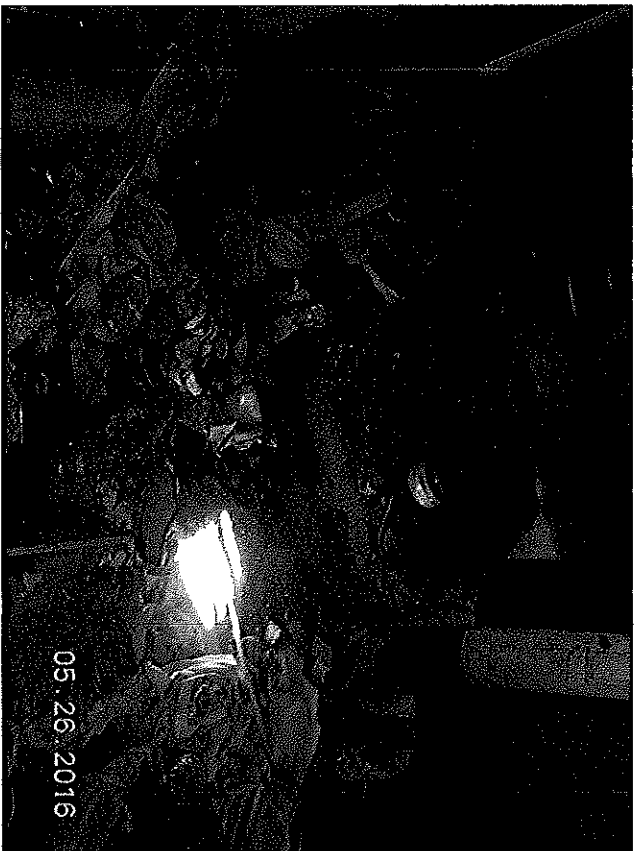
201 S TURNER



100 W TAOS APT. A-103



100 W TAOS APT. A-103



100 W TAOS APT. A-103





CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE NON-METRO AREA AGENCY ON AGING

DEPT. OF ORIGIN: Parks and Recreation, Senior Center
DATE SUBMITTED: June 22, 2016
SUBMITTED BY: Dalia Conken, Senior Affairs Coordinator

Summary:

The city of Hobbs Senior Center has submitted an Area Plan to Non-Metro Area Agency on Aging. The Non-Metro Area Agency on Aging has awarded the City of Hobbs Senior Center up to \$158,978. This resolution authorized the City Manager to execute a contract with the Non-Metro Area Agency on Aging to receive funds to provide meal services for our senior citizens.

Fiscal Impact:

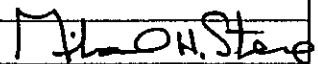
Reviewed By: 
Finance Department

There is a potential of receiving up to \$158,978 in grant money from this contract.

Attachments:

- Resolution
- Contract with Non-Metro Area Agency on Aging.
- Commitment of Local Funds

Legal Review:

Approved As To Form: 
City Attorney

Recommendation:

Approval of Resolution

Approved For Submittal By:


Department Director


City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6456

A RESOLUTION AUTHORIZING THE CITY OF HOBBS TO ENTER INTO A CONTRACT WITH THE NEW MEXICO NON- METRO AREA AGENCY ON AGING

WHEREAS, the City of Hobbs City Commission has determined that there is a need to provide services for senior citizens; and

WHEREAS, the City of Hobbs Senior Center has submitted an Area Plan to the Non-Metro Area Agency on Aging; and

WHEREAS, the Non-Metro Area Agency on Aging has awarded the City of Hobbs Senior Center up to \$158,978 to provide meal services for our senior citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is, authorized and directed to execute this Resolution and any contract to provide services to senior citizens as a result of receiving a grant from the New Mexico Non-Metro Area Agency on Aging.

PASSED, ADOPTED AND APPROVED this 5th day of July, 2016.

SAM D. COBB, MAYOR

ATTEST:

JAN FLETCHER, CITY CLERK

North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging

DIRECT PURCHASE OF SERVICES
VENDOR AGREEMENT

City of Hobbs, hereinafter referred to as Vendor, and the North Central New Mexico Economic Development District (NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as Agency, enter this Agreement effective July 1, 2016, in accordance with the Older Americans Act of 1965 (OAA), as amended, as provided by the State of New Mexico Aging and Long Term Services Department, and the Agency's Direct Purchase of Services program.

The Agency's Direct Purchase of Services program is designed to promote the development of a comprehensive and coordinated service delivery system to meet the needs of older individuals (age 60 and older). This agreement provides a mechanism for the creation of an individualized network of community resources on a client-by-client basis through the Older Americans Act, as amended, the State of New Mexico Aging and Long Term Services Department and the Agency.

1. SCOPE OF SERVICES.

A. Services. The Vendor agrees to provide service(s) to eligible clients as identified in accordance with the Direct Purchase of Service vendor application or Service Delivery Plan, all required assurances, licenses, certifications and rate setting documents, as applicable.

Service:

Congregate Meals
Home Delivered Meals
Homemaker/Housekeeping
Adult Day Care
Respite
Transportation
Assisted Transportation
IID Evidenced-Based
 EB-Enhance Fitness
 EB- Manage Your Chronic Disease (My CD)
 EB-A Matter of Balance
Chore Services
Case Management
Other Health Promotion Activities (Non IID)
 Health Education/Training
 Health Screening
 Health Physical Fitness/Exercise
III Family Caregiver Support Program

Service Definitions:

Congregate Meals – A hot or other appropriate meal, served to an eligible person, which meets one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and which is served in a congregate setting five (5) or more days per week. There are two types of congregate meals:

- Standard meal – A regular meal from the standard menu that is served to the majority of the participants.
- Therapeutic meal or liquid supplement – A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietician (e.g., diabetic diet, renal diet, tube feeding).

Home Delivered Meals – Hot, cold, frozen, dried, canned or supplemental food (with a satisfactory storage life) which provides a minimum of one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and is delivered to an eligible person in the place of residence. The objective is to assist the recipient to sustain independent living in a safe and healthful environment five (5) or more days per week. Home delivered meals may be served as breakfast, lunch, dinner or weekend meals.

Homemaker/Housekeeping – Assistance with meal preparation, shopping, managing money, making telephone calls, light housework, doing errands and/or providing occasional transportation.

Adult Day Care – A supervised, protective, congregate setting in which social services, recreational activities, meals, personal care, rehabilitative therapies and/or nursing care are provided to dependent adults. Facility must be licensed by the State of New Mexico.

Respite – Temporary, substitute supports or living arrangements for care recipients, which provide a brief period of relief or rest for caregivers. This may be provided in the client's home environment, a congregate or residential setting (e.g., hospital, nursing home, and adult day center) to dependent older adults who need supervision.

Transportation – Taking an older person from one location to another. This does not include any other activity. Demand/Response – transportation designed to carry older persons from specific origin to specific destination upon request.

Assisted Transportation – Providing assistance and transportation, including escort, to an older individual who has difficulties (physical or cognitive) using regular vehicular transportation. The "trip" includes the following: assisting the older individual from preparation for the trip, to assisting the older individual from their place of residence into the vehicle providing transportation, assisting the older individual from the transporting

vehicle to the destination, such as the doctor's office staying with the older individual at the point of destination; and the reverse for a return trip.

Other Health Promotion Activities (Non IID)– This includes health fairs, physical fitness activities conducted by an exercise professional, (i.e. Aerobics' Instructor), medication management that is inclusive of monitoring, screening and education to prevent incorrect medication usage and adverse drug reaction. Home safety/accident prevention that involves a home assessment, assistive devices, accident prevention training, assistance with modifications to prevent accidents/facilitate mobility, and/or follow-up services to determine effectiveness of modifications/assistive devices.

Health Education/Training – Formal or informal opportunities for individuals to acquire knowledge or experience, increase awareness, promote personal or community enrichment and/or increase or gain skills.

Health Screening – Pre-nursing home admission screening and/or routine health screening.

Physical Fitness/Exercise – Individual or group exercise activities (with or without equipment), such as walking, running, swimming, sports and/or Senior Olympics physical conditioning/training.

Title IID Evidence Based – US Congressional Authorizing Legislation: Section 361 of the Older Americans Act (OAA) of 1965, as amended, now requires that Title IID funds will only be able to be used on health promotion programs that meet the highest level criteria.

Highest-level Criteria – 1) Meets minimal and intermediate criteria; 2) Undergone experimental or quasi-experimental design; 3) Full translation has occurred in community site; and 4) Dissemination products have been developed and are available to the public.

Or

Existing evidence-based programs currently offered in New Mexico include:

Enhance Fitness- a low-cost, evidence based group exercise program, helps older adults at all levels of fitness become more active, energized, and empowered to sustain independent lives.

A Matter of Balance- View falls as controllable, set goals for increasing activity, make changes to reduce fall risk at home, exercise to increase strength

Manage Your Chronic Disease (My CD)- Designed to help people gain self-confidence in their ability to manage the symptoms their Chronic Disease and how they affect their lives.

Tomando Control de su Salud (Spanish-language Manage Your Chronic Disease)

Chore – Assistance with heavy housework, yard work or sidewalk maintenance at a person's place of residence.

Case Management - Assistance either in the form of access or care coordination in circumstances where the older person is experiencing diminished functioning capacities, personal conditions or other characteristics which require the provision of services by formal service providers or family caregivers. Activities of case management include such practices as assessing needs, developing care plans, authorizing and coordinating services among providers, and providing follow-up and reassessment, as required. Note: This is an ongoing process including assessing needs of a client and effectively planning, arranging, coordinating and follow-up services which most appropriately meet the identified needs as mutually defined by the client, staff, and where appropriate, a family member(s) or other caregiver(s).

III E Family Caregiver Support Program - Services for family caregivers and grandparent caregivers. The following are the allowable service categories:

Information Services - Information about available services (e.g. public education, participation at health fairs, etc);

Access Assistance - Assistance to caregivers in gaining access to services which is considered one-on-one contact (e.g., information and assistance, care coordination, case management);

Counseling - Individual counseling, organization of support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their responsibilities (e.g. advice, guidance, and instruction to caregivers on an individual or group basis);

Respite Care - Enable caregivers to be temporarily relieved from their caregiving responsibilities. See above for complete definition.

Supplemental Services – Services provided on a limited basis, to compliment the care provided by caregivers. No more than 20 percent of the federal funding can be dedicated to supplemental services. Examples of supplemental services include: home safety audits, home modification, assistive technologies, emergency alarm response systems, home delivered meals, medical transportation and incontinent and other caregiving supplies. Services must be on a temporary basis.

Unit Measurements

Congregate Meal:	One Meal
Home Delivered Meal:	One Meal
Homemaker/Housekeeping	One Hour
Adult Day Care	One Hour
Respite Care (Includes III E)	One Hour
Transportation	One, One-Way Trip
Assisted Transportation	One, One-Way Trip

IIID Evidence Based	
Enhance Fitness	participant hour
My CD	participant hour
A Matter of Balance	participant hour
Health Promotion (Non-IIID)	
Health Education/Training	One Hour
Health Screening	One Hour
Physical Fitness/Exercise	One Session per Participant
Chore	One Hour
Case Management	One Hour
IIIE Access Assistance	One Contact
IIIE Counseling	One Session per Participant
IIIE Information Services	One Activity
IIIE Supplemental Services	One Distribution Event

Service Area: City of Hobbs

Targeting: Services are designed to identify eligible clients, with an emphasis on high risk clients and serving older individuals with the greatest economic and social need, low income minorities and those residing in rural areas, as identified in the Older Americans Act.

B. **Payment for Services.** For the services determined by the Agency to be satisfactorily provided by Vendor hereunder, the Agency shall pay the vendor, during the term, an aggregate amount, including gross receipts tax, not to exceed \$ 131200. Said aggregate amount is to be derived from the following sources, when performance levels/units are met.

1. \$ 0 from Title III-B of the OAA;
2. \$ 41020 from Title III-C1 of the OAA;
3. \$ 17928 from Title III-C2 of the OAA;
4. \$ 0 from Title III-D of the OAA;
5. \$ 0 from Title III-E of the OAA; and
6. \$ 72252 from the NMGAA-State/HB-2.

C. Services and Reimbursement Methodology:

Service	Total Unit Cost (III,State,PI,Local)	Federal Title III & State Negotiated Unit Costs	Units of Service	Persons
Congregate Meals	\$11.3567	\$4.0000	19800	270
Home Delivered Meals	\$12.3304	\$2.6000	20000	150
Transportation	\$	\$	0	0
Assisted Transportation	\$	\$	0	0
Case Management	\$	\$	0	0
Adult Day Care	\$	\$	0	0
Respite	\$	\$		
Chore Services	\$	\$	0	0
Homemaker/Housekeeping	\$	\$	0	0
Health Education/Training	\$	\$		
Physical Fitness/Exercise	\$	\$	0	0
Health Screening	\$	\$		
Home Safety	\$	\$		
Medication Management	\$	\$		
EB-EnhanceFitness	\$	\$		
EB-My CD	\$	\$		
EB-A Matter of Balance	\$	\$		
NFCSP – Family Caregivers: Elderly				
CG - Counseling	\$	\$	0	0
CG – Respite Care	\$	\$	0	0
CG - Supplemental	\$	\$	0	0
CG - Assistance	\$	\$	0	0
CG - Information	\$	\$	0	0
NFCSP – Family Caregivers: Grandchildren				
CG - Supplemental	\$	\$		
CG – Respite Care	\$	\$	0	0
CG - Assistance	\$	\$		

D. Payment for services shall be consistent with all applicable federal and state laws and regulations.

E. Payments to the Vendor will be made subsequent to receipt of funds by the Agency. Any expenditure made prior to the receipt of funds or pending the Agency's approval shall be made at the Vendor's own risk, and the Agency shall not be liable for such expenditures.

F. Payments to the Vendor may be withheld or denied by the Agency for expenditures which are not authorized by, or are in excess of, the regulations, terms and conditions contained in this Agreement or for expenditures which are not properly documented or substantiated by the Vendor. The Vendor agrees to hold the Agency harmless against all audit exceptions arising from the Vendor's violation and shall make restitution to the Agency of such amounts of money due to the Vendor's non-compliance.

G. The total payments for services rendered by the Agency under the terms and conditions of this Agreement shall not exceed those listed in this Agreement.

H. Payments to the vendor will be made electronically through the Automated Clearing House (ACH) Network.

2. TERMS OF AGREEMENT.

In addition to the other provisions contained in this Agreement, the parties agree to the following:

A. The Vendor agrees to:

1. Provide services in accordance with current or revised Agency and State of New Mexico Aging and Long Term Services Department policies and the OAA.
2. Target services to older individuals with greatest economic and social need, including low-income minorities and older individuals residing in rural areas, as applicable.
3. Submit timely and accurate consumer/client tracking service documentation (rosters and transmittals) as required by the AAA by the close of business on the second (2nd) day of each month following the last day of the month in which services were provided. If the second (2nd) day falls on a weekend or AAA holiday, the information shall be delivered by the close of business on the next business day.
4. Submit timely and accurate consumer/client assessment and reassessment documentation (including transmittals) on the day conducted.
5. Encourage client contributions (program income) on a voluntary and confidential basis. Such contributions will be properly safeguarded and accurately accounted for as receipts and expenditures on its financial reports, if they are not required to be forwarded to the AAA. Client contributions (program income) will be reported fully, as required, to the

- AAA. Vendor agrees to expend all program income to expand or enhance the program/service under which it is earned.
6. Provide letters from local City or County governments to the NCNMEDD Non-Metro AAA committing local funds to senior programs. Any changes in local funds (increases or decreases) will be provided in writing to the NCNMEDD Non-Metro AAA. An automatic charge of 1/12 of budgeted local income will be applied monthly. The Letter of Commitment of local funds shall be submitted with the signed contract.
 7. Maintain communication and correspondence concerning clients' status with the Agency.
 8. At a minimum, attend two (2) training events per year (may include attendance at Non-Metro AAA Advisory Council meetings).
 9. Submit timely and accurate information necessary for reimbursement.
 - a. All SAMS data should be verified and reconciled by the Vendor prior to submitting the SAMS Verification Statement and the Agency Summary Report (ASR) to the Non-Metro AAA Santa Fe office by the 7th working day. The signed Agency Summary Report (ASR) is the official document used to initiate reimbursement of services provided by the Vendor.
 - b. Quarterly financial reports with year-to-date to include approved budget, year-to-date expenses and year-to-date revenue, to be submitted by the 15th working day of the month following the end of the quarter.
 10. This agreement does not guarantee a total level of reimbursement other than for individual units/services authorized, contingent upon availability of Federal and State funds.
 11. Employees shall not solicit nor accept gifts or favors of monetary value by or on behalf of clients as a gift, reward or payment.
 12. Encourage the purchase and use of locally sourced farm fresh food products that meet the nutritional standards of the Agency. Vendors must ensure that the farm food products meet the state EID requirements.

B. Through Direct Purchase of Service, the Agency agrees to:

1. Review client intake and assessment forms completed by the Vendor, as applicable, to determine client eligibility. Client intake and assessment forms will be housed at the NCNMEDD Non-Metro Area Agency on Aging (as applicable).
2. Maintain communication and correspondence concerning clients' status.
3. Provide timely consultation and technical assistance to the Vendor as requested and as available.
4. Conduct quality-assurance procedures, which may include on-site visits, to ensure quality services are being provided.
5. Provide written policy, procedures and standard documents concerning client authorization to release information (both a general and

- medical/health related release), ability to contribute to the cost of services provided, complaints/grievances and appeals to all clients.
6. Provide start-up funds at the discretion of NCNMEDD Non-Metro AAA.
 7. Will submit contingency plan to address unforeseen circumstances when service delivery is threatened.
 8. Allow re-negotiation of cost of services based on contingency plan, i.e. loss of local dollars.
 9. Employ a full-time manager and financial individual to oversee funds contracted through Non-Metro AAA.
 10. Will inform NCNMEDD Non-Metro AAA of any substantial changes in organization and/or services.

3. **ASSURANCES.**

A. *Americans with Disabilities Act of 1990 –*

The Vendor shall comply with the requirements, established under the Americans with Disabilities Act, in meeting statutory deadlines under the Act as they pertain to operation for employment, public accommodations, transportation, state and local government operations and telecommunications.

B. *Section 504 of the Rehabilitation Act of 1973 –*

The Vendor shall provide that each program activity, when viewed in its entirety, is readily accessible to and usable by persons with disabilities in keeping with 45 CFR, Part 84.11, etc. Seq., and as provided for in Section 504 of the Rehabilitation Act of 1974, as amended. When structural changes are required, these changes shall be in keeping with 45 CFR, Part 74. The Vendor shall ensure that benefits and services, available under the agreement, are provided in a non-discriminatory manner as required by the Title VI of the Civil Rights Act of 1964, as amended.

C. *Age Discrimination in Employment Act of 1967 –*

The Vendor shall comply with Age Discrimination in Employment Act of 1967 (29 USC 621, etc. Seq.).

D. *Drug Free Workplace*

The Vendor shall comply with the Drug-Free Workplace Act of 1988.

E. *Certification Regarding Debarment*

The Vendor shall certify annually that it is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency.

F. *Independent Audit*

The Vendor will provide a financial and compliance audit report to the Agency covering the period of July 1, 2016 through June 30, 2017. The audit report provided to the Agency must include a copy of the Auditor's management letter.

This audit shall be conducted in accordance with generally accepted auditing standards and shall encompass the following provisions:

1. The Vendor, expending equal to \$750,000 but less than or equal to \$25,000,000 more in combined federal funds, shall have an audit conducted in accordance with Revised Omni Circular 200.518(b)(1), supersedes and streamlines eight different grant circulars into one set. A fair allocation of the audit costs may be charged to both federal and state funds under this Agreement. A copy of the complete report package as required to be submitted by A-133 to the designated clearinghouse shall also be provided to the Agency. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, etc.), which facilitates a reconciliation of audited costs to the final report. The Agency further requires the inclusion of the final units of services provided and final number of persons served. This information may be included within the supplementary section of the audit report.
2. Governmental-type vendors expending less than \$500,000 in combined federal awards shall continue to follow the guidance of the New Mexico State Auditor. Since a full scope audit will continue to be required by the State Auditor, only a fair allocation of state funds within this Agreement may be expended for such audit costs. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, etc.) which facilitates a reconciliation of these audited costs to the final report. The Agency further requires the inclusion of the final units of services provided and final number of persons served by this Agreement. This information may be included within the supplementary section of the audit report.
3. Non-governmental vendors expending between \$25,000 in federal and state funds combined and less than \$500,000 in federal funds, shall have an audit conducted in accordance with the GAO Government Auditing Standards. A fair allocation of the audit costs may be charged to the state funds awarded under the Agreement. Federal funds shall not be charged for audit costs under this section. The audit report shall include a schedule of administrative and program expenses for each separate title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, etc.), which facilitates a reconciliation of these audited costs to the final report. The Agency further requires the inclusion of the final units of services provided and final number of persons served by this agreement. This information may be included within the supplementary section of the audit report.
4. For those vendors that expend less than \$15,000 in federal and state dollars, no audit is required. The close out of this grant will be based on information required by the Agency, such as financial reports (trial

balances, general ledgers, etc.), monitoring efforts and final numbers of services provided and final number of individuals served.

5. Submittal of the audit report for government entities shall be within ten (10) working days after release by the New Mexico State Auditor's Office. For non-governmental entities, the audit report is due four (4) months after the end of the entity's fiscal year.
6. The vendor's independent auditor shall be made aware of Office of Management and Budget Circular (OMB) A-87, Cost Principles for State, Local and Indian Tribal Governments, and OMB Circular A-122, Cost Principles of Nonprofit Organizations in determining the allowability of costs.

G. *Equal Opportunity Compliance.*

The Vendor agrees to abide by all federal and state laws, rules, regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Vendor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Vendor is found not to be in compliance with these requirements during the life of this Agreement, Vendor agrees to take appropriate steps to correct these deficiencies.

H. *Compliance with Aging and Long-Term Services Department Functions.*

The Vendor shall perform in accordance with the OAA and directives of the U.S. Administration on Aging: rules, regulations, policies and procedures established by the Aging and Long-Term Services Department, for the provision of services, and administration of programs funded under the OAA and the New Mexico State Legislature, the approved Area Plan, the approved Service Plan, and the terms and conditions of this Agreement.

I. *Non-Discrimination Service Delivery.*

The Vendor, in determining (a) the services or other benefits provided under this Agreement, (b) the class of individuals to whom, or situation in which such services or other benefits will be provided under this program, or (c) the class of individuals to be afforded an opportunity to participate in the program, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program in respect to individuals of a particular race, religion, color, national origin, ancestry, sex, sexual preferences, age or handicap.

4. TERM.

This Agreement shall begin on July 1, 2016 and terminate on June 30, 2017, unless terminated pursuant to Paragraph 5, below. In accordance with NMSA 1978, § 13-1-150, no contract term, including extensions and renewals, shall exceed four (4) years, except as set forth in NMSA 1978, § 13-1-150.

5. TERMINATION.

A. This Agreement may be terminated by the Agency without cause upon written notice delivered to the Vendor at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement may be terminated immediately, upon written notice to the Vendor, if the Vendor becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Agreement, the Vendor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Vendor fails to comply with any of the terms contained herein or is in breach of this Agreement as set forth in Paragraph 6, below. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Vendor's default or breach of this Agreement. This Agreement may also be terminated by the Vendor upon thirty (30) days written notice to the Agency.

B. Termination Management. Immediately upon receipt of notice of termination of this Agreement by either the Agency or the Vendor, the Vendor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Agreement and any non-expendable personal property or equipment purchased by the Vendor with contract funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Vendor shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Vendor; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Vendor under the paragraph of this Agreement regarding financial records.

6. BREACH OF AGREEMENT BY VENDOR.

A. In addition to the breach of any term, provision, covenant, agreement, or obligation of Vendor contained in this Agreement, the following constitute a breach of Vendor's obligations and duties hereunder:

1. The Vendor's failure to provide proof of insurance coverage sufficient to meet the requirements of this Agreement or any applicable federal, state or local laws, rules or regulations.

2. The Vendor's failure to adequately safeguard its assets in such a manner that would adversely impact the interests of the intended recipients of the services to be performed, hereunder, and jeopardize their receipt of such services.
3. Unless otherwise duly authorized in writing by the Agency, the Vendor's failure to meet line-item budgetary ceilings set forth in its approved budget for delivering the services contemplated hereunder.

B. Upon a determination by the Agency that the Vendor shall be in breach of this Agreement, the Agency shall provide written notice to the Vendor specifying the facts and circumstances constituting the breach(es) and advising the Vendor that such breach(es) must be cured to the Agency's satisfaction within thirty (30) days from the date of such written notice. If such cure is not timely made, then the Agency may elect to implement one or more of the following intermediate sanctions:

1. The Agency may install a program monitor for a specified time period to closely observe the Vendor's efforts to comply with obligations remaining under this Agreement. Unless otherwise deemed confidential under applicable law, such monitor shall have authority to review any or all of the Vendor's records, policies, procedures, and financial records germane to the Vendor's delivery of the services contemplated by this Agreement. Such monitor may also serve as a consultant to the Vendor to advise in the correction of the determined deficiencies. All costs associated with the Agency's selection and installation of such monitor shall be paid from the state and federal funds paid to the Vendor hereunder.
2. The Agency may appoint a temporary manager who shall have primary responsibility to oversee the operation of the Vendor's services contemplated by this Agreement. All costs associated with the Agency's selection and installation of such a temporary manager shall be paid from the compensation paid to Vendor.
3. The Agency may deem the Vendor ineligible for the receipt of any additional funds to be paid to Vendor hereunder.
4. The Agency may cancel, terminate, or suspend this Agreement in whole or in part.
5. In addition to other remedies available to the Agency hereunder, the Agency may, in its discretion, establish a period of probation with specific objectives to be accomplished by the Vendor hereunder, or to be in compliance with applicable policies, procedures, laws, and regulations.
6. The Agency may pursue any other remedy as may be provided under applicable law.

7. APPROPRIATIONS.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico and utilized by the Agency for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the Agency to the Vendor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Vendor and shall be final. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Vendor shall have the option to terminate the Agreement or agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

8. STATUS OF VENDOR.

The Vendor, its agents, and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Vendor, its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Agency vehicles, or any other benefits afforded to employees of the Agency as a result of this Agreement. The Vendor acknowledges that all sums received hereunder are reportable for income tax purposes.

9. ASSIGNMENT.

The Vendor shall not assign or transfer any interest in this Agreement, assign any claims for money due, or to become due under this Agreement, without the prior written approval of the Agency.

10. SUBCONTRACTING.

The Vendor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

11. RELEASE.

The Vendor acceptance of final payment of the amount due under this Agreement shall operate as a release of the Agency, its officers and employees from all liabilities, claims and obligations, whatsoever, arising from or under this Agreement. The Vendor agrees not to purport to bind the Agency unless the Vendor has express written authority to do so, and then only within the strict limits of that authority.

12. CONFIDENTIALITY.

Any information provided to or developed by the Vendor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization, by the Vendor without the prior written approval of the Agency. Disclosure of confidential information shall only be made in accordance with the Inspection of Public Records Act or the applicable state or federal laws or regulations. Vendor shall establish a method to guarantee the confidentiality of all information relating to clients in accordance with applicable federal, state and local laws, rules and regulations, as well as the terms of this Agreement. However, this provision shall not be construed as limiting the rights of the Agency or any other federal or state authorized representative to access client case records or other information relating to clients served under this Agreement.

13. PRODUCT OF SERVICE – COPYRIGHT.

All materials developed or acquired, by the Vendor, under this Agreement, shall become the property of the Agency and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Vendor, under this Agreement, shall be the subject of an application for copyright or other claim of ownership, by or on behalf, of the Vendor.

14. CONFLICT OF INTEREST.

The Vendor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree, with the performance or services required under the Agreement. The Vendor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

15. AMENDMENT.

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

16. MERGER.

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

17. PENALTIES.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

18. APPLICABLE LAW.

The laws of the State of New Mexico shall govern this Agreement.

19. WORKERS COMPENSATION.

The Vendor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Vendor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Agency.

20. RECORDS AND FINANCIAL AUDIT.

The Vendor shall maintain detailed time and expenditure records, including, but not limited to, client records, books, supporting documents pertaining to services provided, that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments. If, pursuant to this Agreement, the Vendor

receives federal funds subject to the Single Audit Act, the Vendor shall submit to the Agency an audit conducted by a certified public accountant in compliance with the Single Audit Act.

21. INDEMNIFICATION.

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

22. INTERNAL DISPUTE MEDIATION.

The Vendor shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Vendor shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Vendor must provide all participants with notice, at the commencement of the contract year that disputes may be resolved in this manner. If negotiation and mediation through the grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Vendor hereby agree and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.
3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Vendor and the Vendor hereby agrees to be bound by said resolution.
5. Failure of the Vendor to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of Agreement.
6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

23. PARTICIPANT GRIEVANCE.

The Vendor will establish a system through which applicants for, and recipients of services, may present grievances about the operation of the service program. The Vendor will advise applicants and recipients of their right to appeal denial of service and their right to a fair hearing of these respects. The Vendor shall notify the Agency of termination of services, to a client, as part of a monthly service report, on any services funded by this Agreement. The Agency reserves the right to perform follow-up investigations with the client to determine adequate performance and adherence to due process.

24. KEY PERSONNEL.

The Agency shall be notified of changes in, and must concur with the selection process for, Key Personnel. The Agency considers the following positions as Key Personnel:

1. Program Director
2. Financial Manager

The Vendor will maintain full-time Key Personnel throughout the term of this agreement.

25. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

26. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. NOTICES.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

AGENCY:
NCNMEDD
Attn: Marcia A. Medina
3900 Paseo Del Sol
Santa Fe, NM 87507

VENDOR:

28. INSURANCE.

The Vendor shall secure and maintain, during the term of this Agreement, at its own expense, comprehensive and general public liability insurance and/or other types of insurance as the Agency may require. The Vendor shall secure and maintain, during the term of this Agreement, at its own expense, workers' compensation insurance in the amounts required by the applicable laws of the State of New Mexico covering the Vendor's employees. All policies of liability insurance that Vendor is obligated to maintain, according to this Agreement, except for any policy of workers' compensation insurance, shall name Agency as an additional insured. The Vendor shall furnish to the Agency, directly from its insurance carrier, a memorandum or certification of all insurance carried, before the payment of any monies as consideration for the services rendered hereunder shall be made. Upon such certificates and/or memoranda being furnished to the Agency, the same shall be annexed to this Agreement and by reference made a part hereof.

29. AUTHORITY.

The individual(s) signing this Agreement on behalf of Vendor represents and warrants that he or she has the power and authority to bind Vendor, and that no further action, resolution, or approval from Vendor is necessary to enter into a binding contract.

30. SIGNATURES.

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective July 1, 2016.

City of Hobbs
Legal Name of Vendor


Signature

J.J. Murphy
Printed/Typed Name of Signatory

23 JUN 16
Date

NCNMEDD
Non-Metro Area Agency on Aging
Name of Area Agency on Aging


Signature

Tim Armer, Executive Director
Printed/Typed Name of Signatory

6/15/16
Date

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
 NON-METRO AREA AGENCY ON AGING
 NOTIFICATION OF GRANT AWARD (NGA)

GRANTEE: City of Hobbs		APPROVED BUDGET PERIOD				Grant/Action		NGA DATE
ADDRESS:		FROM: 7/1/2016 TO: 6/30/2017				New/Cont:	X	
PHONE:						Revision:		
						BAR:		
						Other:		
DESCRIPTION		FEDERAL	STATE	LOCAL	Fundraising-Foundations	PROJ. INC.	TOTAL	
Title IIIB 93.044	Access	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	In-Home	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Community All Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Title IIIC1 93.045	Meal Costs	\$ 41,020	\$ 38,180	\$ 115,017	\$ -	\$ -	\$ 194,217	
	Sub Total	\$ 41,020	\$ 38,180	\$ 115,017	\$ -	\$ -	\$ 194,217	
Title IIIC2 93.045	Meal Costs	\$ 17,928	\$ 34,072	\$ 158,575	\$ -	\$ -	\$ 210,575	
	Sub Total	\$ 17,928	\$ 34,072	\$ 158,575	\$ -	\$ -	\$ 210,575	
Title IIID 93.043	Evidence Based	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Title IIIE 93.052	Care Giver Support	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
DEMONSTRATION GRANT								
ALZHEIMER	Respite Care	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
ALL STATE OTHER								
	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
SUB TOTALS								
	Title IIIB 93.044	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Title IIIC1 93.045	\$ 41,020	\$ 38,180	\$ 115,017	\$ -	\$ -	\$ 194,217	
	Title IIIC2 93.045	\$ 17,928	\$ 34,072	\$ 158,575	\$ -	\$ -	\$ 210,575	
	Title IIID 93.043	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Title IIIE 93.052	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Alzheimer Respite Care	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	All State Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
GRAND TOTAL		\$ 58,948	\$ 72,252	\$ 273,592	\$ -	\$ -	\$ 404,792	
COMPUTATION OF GRANT		8. Federal/State Shares will be comprised of:						
1. Estimated Total Cost.....	\$ 404,792	a. Federal/State		FY 20 __	Federal			
2. LESS Anticipated Proj. Inc.	\$ -	grant unearned			State			
3. Estimated Net Cost.....	\$ 404,792	in previous project year(s)						
4. Non-federal and Non-state Share of Net Cost.....		b. Carry Over		FY 20 __	Federal			
5. Proj. Inc. (Used as Match).....	\$ -				State			
6. Federal Share of Net Cost.....	\$ 58,948	c. New Obligational		FY-	Federal	\$ 58,948		
7. State Share of Net Cost....	\$ 72,252	Authority Herein Awarded			State	\$ 72,252		

NOTIFICATION OF GRANT AWARD

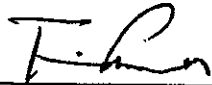
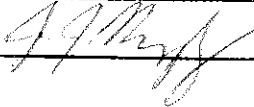
REMARKS: In addition to the conditions contained in the agreement on the application form, the conditions below apply to this grant:

- 1. Unless revised, the amount of lines 6 and 7 (Computation of Grant) will constitute a ceiling for federal and/or state participation in the approved cost.
- 2. The federal and/or state share of the project cost is earned only when the cost is accrued and the non-federal and/or non-state share of the cost has been contributed. Receipt of federal and/or state funds (either through advance or reimbursement) does not constitute earning of these funds.
- 3. If the actual net cost is less than the amount on line 3 (Computation of Grant) the non-federal and/or non-state share, the federal share and the state share will meet the percentages indicated on Page 1 of the NGA.
- 4. As shown in the Computation of Grant (assuming satisfactory progress, adequate justification and the availability of funds), the federal and state shares shall meet the amounts shown on lines 6 and 7 of the estimated net project cost shown on line 3.
- 5. Funds herein awarded will remain available during the length of the project period; however, state and/or federal funds are dependent upon availability.
- 6. Programs must meet the units of services projected to be reimbursed or submit an amended plan detailing reasons why approved units are not being met which must be approved by the NCNMEDD Area Agency on Aging.

THE GRANTEE ORGANIZATION IS RESPONSIBLE FOR RETAINING RECORDS OF ALL FEDERAL AND/OR STATE ACCOUNTS AS FOLLOWS:

All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency personnel or other federal and/or state officials authorized to examine any or all financial and programmatic records. Such records shall be retained in accordance with the following:

- 1. Keep adequate and complete financial records, and to report promptly and fully to the Area Agency.
- 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Agency.
- 3. In all cases, an over-riding requirement exists to retain records until resolution of any audit questions relating to individual grants.
- 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency for the following project year.
- 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies.
- 6. Unearned federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency.
- 7. All obligations will be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted.
- 8. Inventory of project equipment will be maintained and submitted as requested.
- 9. Project records will preserved and kept available to federal and state auditors at the primary offices of the Grantee.

Signature of NCNMEDD Non-Metro Area Agency on Aging Authorizing Official: 	We, the undersigned officers of the Grantee organization, certify that we are in agreement with the terms and conditions of this award.
Date 6/15/16	Date:  Date: DD/MM/16
Tim Armer Executive Director	

**North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging**

**NUTRITION SERVICE INCENTIVE PROGRAM (NSIP)
AGREEMENT**

This Agreement is made and entered into this 1st day of July 2016, by and between the North Central New Mexico Economic Development District(NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as the "Agency" and City of Hobbs, hereinafter referred to as the "Contractor."

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work

The Contractor will:

- A. Establish procedures to insure that such cash payments are used solely for the purchase of United States agricultural commodities and other foods produced in the United States for use in their feeding operations. No imported foods may be purchased with these funds, e.g. coffee, tea, cocoa, and bananas.
- B. Ensure that meals furnished under contractual arrangement with food service management companies, caterers, restaurants, or institutions, contain United States produced commodities or foods at least equal in value to the per meal cash payment.
- C. Encourage the purchase and use of locally sourced farm fresh food products that meet the nutritional standards of the Agency. Contractors must ensure that the farm food products meet the state EID requirements.
- D. Ensure that meals meet Title III-C standards for nutritional adequacy and sanitation.
- E. Maintain accounting records for NSIP separate and apart from other accounting records maintained for other nutrition funding sources (i.e., Title III-C1 and C2 and other cash used for raw food).
- F. Report on a monthly basis to the Agency on forms provided by the Agency and submit such other reports as deemed necessary by the Agency.
- G. Maintain and retain for three years from close of the federal year to which they pertain, complete and accurate records of all amounts received and disbursed under this Agreement.
- H. Allow the Agency to monitor periodically the Contractor's fiscal accountability of NSIP.
- I. Abide by and comply with the conditions and requirements set forth in Title 45, Part 74 dated August 2, 1978 (Grant Administration); Implementation of OMB Circular No. A110; Uniform Policies). Moreover, the Contractor will abide by Volume 38, No. 181 dated September 19, 1973 (Part II-Administration of Grants) as well as other applicable federal regulations that are currently in effect or will come into effect during the term of this contract.

J. Ensure eligible participants are assessed and registered in SAMS.

K. Ensure meals served meet the following:

Congregate Meals – A hot or other appropriate meal served to an eligible person which meets one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and which is served in a congregate setting 5 or more days per week. There are two types of congregate meals:

- Standard meal – A regular meal from the standard menu that is served to the majority of the participants.
- Therapeutic meal or liquid supplement – A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietician (e.g., diabetic diet, renal diet, tube feeding).

Home Delivered Meals – Hot, cold, frozen, dried, canned or supplemental food (with a satisfactory storage life) which provides a minimum of one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and is delivered to an eligible person in the place of residence. The objective is to assist the recipient sustain independent living in a safe and healthful environment 5 or more days per week. Home delivered meals may be served as breakfast, lunch, dinner or weekend meals.

L. As recommended by the Agency, these funds be expended prior to Title III-C funds and/or state funds.

2. **Compensation**

- A. The total amount payable to the Contractor under this Agreement shall not exceed \$27778 for eligible meals served during the period July 1, 2016 through June 30, 2017 regardless of funding sources, to eligible participants and their spouses.
- B. All subsequent payments will be disbursed upon receipt of actual service delivery data from the Contractor.

3. **Gross Receipts Tax**

Not applicable. Tax exempt.

4. **Term**

No terms of this Agreement shall become effective until approved by the Department of Finance and Administration and shall terminate on June 30, 2017, unless terminated pursuant to paragraph 5, infra.

5. **Termination**

A. This Agreement may be terminated by the Agency without cause upon written notice delivered to the Contractor at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents, is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Contractor fails to comply with any of the terms contained herein or is in breach of this Agreement. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Contractor's default or breach of this Agreement. This Agreement also may be terminated by the Contractor upon thirty (30) days written notice to the Agency.

B. **Termination Management.** Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Agreement and any non-expendable personal property or equipment purchased by the Contractor with contract funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Contractor shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Contractor; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the paragraph of this Agreement regarding financial records.

6. **Status of Contractor**

The Contractor, his agents and employees, are independent contractors performing services for the Agency and are not employees of the Agency. The Contractor, his agents and employees, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the Agency as a result of this Agreement.

7. **Assignment**

The Contractor shall not assign any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

8. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

9. **Records and Audit**

A. The Contractor shall maintain detailed records which indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the Agency, Aging & Long Term Services Department (ALTSD), the Department of Finance and Administration, the State Auditor, the U.S. Department of Agriculture, and the U.S. General Accounting Office. The Agency shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the Agency to recover excessive, improper, or illegal payments.

B. The Contractor will provide a financial and compliance audit report to the Agency covering the period July 1, 2016 to June 30, 2017. The audit reports provided to the Agency must include a copy of the Auditor's management letter. This audit shall be conducted in accordance with generally accepted auditing standards and shall encompass the following provisions.

1. The Vendor, expending equal to \$750,000 but less than or equal to \$25,000,000 more in combined federal funds, shall have an audit conducted in accordance with Revised OmniCircular 200.518(b)(1), which streamlines eight different grant circulars into one set. A fair allocation of the audit costs may be charged to both federal and state funds under this Agreement. A copy of the complete report package as required to be submitted by A-133 to the designated clearinghouse shall also be provided to the Agency. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.), which facilitates a reconciliation of audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served. This information may be included within the supplementary section of the audit report.
2. Governmental type vendors/contractors expending less than \$500,000 in combined federal awards shall be continue to follow the guidance of the New Mexico State Auditor. Since a full scope audit will continue to be required by the State Auditor, only a fair allocation of state funds within this Agreement may be expended for such audit costs. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.) which facilitates a reconciliation of these audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served by this Agreement. This information may be included within the supplementary section of the audit report.
3. Non-governmental vendors/contractors expending between \$25,000 in federal and state funds combined less than \$500,000 in federal funds, shall have an audit conducted in accordance with the GAO Government Auditing Standards. A fair allocation of the audit costs may be charged to the state funds awarded under the Agreement. Federal funds shall not be charged for

audit costs under this section. The audit report shall include a schedule of administrative and program expenses for each separate title or program (Title IIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.), which facilitates a reconciliation of these audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served by this agreement. This information may be included within the supplementary section of the audit report.

4. For those contractors/vendors that expend less than \$15,000 in federal and state dollars, no audit is required. The close out of this grant will be based on information required by the Non-Metro AAA such as financial reports (trial balances, general ledgers, etc.), monitoring efforts and final numbers of services provided and final number of individuals served.
5. Submittal of the audit report for government entities shall be within ten (10) working days after releases by the New Mexico State Auditor's Office. For non-governmental entities, the audit report is due four (4) months after the end of the entity's fiscal year.
6. The contractor's/vendor's independent auditor shall be made aware of Office of Management and Budget Circular (OMB) A-87, Cost Principles for State, Local and Indian Tribal Governments, and OMB Circular A-122, Cost Principles of Nonprofit Organizations in determining the allowability of costs. (A-87 and A-122 have been reclassified under the CFR as 2 CFR Part 225, and 2 CFR Part 230, respectively.)

10. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the U.S. Congress for the performance of this Agreement. If sufficient appropriations and authorizations are not made, the Agreement shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

11. Release

The Contractor, upon final payment of the amount due under this Agreement, releases The Agency, its officers and employees, the ALTSD and the State of New Mexico from all liabilities, claims, and obligations arising from or under this Agreement. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed herein unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. Product of Service; Copyright

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the Contractor under this Agreement shall be subject to an application for copyright

by or on behalf of the Contractor.

13. Conflict of Interest

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of service required under this Agreement.

14. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

15. Non-Discriminating Service Delivery

The Contractor will not, on the ground of race, religion, color, ancestry, sex, sexual preference, national origin, age or handicap:

1. Deny any individual receiving services under this Agreement any service or other benefits provided under the program;
2. Provide any services or other benefits to an individual which is different, than those funded under this Agreement;
3. Subject any individual to segregation or separate treatment in any manner related to his receipt of any services or other benefits provided under the funding for this program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services or other benefits provided under this program;
5. Treat an individual differently from others in determining whether he satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, services, or other benefits provided under the funding for this program;
6. Deny any individual an opportunity to participate in the program through the provision of services or otherwise afford him/her an opportunity to do so which is different from that afforded others under the program.
7. The Contractor, in determining (1) the types of services or other benefits to be provided under the program, (2) the class of individuals to whom, or the situation in which such services or other benefits will be provided under this

program, or (3) the class of individuals to be afforded an opportunity to participate in the program, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, sex, sexual preference, national origin, or handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program in respect to individuals of a particular race, color, sex, sexual preference, national origin, or handicap.

16. **Confidentiality**

The use or disclosure of any information concerning a recipient of assistance or service for any purpose not connected with the administration of the Agency's or the Contractor's responsibilities with respect to services hereunder, is prohibited, except on written consent of recipient, his attorney, or his responsible parent or guardian. Disclosure of confidential information shall only be made in accordance with the NM Inspection of Public Records Act, or applicable state or federal law or regulations.

17. **Amendment**

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

18. **Penalties for Violation of Law**

The Procurement Code, Sections 13-1-28 through 13-1-199, N.M.S.A. 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

19. **Scope of Agreement**

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

20. **Applicable Laws**

This Agreement shall be governed by the laws and regulations of the (a) State of New Mexico, (b) the Older Americans Act of 1965, as amended, (c) the Agricultural Act of 1949, as amended; and (d) any other applicable laws and regulations of the federal government.

21. **Internal Dispute Mediation**

The Contractor shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Contractor shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Contractor must provide all participants with notice, at the commencement of the contract year, that disputes may be resolved in this manner. If negotiation and mediation through the

grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Contractor hereby agree to and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.
3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Contractor and the Contractor hereby agrees to be bound by said resolution.
5. Failure of the Contractor to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of Agreement.
6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

22. Invalid Term or Condition

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

23. Enforcement of Agreement

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

24. Notices

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

Agency:

NCNMEDD
Attn: Marcia A. Medina
3900 Paseo Del Sol
Santa Fe, NM 87507

Contractor:

25. Other Provisions

Compliance with Grant conditions. The Contractor shall abide by all grant conditions set out in the Notification of Grant Award (NGA) attached hereto and hereby incorporated by reference.

26. Indemnification

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

27. Authority

The individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

28. Signatures

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective July 1, 2016.

City of Hobbs
Legal Name of Vendor/Contractor


Signature

J. J. [unclear]
Printed/Typed Name of Signatory

22 JUN 15
Date

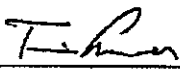
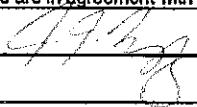
NCNMEDD
Non-Metro Area Agency on Aging
Name of Area Agency on Aging


Signature

Tim Armer, Executive Director
Printed/Typed Name of Signatory

6/15/16
Date

NON-METRO AREA AGENCY ON AGING
 NOTIFICATION OF GRANT AWARD (NGA)
 SPECIAL PROJECTS - NUTRITION SERVICE INCENTIVE PROGRAM (NSIP)

GRANTEE: Hobbs, City of ADDRESS:		APPROVED BUDGET FOR THE PERIOD FROM: 07/01/2015 TO: 06/30/2016		Type of Grant or Action		NGA DATE	
				New/Cont: X Revision: Other:			
PHONE:		Fund: 210 Title of Project: NSIP		CFDA # 93.053			
Indirect Cost % of \$							
DESCRIPTION		FEDERAL	STATE	LOCAL CASH	LOCAL IN-KIND	PROJECT INCOME	TOTAL
Personnel Services		\$0.00	\$0.00				\$0.00
Fringe Benefits		0.00	0.00				0.00
Travel		0.00	0.00				0.00
Maintenance & Repair		0.00	0.00				0.00
Supplies (Raw Food)		27,778.00	0.00				27,778.00
Contractual Services		0.00	0.00				0.00
Other Operating Costs		0.00	0.00				0.00
Capital Outlay		0.00	0.00				0.00
Subtotal		\$27,778.00	\$0.00				\$27,778.00
PERCENT OF TOTAL COST		100%	0%	0%	0%	0%	100%
COMPUTATION OF GRANT							
1. Estimated Total Cost		\$27,778.00		8. Federal/State Shares will be Comprised of:			
2. LESS Anticipated Project Income		\$0.00		a. Federal/State grant			
3. Estimated Net Cost		\$27,778.00		unearned in previous		FY Federal:	0.00
				project year(s)		FY State:	0.00
4. Non-federal and Non-state Share of				b. Carry Over			
Net Cost		\$0.00				0.00	
5. Project Income (Used as Match)		\$0.00		c. New Obligational			
6. Federal Share of Net Cost		\$27,778.00		Authority Herein		FY Federal:	\$27,778.00
7. State Share of Net Cost		\$0.00		Awarded			
<p><input checked="" type="checkbox"/> Unless revised, the amount of lines 6 and 7 (Computation of Grant) will constitute a ceiling for federal and/or state participation in the approved cost.</p> <p><input checked="" type="checkbox"/> The federal and/or state share of the project cost is earned only when the cost is accrued and the non-federal and/or non-state share of the cost has been contributed. Receipt of federal and/or state funds (either through advance or reimbursement) does not constitute earning of these funds.</p> <p><input checked="" type="checkbox"/> If the actual net cost is less than the amount on line 3 (Computation of Grant) the non-federal and/or non-state share, the federal share, and the state share will meet the percentages indicated on Page 1 of the NGA.</p> <p><input checked="" type="checkbox"/> As shown in the Computation of Grant (assuming satisfactory progress, adequate justification and the availability of funds), the federal and state shares shall meet the amounts shown on lines 6 and 7 of the estimated net project cost shown on line 3.</p> <p><input checked="" type="checkbox"/> Funds herein awarded will remain available during the length of the project period, however, state and/or federal funds are dependent upon availability.</p> <p><input checked="" type="checkbox"/> In accepting the grant awarded for support of the expanded portion of an existing program, the grantee agrees to maintain expenditures for the existing program in the amount of Line 6 during the approved project period.</p>							
<p>All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency personnel or other federal and/or state officials authorized to examine any or all financial and programmatic records. Such records shall be retained in accordance with the following:</p> <ol style="list-style-type: none"> 1. Keep adequate and complete financial records, and to report promptly and fully to the Area Agency. 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Agency. 3. In all cases, an over-riding requirement exists to retain records until resolution of any audit questions relating to individual grants. 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency for the following project year. 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies. 6. Unearned federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency. 7. All obligations will be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted. 8. Inventory of project equipment will be maintained and submitted as requested. 9. Project records will be preserved and kept available to federal and state auditors at the primary offices of the Grantee. 							
Signature of Area Agency on Aging Authorizing Official: Tim Armer, Executive Director				We, the undersigned officers of the Grantee organization, certify that we are in agreement with the terms and conditions of this award.			
 Date: 6/15/15				 Date: 22340			
				Date:			



Commitment of Local Funds

My name is J.J. Murphy and I have the authority to represent the City/County of Hobbs as it relates to the contents of this document.

For Fiscal Year 2016-2017 we are committed to contribute a total of \$ 273,592 to the City of Hobbs Senior Citizens Program. This contribution is non-in kind resources.

If for any reason this commitment is not able to be met the City/County of Hobbs will submit a letter of justification.

J.J. Murphy
Signature/Title

/City Manager

2234016
Date

Local government or municipality willing to serve as fiscal agent for capital outlay projects.

Program/Vendor Information (To be completed by Program)

Identify Local Funds by Individual Service(s) Purchased

Service(s)	Amount of Local Funds
Congregate	115,017
Home Delivered	158,575



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

**SUBJECT: PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY
NEW MEXICO DEPARTMENT OF TRANSPORTATION**


DEPT. OF ORIGIN: Engineering Department
DATE SUBMITTED: 6-28-16
SUBMITTED BY: Todd Randall, City Engineer

Summary:

The NMDOT, STC approved the Hobbs project during their 6/16/16 meeting. The project is for improvements to existing traffic signals located at 1) Grimes/Broadway, 2) Grimes/Princess Jeanne, 3) Grimes/Copper, 4) Grimes/Sanger, 5) Sanger/Coleman, 6) Turner/Broadway, 7) Turner/Snyder, 8) Turner/Sanger, 9) Turner/Llano, 10) Turner/EW Plaza and 11) Joe Harvey/Fire Station 3. The improvements at the signalized intersections include the installation of battery back-ups.

The City applied for \$70,000 but has received a total grant amount is \$97,964.00 with the NMDOT share of 75% or \$73,473 and the City's share of 25% or \$24,491 for FY 16/17. The grant agreement terminates December 31, 2017.


Fiscal Impact:

Reviewed By: 
Finance Department

Estimated Cost: \$ 97,964.00
Local Match: \$ 24,491.00 (Fund 48 – Gas Tax)
State Match: \$ 73,473.00
Budget Project No. Fund 48 – Project No. 00236

Attachments:
Resolution

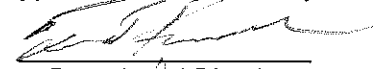
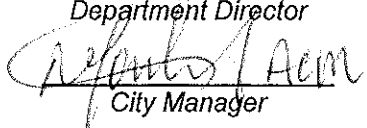
Legal Review:

Approved As To Form: 
City Attorney

Recommendation:

Commission Consideration and approval of Resolution for the City to enter into Cooperative Agreement SP-2-17(962), L200348, with the NMDOT

Approved For Submittal By:


Department Director

City Manager

**CITY CLERKS USE ONLY
COMMISSION ACTION TAKEN**

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

CITY OF HOBBS

RESOLUTION NO. 6457

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM
ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the City of Hobbs and the New Mexico Department of Transportation enter into a Cooperative Agreement; and

WHEREAS, the total cost of the project will be \$97,964.00 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 75% or
\$73,473.00

and

b. The City of Hobbs proportional matching share shall be 25% or
\$24,491.00

TOTAL PROJECT COST IS \$97,964.00

WHEREAS, the City of Hobbs shall pay all costs, which exceed the total amount of \$97,964.00

Now therefore, be it resolved in official session that the City of Hobbs determines, resolves and orders as follows:

That the project for this Cooperative agreement is adopted and has priority standing.

The agreement terminates on December 31, 2017 and the City of Hobbs incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreements.

NOW, THEREFORE, BE IT RESOLVED BY GOVERNING BODY OF THE CITY OF HOBBS to enter into Cooperative Agreement Project Number SP-2-17(962), Control Number L200348 with the New Mexico Department of

Transportation for LGRF Project for year 2016-2017 to improve traffic signals located at 1) Grimes/Broadway, 2) Grimes/Princess Jeanne, 3) Grimes/Copper, 4) Grimes/Sanger, 5) Sanger/Coleman, 6) Turner/Broadway, 7) Turner/Snyder, 8) Turner/Sanger, 9) Turner/Llano, 10) Turner/EW Plaza and 11) Joe Harvey/Fire Station 3 within the control of the City of Hobbs in Hobbs, Lea County, New Mexico.

PASSED, ADOPTED AND APPROVED this 5th day of July, 2016.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

ACTION ITEMS



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

SUBJECT: Approval to publish a proposed ordinance repealing the current Hobbs Municipal Code Chapter 10 in its entirety; AND repealing Hobbs Municipal Code Section 1.12.100; AND enacting a new Chapter 10 adopting the Uniform Traffic Ordinance 2010 Compilation (through July, 2015) with the exception of Article II and Sections 12-6-4.1(D), 12-6-6.13(B), 12-6-12.2(N), 12-6-12.7, 12-8-13, 12-8-14, 12-8-15, 12-8-16, 12-8-17, 12-8-18, 12-8-19, 12-8-20, 12-8-21, 12-8-22, 12-9-1, 12-9-2, 12-9-3, 12-9-4, 12-9-5, 12-9-6, 12-9-7, 12-9-8, 12-12-18(B), 12-12-18(D)(1)(f), and 12-12-18(D)(1)(g); AND adopting a Penalty Assessment Program.

DEPT. OF ORIGIN: Hobbs Police Department
DATE SUBMITTED: June 28, 2016
SUBMITTED BY: Michael Walker, Cpt. HPD / Efen Cortez, Assistant City Attorney

Summary:

City of Hobbs has previously adopted the Motor Vehicle Code (NMSA 1978, §66-1-1, et seq.). NMSA 1978, §3-17-6(A)(8), allows a municipality to adopt its own traffic code. The traffic code utilized by New Mexico municipalities is the Uniform Traffic Ordinance (UTO). NMSA 1978, §3-17-6(B), allows a municipality that adopts the UTO to exclude certain provision of the UTO if there is no Motor Vehicle Code equivalent. The UTO allows a municipality to adopt a Penalty Assessment Program which allows the municipality to set fixed fines for Penalty Assessment Misdemeanors.

Hobbs Municipal Code Section 1.12.100 sets out the process for payment of traffic fines which the new Chapter 10 will cover in detail.

Fiscal Impact:

No foreseeable fiscal impact.

Reviewed By: _____

[Signature]
Finance Department

Attachments:

Copy of the proposed Ordinance

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation: The Commission should approve publication

Approved For Submittal By:

[Signature]
Department Director
[Signature] ACM
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

ORDINANCE NO. _____

AN ORDINANCE REPEALING CHAPTER 10 OF THE HOBBS MUNICIPAL CODE IN ITS ENTIRETY, REPEALING HOBBS MUNICIPAL CODE SECTION 1.12.100, ADOPTING A NEW CHAPTER 10 TITLED THE "UNIFORM TRAFFIC ORDINANCE," AND ADOPTING A PENALTY ASSESSMENT PROGRAM

WHEREAS, the City of Hobbs has previously adopted the Motor Vehicle Code to govern the traffic laws within the municipal limits of the City of Hobbs, New Mexico, through enactment of Chapter 10 of the Hobbs Municipal Code; and

WHEREAS, NMSA 1978, §3-17-6(A)(8) allows a municipality to adopt its own traffic code to govern the traffic laws within the municipal limits of said municipality; and

WHEREAS, the Uniform Traffic Ordinance is a traffic code frequently used by New Mexico municipalities and affords a municipality the authority to adopt a penalty assessment program; and

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Chapter 10, Sections 10.04, 10.08, 10.12, and 10.16 of the Hobbs Municipal Code are hereby repealed in their entirety; and

BE IT FURTHER ORDAINED that Section 1.12.100 of the Hobbs Municipal Code is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED that a Penalty Assessment Program is hereby adopted and set out in Section 10.04.050 of the new Chapter 10 outlined herein; and

BE IT FURTHER ORDAINED that a new Chapter 10 adopting the Uniform Traffic Ordinance, is hereby enacted and pursuant to the Uniform Traffic Ordinance Section 12-13-6 shall take effect on the 5th day of September, 2016, and is more specifically described as follows:

TITLE 10
VEHICLES AND TRAFFIC

10.04 UNIFORM TRAFFIC ORDINANCE

10.04.010 Uniform Traffic Ordinance – Adopted.

Pursuant to NMSA 1978, §3-17-6(A)(8), the New Mexico Uniform Traffic Ordinance, 2010 Compilation (current through July, 2015), is adopted by reference except as otherwise provided in this chapter.

10.04.020 Uniform Traffic Ordinance – Provisions not adopted.

Pursuant to NMSA 1978, §3-17-6(B), the following provisions of the Uniform Traffic Ordinance are not adopted: Article II; Section 12-6-4.1(D); Section 12-6-6.13(B); Section 12-6-12.2(N); Section 12-6-12.7; Section 12-8-13; Section 12-8-14; Section 12-8-15; Section 12-8-16; Section 12-8-17; Section 12-8-18; Section 12-8-19; Section 12-8-20; Section 12-8-21; Section 12-8-22; Section 12-9-1; Section 12-9-2; Section 12-9-3; Section 12-9-4; Section 12-9-5; Section 12-9-6; Section 12-9-7; Section 12-9-8; Section 12-12-18(B); Section 12-12-18(D)(1)(f); Section 12-12-18(D)(1)(g).

10.04.030 Uniform Traffic Ordinance – Amendments.

Amendments to the Uniform Traffic Ordinance, as may be from time to time proposed by the New Mexico Municipal League, shall only be adopted by ordinance through an affirmative vote of the City Commission. Upon adoption, amendments shall be available for inspection in the City Clerk's office.

10.04.040 Uniform Traffic Ordinance – Inspection and copying.

The Uniform Traffic Ordinance, so adopted (including all adopted amendments thereto), shall be available for inspection during normal business hours in the City Clerk's office. A printed copy of the Uniform Traffic Ordinance shall be available upon request and payment of a reasonable charge.

10.04.050 Penalty Assessment Program – Adopted

- A. As used in the Uniform Traffic Ordinance, a Penalty Assessment Program is hereby adopted.
- B. A “penalty assessment misdemeanor” means violation of any of the following listed sections of the Uniform Traffic Ordinance for which, except as provided in Subsection E of this Section, the listed penalty assessment is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Obedience to Officers	12-3-2	45.00
Use of Coaster Wagons and Similar Devices	12-3-6	45.00
Obedience to Required Traffic Control Device	12-5-3	45.00
Red Light	12-5-6	45.00
Pedestrian Control Signals	12-5-7	45.00
Flashing Signals	12-5-8	45.00
Lane Control Signals	12-5-9	45.00
Display of Unauthorized Signs, Signals or Markings	12-5-10	45.00
Interference with Official Traffic Control Devices or Railroad Signals	12-5-11	45.00
Traffic Lanes	12-5-14	45.00
Basic (Speeding) Rule	12-6-1.1	45.00
Speed Limits	12-6-1.2	
(1) Up to and including 10 miles per hour above the speed limit		45.00
(2) From 11 and up to and including 15 miles per hour above the speed limit		60.00
(3) From 15 and up to and including 20 miles per hour above the speed limit		95.00
(4) From 21 and up to and including 25 miles per hour above the speed limit		130.00
(5) From 26 and up to and including 30 miles per hour above the speed limit		155.00
(6) From 31 and up to and including 35 miles per hour above the speed limit		180.00
Minimum Speed Regulation	12-6-1.5	45.00
Special Speed Limitations	12-6-1.7	45.00
Improper Passing	12-6-2.1 through 12-6-2.7	45.00

Obedience to Signs Designating One Way Streets and Alleys	12-6-2.9	45.00
Rotary Traffic Islands	12-6-2.10	45.00
Driving on Streets Laned for Traffic	12-6-2.12	45.00
Following Too Closely	12-6-2.13	45.00
Driving on Divided Streets	12-6-2.14	45.00
Controlled Access Violation	12-6-2.15 through 12-6-2.16	45.00
Failure to Yield	12-6-4.1 through 12-6-4.2	45.00
Vehicles Entering Stop or Yield Intersections	12-6-4.3	45.00
Improper Turning	12-6-5.1 through 12-6-5.6	45.00
Starting Parked Vehicle	12-6-5.7	45.00
Turning and Stopping Movements and Required Signals	12-6-5.8	45.00
Signals by Hand and Arm or Signal Device	12-6-5.9 through 12-6-5.10	45.00
Parking Violations	12-6-6.1 through 12-6-6.14	25.00
Emerging from Alley, Building, Driveway or Private Road	12-6-7.1	45.00
Stop When Traffic Obstructed	12-6-7.2	45.00
Stopping for School Bus	12-6-7.3	150.00
Operation of Vehicle on Approach of Emergency Vehicle	12-6-7.4A	80.00
Railroad Grade Crossing Violations	12-6-7.5 through 12-6-7.8	45.00
Stopping, Standing or Parking in Passenger Curb Loading Zone	12-6-8.3	25.00
Stopping, Standing or Parking in Freight Curb Loading Zone	12-6-8.4	25.00
Stopping, Standing and Parking of Buses and Taxicabs	12-6-9.3	25.00
Restricted Use of Bus and Taxicab Stands	12-6-9.4	25.00
Operation Without Oversize-Overweight Permit	12-6-11.1	80.00
No Slow-Moving Vehicle Emblem or Flashing Amber Light	12-6-11.2	25.00
Operators and Chauffeurs Must Be Licensed	12-6-12.5 A, B, C	70.00
Unattended Motor Vehicle	12-6-12.8	45.00
Limitations on Backing	12-6-12.9	45.00
Obstruction to Driver's View or Driving Mechanism	12-6-12.10	45.00

Restriction on Use of Television in Motor Vehicles	12-6-12.11	45.00
Coasting Prohibited	12-6-12.12	45.00
Following Fire Apparatus Prohibited	12-6-12.13	115.00
Crossing Fire Hose Prohibited	12-6-12.14	115.00
Driving Through Safety Zones Prohibited	12-6-12.15	45.00
Vehicles Shall Be Driven Only on Streets, Private Roads, and Driveways	12-6-12.16	45.00
Driving on Sidewalk and Private Property	12-6-12.17	45.00
Prohibited Activities While Driving	12-6-12.18	80.00
Processions	12-6-12.20	45.00
Offenses by Persons Owning or Controlling Vehicles	12-6-12.22	70.00
Permitting Unauthorized Persons to Drive	12-6-12.23	70.00
Unlawful Riding	12-6-13.2	45.00
Unhitched Trailer on Street	12-6-13.3	45.00
Littering	12-6-13.5	300.00
Trains and Buses Not to Obstruct Streets	12-6-13.6	45.00
Boarding or Alighting from Vehicles	12-6-13.7	45.00
Improper Opening of Doors	12-6-13.8	25.00
Occupied Moving House Trailer	12-6-13.9	25.00
Animals on Street	12-6-13.10	25.00
Driving on Steep Grades	12-6-13.11	45.00
Child Restraint	12-6-13.12	45.00
Seat Belts	12-6-13.13	45.00
Open Container (1st Offense)	12-6-13.14	45.00
Pedestrian Obedience to Traffic Control Devices and Regulations	12-6-14.2 through 12-6-14.7	45.00
Drivers to Exercise Due Care	12-6-14.8	45.00
Electric Personal Assistive Mobility Devices	12-6-16	10.00
Prohibited Use of Electronic Device While Driving (First Offense)	12-6-18	80.00
Prohibited Use of Electronic Device While Driving (Second and Subsequent Offense)	12-6-18	130.00
Operating Motorcycles on Streets Laned for Traffic	12-7-2	45.00

Clinging to Other Vehicles	12-7-3	45.00
Riding on Motorcycles	12-7-4	45.00
Eye Protective Devices or Windshields	12-7-5	45.00
Mandatory Use of Protective Helmets	12-7-6	300.00
Footrests and Handlebars	12-7-7	45.00
Motorcycle Maneuverability	12-7-8	45.00
Off-Highway Motor Vehicles - Registration; Plate Requirement	12-7-9.1	20.00
Operation of Off-Highway Motor Vehicles on Streets or Highways	12-7-9.2 A, B, C, D	210.00
Operation of Off-Highway Motor Vehicles on Streets or Highways	12-7-9.2 E	60.00
Driving of Off-Highway Motor Vehicles Adjacent to Streets	12-7-9.3	20.00
Operation of Off-Highway Motor Vehicles on Private Lands	12-7-9.4	20.00
Off-Highway Motor Vehicle Safety Permit; Requirements, Issuance	12-7-9.8	60.00
Operating and Equipment - Safety Requirements	12-7-9.9 A (1, 12)	210.00
Operating and Equipment - Safety Requirements	12-7-9.9 A (3, 4, 5, 6, 9) B, C, D	110.00
Operating and Equipment - Safety Requirements	12-7-9.9A (7)	60.00
Operating and Equipment - Safety Requirements	12-7-9.9A (8, 11) E	20.00
Mopeds - Standards	12-7-10	45.00
Operation of Bicycles	12-8-3 through 12-8-12	25.00
Handicap Parking	12-9-9	500.00
Improper Equipment	12-10-1.1 through 12-10-1.51, excluding 12-10-1.12.1	45.00
Sun Screening Material on Windshields and Windows	12-10-1.12.1	75.00
Restrictions Upon Use of Streets by Certain Vehicles	12-10-3.1	45.00
Minimum Vehicle Size	12-10-3.2	45.00
Projecting Loads on Passenger Vehicles	12-10-3.3	45.00
Special Projecting Load Limits	12-10-3.4	45.00
Trailers and Towed Vehicles	12-10-3.5	45.00
Width of Vehicles	12-10-3.6	45.00
Height and Length of Vehicles and Loads	12-10-3.7	45.00

- C. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to an accident resulting in injury or death to a person.
- D. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.
- E. The penalty assessment for speeding in violation of Section 12-6-1.2(A)(4), regarding speeding in a construction or safety zone posted as a double fine zone, shall be twice the penalty assessment for speeding for the equivalent miles per hour over the speed limit set out under the adopted Penalty Assessment Program contained herein.
- F. Nothing contained in this chapter is intended to diminish the Municipal Judge's authority to designate the specified offenses under the traffic ordinance to which fines may be accepted by the traffic violations bureau under Section 12-11-2 of the Uniform Traffic Ordinance.

10.04.060 Uniform Traffic Ordinance – Fees

- A. As outlined in Section 12-12-1.3 of the Uniform Traffic Ordinance, and Section 1.16.020 of the Hobbs Municipal Code, any person convicted of violating any provision of the traffic ordinance shall be assessed the following fees in addition to the individual prescribed penalty for each violation:
 - 1. A Corrections fee of twenty dollars (\$20.00);
 - 2. A Judicial Education fee of three dollars (\$3.00);
 - 3. A Court Automation fee of six dollars (\$6.00).
- B. In addition to the fees outlined herein, any person convicted of violating any provision of the traffic ordinance shall be assessed a "penalty assessment fee" of ten dollars (\$10.00) which, upon collection, shall be deposited in a special fund in the municipal treasury for use by the municipality only for municipal jailer training; for the construction planning, construction, operation and maintenance of the municipal jail; for paying the costs of housing the municipality's prisoners in other detention facilities in the state; or complying with match or contribution requirements for the receipt of federal funds relating to jails. However, if the municipality has a balance in this special fund that is over the amount projected

to be needed for the next fiscal year for the purposes set forth in this subsection, the municipality may transfer the unneeded balance to its general fund.

C. In addition to the fees outlined herein, and as outlined in Section 12-6-12.2(O) of Uniform Traffic Ordinance and Section 1.16.060 of the Hobbs Municipal Code, any person convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of 12-6-12.1(A), (B), (C), or (D) shall be assessed, in addition to any other fee or fine, the following fees:

1. a fee of eighty-five dollars (\$85.00) to defray the costs of chemical and other tests utilized to determine the influence of alcohol or drugs;
2. a fee of seventy-five dollars (\$75.00) to fund comprehensive community programs for the prevention of driving while under the influence of intoxicating liquor or drugs or for other traffic safety purposes .

The municipality shall maintain these fees in separate funds and transfer the fees collected in this subsection to the administrative office of the courts for credit to the crime laboratory fund and the traffic safety fund. No reference to the State DWI provision (NMSA 1978, §66-8-102) in Section 1.16.060 of the Hobbs Municipal Code shall operate to conflict with or override this provision.

D. As used in the Uniform Traffic Ordinance, "convicted" means the defendant has been found guilty of a criminal charge by the Municipal Judge, either after trial, a plea of guilty or a plea of nolo contendere, or has elected to pay the penalty assessment in lieu of trial.

E. All fees outlined herein shall be distributed as prescribed by law and outlined in the Uniform Traffic Ordinance, the Hobbs Municipal Code, and State Statutes.

10.04.070 Penalty Assessment Misdemeanors – Option and Effect

A. Unless a warning notice is given, at the time of making an arrest for any penalty assessment misdemeanor the arresting officer shall offer the alleged violator the option of accepting a penalty assessment. The violator's signature on the penalty assessment notice constitutes an acknowledgment of guilt of the offense stated in the notice.

B. Payment of any penalty assessment must be made to the Hobbs Municipal Court either online, via mail, or in person at 301 N. Turner, Hobbs, New Mexico 88240. Payment of any penalty assessment must be made within thirty (30) days from the date of arrest. Payments of penalty assessments are timely if postmarked within thirty days from the date of arrest. The traffic violations bureau may issue a

receipt when a penalty assessment is paid by currency, but checks tendered by the violator upon which payment is received are sufficient receipt.

- C. No record of any penalty assessment payment is admissible as evidence in any court in any civil action.

10.04.080 Penalty Assessment Misdemeanors – Failure to Pay / Failure to Appear

- A. If a penalty assessment misdemeanor is not paid within thirty (30) days of arrest, the violator shall be prosecuted for the violation charged on the penalty assessment notice in a manner as if a penalty assessment notice had not been issued. Upon conviction the Court shall impose the penalties provided in the traffic ordinance.
- B. In addition to the underlying penalty assessment misdemeanor and applicable fees, the violator may be charged with a misdemeanor when that individual has elected to pay a penalty assessment and fails to do so within thirty (30) days from the date of arrest.
- C. The Municipal Court shall notify the state division of motor vehicles when a violator fails to pay a penalty assessment imposed by the Court within thirty (30) days. The division of motor vehicles may suspend the instruction permit, driver's license or provisional license of the violator without preliminary hearing upon a showing by its records that the violator failed to pay the penalty assessment.
- D. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of accepting a penalty assessment, it is a misdemeanor for any person to violate his written promise to appear in court, given to an officer upon issuance of a uniform traffic citation, regardless of the disposition of the charge for which the citation was issued.

10.04.090 Uniform Traffic Ordinance – Time of Taking Effect

Upon passage of the same, the Uniform Traffic Ordinance as outlined herein shall take effect on September 05, 2016, as allowed by the Uniform Traffic Ordinance Section 12-13-6. This ordinance does not have a retroactive effect and does not apply to any traffic accident, to any cause of action arising out of a traffic accident or judgment arising therefrom, or to any violation of the traffic ordinance of this municipality, occurring prior to the effect date of this ordinance, September 05, 2016.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2016.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

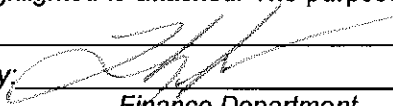
MEETING DATE: July 5, 2016

SUBJECT: AN ORDINANCE APPROVING A REAL ESTATE PURCHASE AGREEMENT TO SELL AND CONVEY A PARCEL OF LAND COMPRISED OF LOT 1 WITHIN THE HOBBS INDUSTRIAL AIRPARK SOUTH SUBDIVISION, CONTAINING 3.61 ACRES, MORE OR LESS, TO BRIDGEWAY PROPERTIES, LLC FOR THE PURCHASE PRICE OF \$83,200.00.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: June 27, 2016
SUBMITTED BY: Kevin Robinson – Planning Department

Summary: First Reading of the Ordinance to authorize publication to sell a parcel of land comprised of lot 1 within the Hobbs Industrial Airpark South Subdivision, containing 3.61 acres, more or less, to Bridgeway Properties, LLC. The City of Hobbs is proposing to sell a municipally owned parcel comprised of Lot 1 in the Hobbs Industrial Air Park South Subdivision to Bridgeway Properties, LLC for the purchase price of \$83,200. A plat of the Industrial Subdivision with the parcel highlighted is attached. The purpose of the sale is Economic Development.


Fiscal Impact:

Reviewed By: 
Finance Department

The revenue from this sale will be booked against the Land Acquisition Fund. Any future development of HIAP Projects will be budgeted in the Capital Projects Fund when identified.

Attachments: Ordinance; Site Map, Real Estate Purchase Agreement and Protective Covenants

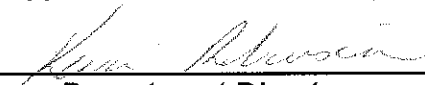
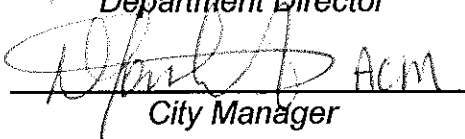
Legal Review:

Approved As To Form: 
City Attorney

Recommendation:

Staff recommends consideration to approve publication of the Ordinance.

Approved For Submittal By:


Department Director

City Manager

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

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

CITY OF HOBBS, NEW MEXICO

ORDINANCE NO. _____

AN ORDINANCE APPROVING A REAL ESTATE PURCHASE AGREEMENT TO SELL AND CONVEY A PARCEL OF LAND COMPRISED OF LOT 1 WITHIN THE HOBBS INDUSTRIAL AIRPARK SOUTH SUBDIVISION, CONTAINING 3.61 ACRES, MORE OR LESS, TO BRIDGEWAY PROPERTIES, LLC FOR THE PURCHASE PRICE OF \$83,200.00.

WHEREAS, the City of Hobbs, a municipal corporation, is the owner of a parcel of land comprised of lot 1 within the Hobbs Industrial Airpark South Subdivision, containing 3.61 acres, more or less, in the Hobbs Industrial Air Park South Subdivision; and

WHEREAS, the HIAP industrial areas have been designated by the City of Hobbs Industrial Air Park Master Plan for commercial and industrial development; and

WHEREAS, unless a referendum election is held, the Ordinance authorizing the sale of this property shall be effective forty-five (45) days after its adoption.

WHEREAS, inclusive in this Ordinance are the following:

1. **Terms of Sale:** The City proposes to sell a parcel of land comprised of lot 1 within the Hobbs Industrial Airpark South Subdivision, containing 3.61 acres, more or less for the purchase price of \$83,200.00.

The Sale of the City owned Real Property must be approved by City Ordinance pursuant to NMSA Section 3-54-1 et. seq., as amended.

An Agreement for the Purchase of Real Estate concerning terms of the sale and Protective Covenants for the property are part of the Proposed Ordinance.

2. **Appraised Value of Municipally Owned Real Property:** The property has a new appraisal placing value at \$25,070 per acre or \$90,503 for the 3.61 acre parcel. The municipality has received a viable offer at 92% of appraised value and 9% higher per acre of past sales.
3. **Schedule of Payments:** The Purchase Price is to be paid with an earnest money deposit (escrowed upon acceptance of purchase agreement) with the balance to be paid as follows:

Earnest Money Deposit:	\$ 10,000
At Closing Balance of Cash	\$ 73,200
Total Payments	\$ 83,200

4. **The Amount of Purchase Price:** \$ 83,200

5. **Purchaser of Property:** Bridgeway Properties, LLC

6. **Purpose of Municipal Sale:** Industrial and Economic Development - Site acquisition for company providing Bus Services to the Hobbs School District.

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

(I)

That the City of Hobbs hereby approves the sale of the Property as described as follows:

LEGAL DESCRIPTION

A parcel of land comprised of lot 1 within the Hobbs Industrial Airpark South Subdivision, containing 3.61 acres, more or less.

Subdivision Plat is attached hereto to this Ordinance as Exhibit #1, and made a part of this Ordinance. Subject to the conditions and terms in Exhibit "2", Agreement for The Purchase of Real Estate, as attached hereto and made a part of this Ordinance.

(II)

That this Ordinance has been published prior to its adoption and shall be published at least once after adoption, pursuant to Sections 3-2-1, et. seq., and 3-54-1, et. seq., NMSA 1978, as amended.

(III)

That the effective date of this Ordinance shall be forty-five (45) days after its adoption by the governing body of the City of Hobbs, unless a referendum election is held.

(IV)

That City staff and officials are hereby authorized and directed to do all acts and deeds necessary in the accomplishment of the above.

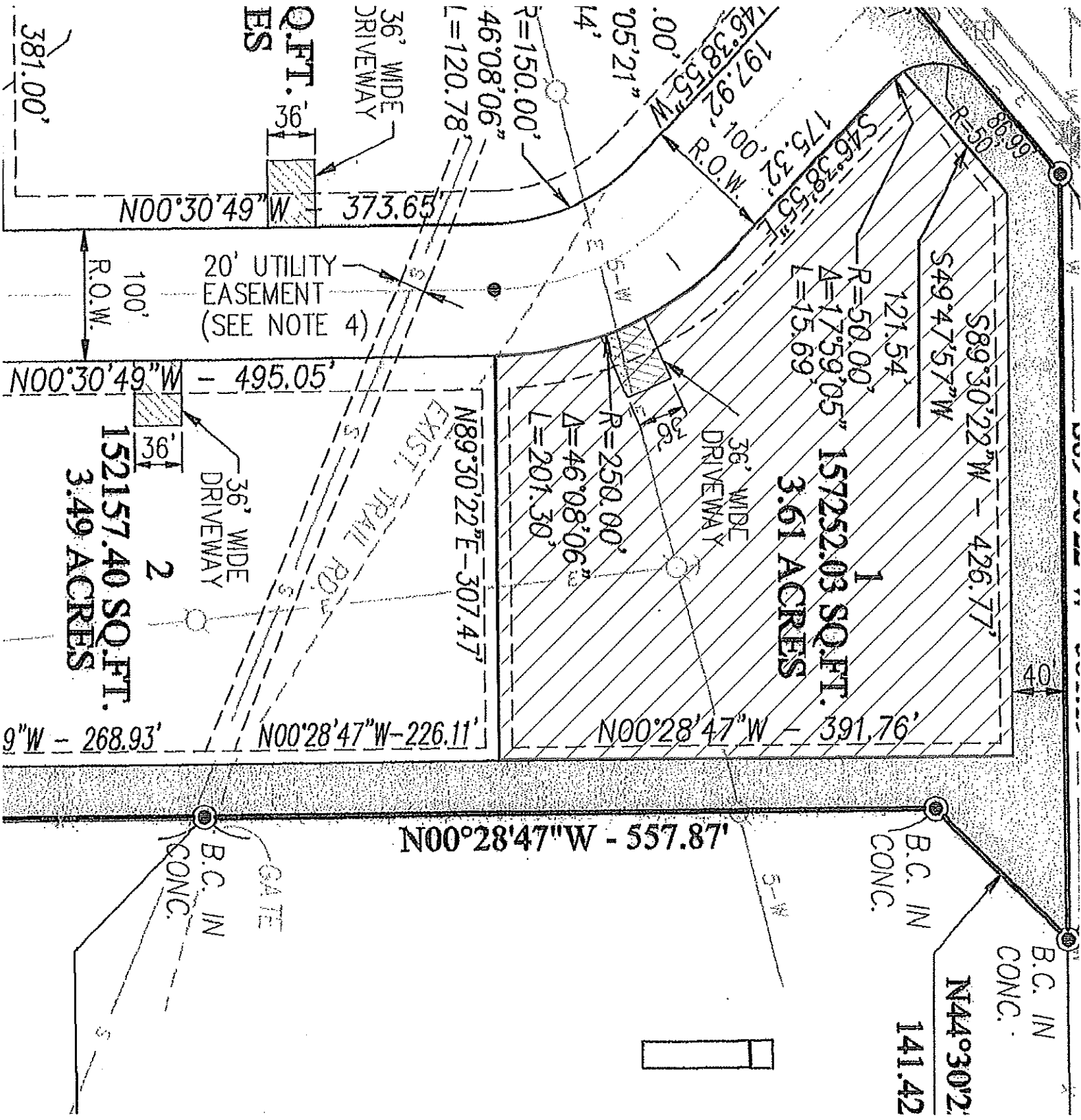
PASSED, APPROVED AND ADOPTED this ____ day of _____, 2016.

CITY OF HOBBS, NEW MEXICO

By _____
Sam D. Cobb, Mayor

ATTEST:

By _____
JAN FLETCHER, City Clerk



**REAL ESTATE PURCHASE AGREEMENT
CITY OF HOBBS AND BRIDGEWAY PROPERTIES, LLC**

THIS REAL ESTATE PURCHASE AGREEMENT (hereinafter "Agreement"), entered into this _____ day of _____, 2016, between Bridgeway Properties, LLC, P.O. Box 247, Hobbs, New Mexico 88241 (hereinafter "Purchaser"); and the City of Hobbs, New Mexico, a New Mexico Municipal Corporation (hereinafter "City").

RECITALS:

A. The City, in consideration of the mutual covenants herein contained, agrees to sell and convey, and Purchaser agrees to purchase the real estate described below, together with all buildings and improvements and all rights, hereditaments, easements and appurtenances thereunto belonging, property located in the Hobbs Industrial Airpark South Subdivision, more particularly described as follows, and referred to hereinafter as "Property, " on the terms and conditions set forth herein.

B. The City entered into that certain Lease dated August 23, 1973 (the "1973 Ground Lease") with the Industrial Development Corporation of Lea County, predecessor in interest to the Economic Development Corporation of Lea County (the "EDC") wherein the City leased to the EDC certain real property more particularly described therein and containing the Property (as hereinafter defined).

C. The City entered into that certain Lease dated May 2, 1983 (the "1983 Ground Lease") with the EDC wherein the City leased to the EDC certain real property more particularly described therein and containing a portion of the Property (as hereinafter defined).

D. The interests of the EDC in the 1973 Ground Lease and the 1983 Ground Lease with respect to the Property have been relinquished to Owner, or, prior to the Closing Date, will be relinquished to Owner.

PARCEL DESCRIPTION – BRIDGEWAY PROPERTIES, LLC PARCEL:

Lot 1 of the Hobbs Industrial Airpark South Subdivision, City of Hobbs, Lea County, New Mexico. Subdivision Plat is attached hereto as Exhibit #1.

NOW THEREFORE THE FOLLOWING IS AGREED BY THE PARTIES:

- 1. Earnest Money Deposit.**

Purchaser will make an earnest money deposit with the Closing Agent in the sum of Ten Thousand Dollars (\$10,000.00), within 24 hours of Commission Approval of this agreement.

2. Purchase Price.

A. The purchase price for the Property shall be Eighty Three Thousand Two Hundred Dollars (\$83,200.00) of which the amount paid as earnest money shall be a part.

B. The Purchase Price includes standard City Industrial Park infrastructure and utility services pursuant to the City Utility Service Policy as adopted November 2014.

3. Property Survey.

Within thirty (30) days following the execution of this Agreement, the City will provide Purchaser with a current boundary survey of the Property prepared by a surveyor licensed in the State of New Mexico.

4. Closing Date.

Closing for the sale of the Property shall occur on a mutually agreeable date, at least forty-five (45) days, but not more than one hundred eighty (180) days after the adoption of the ordinance authorizing the sale by the City, unless a referendum election is held pursuant to 3-54-1, NMSA, 1978, as amended. The parties may extend the Closing Date by mutual agreement, not to exceed 365 days following the date of the ordinance.

5. Review of Title.

As soon as reasonably possible following the execution of this agreement, the City shall furnish Purchaser a commitment for owner's policy of title insurance ("Commitment") for the Property together with full copies of all exceptions set forth therein, including but not limited to covenants, conditions, restrictions, reservations, easements, rights of way, assessments, liens and other matters of record. Purchaser shall have fifteen (15) days from receipt of the Commitment and copies of said exceptions within which to notify the City of Purchaser's disapproval of any exceptions shown in the Report.

The City shall have until the date for closing to eliminate any disapproved exception(s) or patent reservations(s) from the policy of title insurance to be issued in favor of Purchaser, and if not eliminated, then the earnest money deposit shall be refunded, unless Purchaser then elects to waive his prior disapproval. Failure of Purchaser to disapprove any exception(s) or patent reservation(s) within the aforementioned time limit shall be deemed an approval

of such exception or patent reservation. The policy of title insurance shall be a standard coverage policy in the amount of the total purchase price and shall be paid for by Purchaser.

In the event this contingency or any other contingency to this contract has not been eliminated or satisfied within the time limits and pursuant to the provisions herein, and unless Purchaser elects to waive the specific contingency by written notice to the City, this Agreement shall be deemed null and void, the earnest money deposit shall be returned to the Purchaser, and neither party shall have any rights or liabilities under this Agreement.

6. Environmental Assessment.

If requested by Purchaser, City shall furnish Purchaser within 40 days following the execution of this agreement, a Phase I Environmental Site Assessment Report, prepared by a licensed environmental professional engineer or geologist on the Property proposed for purchase. The environmental assessment shall include but not be limited to research of previous activities that may present potential hazards, examination of potential groundwater contamination, and other related activities. The cost of the Phase I Environmental Assessment shall be paid by Purchaser in addition to the purchase price noted above. The Site Assessment Study will not include soil boring and soil analysis, unless requested by Purchaser. Purchaser shall have fifteen (15) days from receipt of the Environmental Assessment Report to advise City of any disapproval of any exceptions or environmental conditions indicated in the Report.

7. Title.

At closing, the City shall execute and deliver a Special Warranty Deed conveying the Property to the Purchaser and/or his assigns, in fee simple, subject to all patent reservations and to all other existing liens, encumbrances and other exceptions of record except those exceptions and reservations which are disapproved by Purchaser and eliminated by the City as noted above.

8. Oil and Gas Activities.

The parties acknowledge and understand seller does not own any mineral interest in the property being conveyed. The extraction of any mineral interest shall be subject to all federal, state and municipal rules, regulations and Ordinances concerning such.

9. Risk of Loss.

All risk of loss or damage to the Property will pass from the City to Purchaser at closing. In the event that material loss or damage occurs prior to closing,

Purchaser may, without liability, refuse to accept the conveyance of title, in which event the earnest money deposit, if any, shall be refunded. Possession of the Property by Purchaser shall occur at closing. Before closing, Purchaser shall be solely responsible to insure Purchaser's interest in the Property if Purchaser so chooses.

10. Default and Remedy.

A. **Default by City.** If City defaults in the performance of this Agreement, Purchaser may terminate this Agreement and receive a refund of the earnest money deposit, if any, or may waive default, enforce performance of this contract, and seek whatever legal remedy may be provided by law.

B. **Default by Purchaser.** If Purchaser defaults in the performance of this Agreement prior to closing, City may terminate this Agreement and retain the earnest money deposit.

C. **Notice and Demand for Performance.** In the event that either party fails to perform such party's obligations hereunder (except as excused by the other's default), the party claiming default will give written notice of demand for performance. If the party to whom such notice and demand is given fails to comply with such written demand within ten (10) days after receipt thereof, the non-defaulting party may pursue the remedies provided in this paragraph.

11. Costs and Fees.

The closing costs shall be paid as follows:

A. The City shall pay for survey, title insurance binder for the value of the purchase price, title company closing fees and recording fees.

B. All other closing costs shall be paid by the Purchaser, including title insurance premium costs up to or in excess of the purchase price, additional survey costs, if Purchaser requests an ALTA survey, and environmental assessment cost, if an environmental assessment is requested by Purchaser.

C. The Purchaser and City shall each pay for their respective legal fees.

12. Notice.

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by certified mail, postage prepaid, to the City, at City of Hobbs, ATTN: City Manager, 200 East Broadway, Hobbs, NM 88241; and to Purchaser, at P.O. Box 247, Hobbs, NM 88241, or to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

13. Attorney's Fees and Costs.

Both parties agree that if either is found by a court to have breached this agreement, the other party may recover reasonable attorney's fees and cost of litigation, including the costs of a City Attorney as a staff person.

14. Counterparts.

This Agreement may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on all of the parties.

15. Successors and Assigns.

This Section refers to assignability of this Purchase Agreement and not to assignability of the Property after the land purchase has been completed. This Agreement may not be assigned by Purchaser without the prior written consent of the City. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns; provided that upon any assignment of this Agreement by either party, the other party shall not be released from any obligation under, or liability accruing pursuant to this Agreement. Except that Purchaser is permitted, upon City approval, to assign its interest to a Partnership or Corporation in which he is the principal party. Consent shall not unreasonably be withheld by either party.

16. Compliance with New Mexico State Statutes.

The City states that it has complied with the requirements of Section 3-54-1, NMSA, 1978, as amended, and that it has authorization to sell property pursuant to the Hobbs Municipal Code, as amended.

17. Governing Laws.

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

18. State Permits and Licenses.

Purchaser agrees that City has no direct responsibility for Purchaser to make application and obtain required New Mexico State permits and licenses for

industrial facility expansion on the Property. Purchaser agrees to indemnify and hold City harmless from and against all liability, claims, demands, damages or costs of any kind arising from or connected with any New Mexico State permit or license application for activities and uses on the property.

19. Protective Covenants.

Purchaser agrees to comply with terms and conditions as stated in the previously recorded Protective Covenants for the Property. These Protective Covenants are attached hereto as Exhibit "2", and made a part of this agreement.

20. Termination.

This agreement shall be terminated on the closing date for sale of property, unless either party ends the agreement prior to that date pursuant to Section 9 of this Agreement. All of the City's warranties, representations, certifications, and agreements contained herein shall be and remain true at the time of closing.

21. City Permits.

Purchaser must be responsible to apply for all required City permits, including a City Business Registration or License Fee and building permits.

22. Rights of the City and Conditions and Requirements of the Purchaser.

A. Right of Repurchase If Development (Permit and Construction) Has Not Started Within Six Month Period Following Closing Date.

Subject to the rights of any mortgagees under any mortgages on the Property, the City retains the right to repurchase the property, for the same price paid by the Purchaser, if Purchaser has not begun development within six (6) months of the date of purchase, or if Purchaser defaults prior to completing development within eighteen (18) months following the closing date. Development is hereby defined as the Purchaser's completion of construction of the complete main building suitable to Purchaser's needs including on-site improvements of paved access street and parking areas, utility service lines, landscaping, and foundations, according to City Design Standards and Building Code Ordinances. Development also includes Purchaser's operation of an industrial development on site suitable to Purchaser's needs, which meets agreed upon minimum economic development goals of job creation. The Purchaser must make a good faith effort to begin and continue development. Upon compliance with the development responsibility of Purchaser and at Purchaser's request, the City shall provide a written, recordable release or certificate of compliance with this paragraph, and a waiver of its right to re-purchase. In the event that the City

does not exercise any right to repurchase the Property within three years of the date of such right arises, then that right to repurchase shall lapse and expire.

B. HIAP Property – Real Estate Purchase & Long Term Lease. Agreement Provisions: To ensure creation of new jobs to Lea County, to attract new industry to Lea County and to guard against speculation, the following provisions are required by the City Commission to be incorporated into all new land purchase agreements and long term leases:

1) No re-sale of the Property is to be allowed for the five (5) year period following the date of closing, except Purchaser may transfer the Property to a wholly owned corporation or entity for the specific purpose of financing improvements on the property.

2) Pursuant to the recorded Protective Covenants, the main building must be completed within eighteen (18) months, and be equal in value to at least four times the purchase price of the land.

3) To provide security for enforcement of these covenants, purchaser agrees to a municipal lien to be filed by the City in second position, but in no case no later than six months from closing, equal to one hundred fifty percent (150%) of the purchase price paid to the city, until Purchaser has expended four (4) times the purchase price developing the industrial site. Purchaser agrees that this lien shall remain enforceable and be subject to foreclosure if the covenants and/or purchase agreement are violated at any time within the first five (5) years following the date of closing.

C. Building and Site Development Policies:

1) Completion of the building and site improvements, including the main building, shall be completed and placed in service within eighteen (18) months of the purchase. The purpose of this requirement is to insure the property is sold to someone that intends to utilize the industrial park and create jobs and not hold the property for speculation.

2) Retail uses are not permitted except for a factory outlet store as a minor part of the industrial operations to sell goods manufactured on site. Residential uses are not permitted.

3) As the specific property in the Industrial Park is a highly visible site, appropriate landscaping should be required as part of the building permit, such that the appearance of the industrial park is enhanced in an effort of attract other HIAP users. If truck parking is proposed adjacent to Energy Place frontage, the site design must include buffering and screening according to City policy.

D. The proposed sale is subject to approval by the City Commission. The sale is subject to the approval of a partial release of the leasehold interests currently

held on the property by the EDC of Lea County. The sale is also subject to HUD Economic Development Initiative grant conditions.

E. Purchaser shall be required to construct access driveway(s) to the site boundary on City right-of-way to meet applicable City regulations for property access. Typical drawings showing detail for drainage piping are available for review.

F. Purchaser must be responsible for acquiring all local, state and federal permits and licensing. City staff will assist purchaser in processing appropriate permits for the site. Front setback landscaping treatments of a xeriscape landscape planting theme is recommended in the frontage on Energy Place and around the main building and customer service parking areas. A suggested plant list can be provided. A "caliche" yard of compacted crusher fines or compacted gravel will be allowed if the area is treated to reduce blowing dust.

G. All activities must meet all local, state and federal regulations, including those related to environmental issues.

23. Conditions For Completing The Purchase.

The following actions must occur and be performed prior to Purchaser satisfactorily closing on the Property:

A. The City Commission must have approved the necessary Ordinance for the Sale of the Property, subject only to the referendum election issue as specified in 3-54-1 et. seq., NMSA, as amended.

B. Purchaser must have received, reviewed and approved the survey prior to Closing. Purchaser shall have survey documents for review prior to intended date of Closing. Purchaser shall have until the date of closing to raise any objections with City, or request changes on the survey.

C. If a request for a Phase I Environmental Site Assessment, Purchaser must have received, reviewed and approved the Phase I Environmental Assessment Report for the Property prior to Closing. Purchaser shall have the Environmental Assessment Report for review at least thirty (30) calendar days prior to the intended date of Closing; and Purchaser shall have twenty (20) days from receipt of the Report to raise any objections with City.

D. The EDC shall have executed a relinquishment of the 1973 Ground Lease and 1983 Ground Lease, as related to this property, prior to closing.

E. There shall be no material adverse change in the condition of the Property as of closing.

F. The representations and warranties contained in this Agreement are true and correct as of the date of closing.

G. If any of the conditions set forth in this Section are not satisfied to the sole discretion of the Purchaser prior to closing, or waived by the time specified therefor, or, if no time is specified, then by the closing date, then the Purchaser shall receive a refund of the earnest money deposit plus interest earned.

24. Representations and Certifications Made By The City As A Part Of This Agreement.

The City represents and warrants to the Purchaser that the following shall be true and correct, as of the date hereof and as of the date of closing:

A. The City owns title to the Property subject only to easements, restrictions and reservations of record as disclosed in the title commitment.

B. There are no public improvements which have been commenced or completed for which special real property tax assessments may be or have been levied against the Property.

C. There are no known existing violations of applicable law with respect to the Property.

D. There is no litigation pending or threatened against the Property which might result in a lien on the Property, or might interfere with the City's ability to sell or convey the Property, or which might have a material adverse change upon the Property.

E. The execution and delivery of the Purchase Agreement and closing of the sale by the City will not result in the breach of any agreement, decree or order to which the City is a party or by which the Property is bound.

F. There are no condemnation proceedings pending or threatened with respect to all or any portion of the Property.

G. To the best knowledge of the City as of the date hereof, the following statement is made regarding the Property:

To the best knowledge of the City, there are no past or present investigations, proceedings, litigation or regulatory hearings with respect to the Property alleging non-compliance with or violation of any federal or state law regarding environmental matters. To the City's actual knowledge, there has not now, nor have there been, any above ground or underground storage tanks located in or under the Property. To the City's actual

knowledge, the Property has previously been owned by the US Government Land Office, the City of Hobbs, the US Hobbs Army Airfield, and the City of Hobbs, New Mexico. The only known prior uses of the Property are 1) open range grazing by local ranches from 1880 through the 1940's time period; and 2) use of the area as a portion of the Hobbs Army Airfield operation during W.W.II.

The complete environmental record and clean-up report of City remediation projects is available for review by the Purchaser. To the best knowledge of the City, the Property presently is not and has never been used for any other storage, manufacture, disposal, handling, transportation or use of any hazardous substances in violation of any law, other than those connected with the Hobbs Army Airfield.

H. The City is not a party to any contracts relating to the Property, except for this Agreement.

25. Representations and Certifications Made By The Purchaser As Part Of This Agreement.

The Purchaser represents and warrants to the City that the following shall be true and correct, as of the date hereof and as of the date of closing:

A. The Purchaser is a viable company with its corporate offices in Hobbs, New Mexico.

B. The Purchaser intends to construct an industrial complex with structures within the eighteen (18) months following closing.

C. Purchaser shall obtain a City Building Permit and begin building on the site at closing or as soon as possible following closing.

D. The Purchaser agrees to all economic development goals within this Agreement for economic development in Hobbs for the five (5) year period following closing. Purchaser has sufficient financial resources available to complete all of the above building, development and operation goals.

26. Time of Essence.

Time is declared to be of the essence of this Agreement.

27. Additional Documents.

The parties agree to execute further documents as may be reasonably required to effectuate the purchase and sale of the Property as provided by this Agreement.

28. Entire Document.

This instrument constitutes the entire agreement between the City and the Purchaser, and there are no agreements, understandings, warranties, or representations between the Purchaser and the City except as set forth herein. This Agreement cannot be amended except in writing executed by the Purchaser and the City.

Done and approved on the date first written above.

THE CITY OF HOBBS

PURCHASER
BRIDGEWAY PROPERTIES, LLC

Mayor Sam Cobb

By: _____

Mike Whithead

Title: _____

President

ATTEST:

APPROVED AS TO FORM:

Jan Fletcher, City Clerk

Mike H. Stone, City Attorney

15-
14

PROTECTIVE COVENANTS AND DESIGN STANDARDS FOR THE HOBBS
INDUSTRIAL AIR PARK SOUTH SUBDIVISION PROPERTY.

GENERAL CONDITIONS PART I

This Declaration, made the 11th day of July, 2011, by the City of Hobbs, hereafter referred to as "Declarant" or "City".

1. Purpose.

A. Declarant is the owner of certain real property in the within the City limits of Hobbs in the County of Lea, State of New Mexico, referred to as "HOBBS INDUSTRIAL AIRPARK SOUTH SUBDIVISION", described as follows and more particularly in "Exhibit A" which is attached hereto and by reference made a part hereof, more commonly known as a portion of the Hobbs Industrial Air Park, (hereafter referred to as the Property.)

LEGAL DESCRIPTION - "HOBBS INDUSTRIAL AIRPARK SOUTH SUBDIVISION:

THE FOREGOING SUBDIVISION OF A CERTAIN TRACT OF LAND SITUATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO, LYING IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 38 EAST AND THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 18 SOUTH, RANGE 37 EAST, N.M.P.M., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A BRASS CAP IN CONCRETE FOUND FOR THE SOUTHWEST CORNER OF SAID SECTION 7 AND THE SOUTHEAST CORNER OF SAID SECTION 12, THEN N89°30'09"E ALONG THE SOUTH LINE OF SAID SECTION 7 A DISTANCE OF 629.90 FEET; THEN N00°30'49"W A DISTANCE OF 2023.59 FEET TO A BRASS CAP IN CONCRETE; THEN N00°28'47"W A DISTANCE OF 557.87 FEET TO A BRASS CAP IN CONCRETE; THEN N44°30'22"E A DISTANCE OF 141.42 FEET TO A BRASS CAP IN CONCRETE ON THE SOUTH BOUNDARY OF PHASE ONE OF THE HOBBS INDUSTRIAL AIRPARK SUBDIVISION TO THE CITY OF HOBBS; THEN S89°30'22"W ALONG SAID BOUNDARY A DISTANCE OF 581.19 FEET; THEN S49°47'57"W ALONG SAID BOUNDARY A DISTANCE OF 1044.46 FEET; THEN N45°25'39"W ALONG SAID BOUNDARY A DISTANCE OF 165.03 FEET; THEN S42°59'13"W A DISTANCE OF 1277.69 FEET; THEN S00°35'25"E A DISTANCE OF 59.36 FEET; THEN S42°59'13"W A DISTANCE OF 280.35 FEET; THEN S00°35'25"E A DISTANCE OF 943.07 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 12, TOWNSHIP 18 SOUTH, RANGE 37 EAST; THEN N89°26'52"E ALONG THE SOUTH LINE OF SAID SECTION 12 A DISTANCE OF 1842.36 FEET TO THE POINT OF BEGINNING AND CONTAINING 116.90 ACRES MORE OR LESS.

B. The purpose of these Protective Covenants is to establish and maintain a planned business and industrial center with certain design standards which may be in addition to those development regulations imposed by the City of Hobbs, and other governmental entities having jurisdiction over the Property.

C. In order to establish general rules and guidelines for the improvement and development of the Property, Declarant desires to impose upon it mutual and beneficial restrictions for the benefit of all lands in the Property and for the benefit of all future

owners of lands in the Property.

2. General Provisions.

A. Declarant, owner of the Property, hereby declares that the Property is now held, and shall be transferred, sold, leased, conveyed, and occupied subject to the Protective Covenants herein set forth, each and all of which shall inure to the benefit of and pass with each and every parcel of the Property, and apply and bind the heirs, assignees, and successors in interest of each and every owner of a parcel or parcels of the Property.

B. Each purchaser of any parcel of the Property covenants and agrees with Declarant, its successors and assigns to use the property only in accordance with the Protective Covenants herein set forth, and to refrain from using the Property in any way inconsistent with or prohibited by the provisions of this Declaration.

C. Each purchaser or user of any parcel of land in the Property shall comply with all applicable laws of the City of Hobbs, Lea County, the State of New Mexico and the United States of America.

D. Building and Development Performance Goals. The purpose of these requirements is to insure the Property is sold to and developed by someone that intends to utilize the industrial park and create jobs and not hold the property for speculation. Each initial purchaser of any parcel of the Property directly purchasing from the Declarant covenants and agrees with Declarant, its successors and assigns to develop each parcel or property within eighteen (18) months following the date of purchase. Building construction shall be started on each parcel within six (6) months of the date of closing for all parcels. The main building on each parcel shall be completed within 18 months. For developments on multiple lots exceeding 12.0 acres total, the City Manager is authorized to consider and may grant variances to allow a time extension of the completion date to 30 months for larger buildings and complexes; or if an owner experiences unforeseen problems during the construction which cause serious and unavoidable delays.

E. Economic Development and Private Investment Performance Goals. For all Real Estate Purchase & Long Term Leases in excess of 5 years in the Property, each initial Purchaser or Lessee of any parcel of the Property directly purchasing or leasing from the Declarant covenants and agrees that in order to ensure creation of new jobs to Hobbs and Lea County, to attract new industry to the area and to guard against speculation, that some or all of the following provisions may be incorporated by the City into all new land purchase agreements and long term leases:

To provide security for enforcement of these covenants, purchaser agrees that a municipal lien shall be filed by the City in second position, within six months following the purchase of the Property, in an amount equal to one hundred fifty percent (150%) of the purchase price paid to the city, until Purchaser has expended a minimum threshold of four (4) times the purchase price in developing

the industrial site, at which time the lien shall be released by the City. Said lien shall be foreclosed should the aforesaid four (4) times threshold of capital investment is not satisfied within thirty-six (36) months of possession of a property.

F. Land speculation and holding vacant parcels off the market is not permitted and is inconsistent with the City's goals to develop a vibrant industrial area to promote economic development of Hobbs.

G. Right of Repurchase. If any owner does not comply with the above covenants, the City may exercise re-purchase powers or take other legal actions as necessary. The purchase agreements will contain re-purchase clauses if development and building has not started according to the requirements. The City shall also specify conditions regarding economic development and job creation; private investment; prohibition of land speculation; inflating future sale prices; etc. in each real estate purchase agreement.

H. Variances to Specific Requirements Herein This Section 2. For good cause shown, the City Manager is authorized to consider and may grant variances to the requirements of Section 2 above, if unforeseen problems may occur on a Property.

3. Design Review Board.

A. Declarant hereby designates the Hobbs Planning Board of not less than six (6) persons, to function as the Design Review Board, hereafter referred to as the "Board". Composition of and membership of the Hobbs Planning Board shall be determined and appointed by the City of Hobbs City Commission. Declarant shall appoint all members of the Board, and may expand the number of members, possibly including other land owners, as may be decided in the future solely by the Declarant, for purposes limited solely to HIAP Design Review Board agenda items.

B. Declarant shall establish rules and procedures for the Board, including but not limited to procedures for the submittal and review of plans. Declarant may amend these procedures and rules, but shall publish any amendment according to Section 3-1-2, et. seq. NMSA 1978, as amended. The approval and consent of the Board shall not be unreasonably withheld on matters properly coming before the Board.

C. The Board shall exist as long as Declarant owns any parcel or portion of the Hobbs Industrial Air Park, within which the Property is encompassed.

D. There shall be no charge for services rendered and reviews undertaken by the Board.

E. All decisions of the Board shall be rendered in written format to the applicant.

F. Except with respect to land owned by the City of Hobbs, no building site or parcel of land within the Property may be divided, subdivided or fractional part thereof sold, leased or conveyed so as to create a new parcel, or combined with any building site or

parcel of land without the prior written consent of the Board.

G. All Site Development Plans, subdivision plats, and construction plans requiring a building permit or fence permit upon the Property shall be submitted to the Board for review and approval, prior to review by the appropriate City office and other reviewing agencies. Except that the Declarant may file subdivision plat revisions and City infrastructure plans, which are exempt from the Board's review. All Site Development Plans shall include all drainage structures, building locations, access driveways, truck loading and parking facilities and any other proposed facilities on the site. A conceptual grading and drainage plan shall be submitted to the City Engineer for review and approval at the same time the Site Development Plan is submitted. Plans submitted for review by the Board, if submittal is complete, accurate and in compliance with submission requirements of the Board, shall be deemed approved by the Board, if no action shall be taken within thirty (30) working days from the date of submittal. All plans to be submitted for review by the Board shall be submitted to the Planning Department of the City of Hobbs, at 200 E. Broadway, Hobbs, NM 88240.

H. Decisions by the Board shall not be construed as professional expertise and no warranty or liability for construction according to such plans shall be placed on the Board or Declarant.

I. No building permit, subdivision of land or any other type of development permit shall be approved for any parcel in the Property, unless said Site Development Plan submittal has first been submitted to the Hobbs Planning Department and presented to the Board for review and recommendations.

J. For good cause shown, the Board may approve variances to these Protective Covenants, except for Section 2 above in its entirety.

K. The City Commission may also approve variances to these protective covenants, in the exercise of its discretion to approve plans, to permit, or to consent to approve a variance from the specific requirements or effect of a particular covenant herein contained.

L. Any aggrieved person that is affected by an administrative decision of any City Board or official may appeal that decision to the City Commission. The appeal must be presented in writing to the City within fifteen (15) days of the action causing the appeal. Appeals of the City Commission must be filed with the District Court.

4. Permitted, Regulated and Non-Permitted Uses.

A. The Board may impose any reasonable condition on activities, such as landscaping, or regulation of grading during certain months of the year, to mitigate the effects of the activity's appearance, noise, traffic, dust and similar impact(s). Any aggrieved person affected by such a decision may file an appeal with the City Commission pursuant to Section 3L above.

B. Activities and uses on the Property shall be constructed, used or occupied to insure that there is no excess noise, vibration, toxic or noxious matter, humidity, heat or glare, liquid or solid waste, at or beyond any lot line of the parcel on which it is located. No activity or use shall emit air pollutants to such an extent that such use is classified as a "Major Stationary Source" by New Mexico Air Quality Control Regulation #707 and/or 40 CFR Part 51 of the U. S. Environmental Protection Agency.

C. No parcel or structure on the Property shall be used for any heavy manufacturing use and the following specific uses listed below:

- ** Smelting of Ores.
- ** Glue Manufacture.
- ** Fertilizer Manufacture.
- ** Airport or Heliport.
- ** Fat Rendering.
- ** Explosive Manufacture or Storage of large quantities of explosives.
- ** Junk Yards, Salvage or Wrecking Yards.
- ** Cement, Lime, Gypsum or Plaster Manufacturing.
- ** Raw Materials Extraction.
- ** Exterior Storage of Raw Materials without sight buffers.
- ** Excavation, Grinding, or Extraction of Gravel, Road Base, Pit Run, or Operation of a Quarry.
- ** Stockyards or Slaughter of Animals.
- ** Telecommunications Towers for rental to off-site operators.
- ** Acid Manufacture or Storage of large quantities of Acid on site (In excess of 500 gallons), or those industries with large quantities of hazardous chemicals, liquid fuel, compressed elements or gases or other similar uses.
- ** Wastewater Treatment Facilities.
- ** Truck Stop.
- ** Recycling or Abatement Facilities.
- ** Dry-cleaning Establishments or Industrial Cleaning Operations.
- ** Any industry or use that generates excess noise, vibration, toxic or noxious matter, humidity, heat or glare, at or beyond any lot line of the parcel on which it is located.

D. No on-site billboard for either off-premise or on-premise advertising, and other outdoor advertising for off-premise advertising shall be permitted on any parcels in the Hobbs Industrial Air Park.

5. Construction of Improvements.

A. After plans for construction are submitted and approved by the Board and other appropriate reviewing agencies, owner shall begin construction of buildings and improvements in a timely manner, not to exceed six (6) months after approval, unless further time for construction is requested and approved by the Board.

B. If any owner fails to complete construction of required and approved improvements, including but not limited to utility lines, paved streets, parking areas, landscaping, Declarant may, after giving due legal notice, construct the required improvements. The costs for Declarant's construction activities shall be recovered by Declarant in accordance with New Mexico State Statutes. After the start of construction, each project should be completed in a timely manner normally within 12 months, except for unusually large buildings, when the Board may allow additional construction time.

C. The City is responsible for maintaining cultural resources in the Industrial Park and certain parcels on the Property may require set-a-side preservation easements.

D. The City requires all property owners to limit grading and clearing activities on a site to the actual physical area planned for development to limit soil erosion.

6. Maintenance of Premises.

A. All owners and other users of the Property are obligated to keep and maintain the buildings, structures, parking areas, landscaping, signs and other entities of the parcel in an orderly and well maintained condition.

B. All landscaped areas shall be appropriately irrigated with an automated system and plants, grasses and trees shall be orderly and well maintained. Any areas of newly disturbed earth not in landscaped areas shall be planted with appropriate plant materials to reduce blowing dust. As an option, an owner may also construct and use a truck parking and storage yard area with a caliche material base or gravel base, with compaction of materials as required to support the stored vehicles.

C. All waste, rubbish or surplus materials shall be stored in properly screened enclosures and removed regularly. No materials, supplies, equipment, finished or semi-finished products are permitted to be stored outdoors, except in areas approved on the Site Development Plan.

D. If any owner or other user of a parcel on the Property fails to adequately maintain a building, structure, landscaping, parking lot or other premises, Declarant may, after giving appropriate legal notice, undertake maintenance of that parcel. The cost of Declarant's maintenance activities shall be recovered by Declarant in accordance with New Mexico State Statutes and City Ordinances.

7. Enforcement of Covenants.

In the event of a violation of these Protective Covenants, it shall be lawful for Declarant to prosecute proceedings at law, or in equity, according to New Mexico State Statutes and City Ordinances, against any owner or user of a parcel in the Property who is violating or attempting to violate any such restriction and covenant, either to prevent any owner or user of a parcel from so doing, or to correct such violation, or to recover damages or other relief for such violation.

8. Severability.

Invalidation of any one or part of any one of these covenants and restrictions by court order shall in no way affect any of the other provisions or parts of provisions which shall remain in full force and effect.

DESIGN STANDARDS PART II

A. The following standards are conditions for the allowed placement, use and occupancy of parcels and structures erected on the parcels within the Property (see Exhibit A, attached) to be followed in conjunctions with the Protective Covenants, and applicable ordinances of the City of Hobbs.

These standards can only be amended or revised by the Declarant or their successors and assigns. All parcels in the Property shall meet minimum City standards for infrastructure construction, including water, waste water, streets, drainage, signs, landscaping, private utilities for natural gas, electric power and telecommunications, and other construction; building code, if applicable; subdivision regulations; and any other regulations, as required by the Hobbs Municipal Code.

B. Noise Levels:

1. Noise level emissions for all parcels in the Property shall not exceed New Mexico State Occupational, Health and Safety Standards and City of Hobbs standards per the City Noise Ordinance.

2. All owners and users of parcels in the Property are hereby notified that a private airport exists in the nearby vicinity, and that noise levels consistent with an airport, and occasional aircraft operations may exist in the vicinity of their Property. This disclosure statement shall be placed on the deed as a matter of notice for all parcels in the Hobbs Industrial Air Park.

C. Development Standards:

1. Parcel Area:

There shall be the following minimum lot area requirements for parcels in the Hobbs Industrial Air Park:

Category:	Minimum Lot Size:
Commercial/All Categories	0.4 acre
Light Industrial/All Categories	1 acre
All lots fronting on major Arterials and Collectors	1 acre

Other Uses

Minimum lot size to be determined by Board

No parcel shall have a lot depth that is greater than 4 times its width, unless specifically approved by the Board.

2. Building Setbacks:

Minimum street frontage setback from property lines for the placing of structures shall be twenty-five (25) feet. No uses shall be made of said setback except for driveways; steps and walkways; landscaping and planters; flag poles; roof overhangs, and entrance signage for larger properties. Visitor parking areas are permitted within the front setback area, except these shall have a minimum fifteen (15) foot setback from the front property line.

The setback line shall be fifteen (15) feet from all rear and side property lines. No six (6) foot height security fences or walls are to be placed within the twenty-five (25) foot front setback. The Board may approve decorative fencing not to exceed three (3) feet in height in the front setback. Regarding Business Park Boulevard and Millen Drive, there shall be a twenty-five (25) foot side yard setback on corner lot frontages for all buildings.

3. Landscaping Requirements:

A. All landscaping shall be defined per City Code. All landscaping shall be in setbacks, parking lots according to City ordinance, and other areas, as necessary. The City requires the use of plant landscaping materials and/or structural walls to buffer parcels and land uses in the Park.

Landscaping requirements for all parcels in the Hobbs Industrial Air Park shall be as required in the City Landscaping Ordinance for industrial parcels, unless a commercial use is proposed. The City encourages that the full front setback for all parcels fronting on arterials and collectors be landscaped and permanently maintained. In addition, that portion of any building facing a side street other than the street on which the building fronts is also to be landscaped in an attractive manner. The parkway area shall be landscaped and permanently maintained, if a parkway area exists between the front setback of the parcel and the constructed street.

B. Landscaping Standards For Industrial Parcels: At a minimum, all general industrial parcels shall maintain landscaping in the customer service areas, front parking lots and in the front of the main site buildings.

4. Screening and Building Site Appearance.

The purpose of the screening rules is to avoid placement of trash receptacles or other unsightly equipment in the front or visible side yards of buildings. The Site Development Plan must show that all rubbish, trash, garbage, debris and other wastes, all loading

docks and garbage collection facilities, and all other articles, goods, materials, incinerators, trash bins, storage tanks or like equipment open or exposed to public view or to a view from adjacent buildings, are stored at the side or rear of the building and the improvements with which same are associated; and these shall be screened from view. Screening materials shall be constructed and designed in such a manner so that they equal a height equal to that of the materials or equipment being stored. The screening should shield said material and equipment from both public view and view from adjacent buildings as much as possible. After construction, such screening must be maintained in a sound condition with acceptable visual appearance for so long as screening shall be required under the terms hereof. All trash and debris must be contained in enclosed containers to prevent blowing trash.

5. Signage and Lighting Standards:

A. Signage Standards. All temporary and permanent signs and graphics shall be of a size and nature so as to preserve the quality and atmosphere of the Property. The design, material, location and placement of all signs shall be approved as such in writing by the Board prior to their erection. Further, all temporary signs must comply substantially, in the sole judgment of the Board, with the standards and criteria therefor promulgated by the Board.

A single sign shall be permitted on the front of each facility (facing the roadway), stating only the name or identification of the occupant and street address of that facility. One company or product trademark or company logo design is also permitted but not to exceed a total of 60 square feet.

Directional Signs for parking lots, entrances, exits, etc., shall not exceed 30 inches in height and 10 square feet maximum, except for truck entrances, where the directional signs shall be allowed up to 48" in height and 32 square feet maximum.

Free standing signs will be permitted only upon written approval of the Board, and only for Commercial Land Uses. Signs located other than on the main building (gateways, concrete or masonry yard enclosures) shall be subject to the written approval of the Board, but are encouraged in landscaped setback areas for larger industrial and commercial parcels.

Indirect lighting of signs may be permitted, subject to approval by the Board. All indirect lighting shall be constructed so that illumination is at the top of the sign, to reduce reflected light emitted into the atmosphere. Except as may be approved in writing by the Board, no sign shall be painted on any building wall or placed on any building so as to extend above the top of the roof or parapet wall, whichever is higher. Painted corporate logos or trademarks may be approved by the Board, based on size and designs submitted.

Real estate broker signs advertising any premises shall be permitted, with the following exceptions: 1) there shall be only one (1) sign per parcel; 2) there shall be no off premise

real estate signs; 3) for parcels less than 10 acres in size, the maximum size shall be 8 square feet; 4) for parcels greater than 10 acres, the maximum size shall be 32 square feet; and 5) the height of all real estate signs shall not exceed 7 feet.

The City as owner and developer of the Industrial Park Property may erect a sign or signs identifying, describing or advertising the Hobbs Industrial Air Park or any of its available land or buildings, including listings of individual lessees and owners, subject to approval of the Board.

B. Illumination Standards.

1) Exterior illumination, if such is to be provided, shall be designed to light only buildings, parking areas and walkways and shall not produce glare on adjacent streets or building sites. All floodlighting fixtures shall be depressed ground level or screened from public view in a manner approved by the Board. Parking area lighting units, arcade lighting and other illumination of a "Pedestrian Scale" shall be in a style approved in writing by the Board. Flood light fixtures mounted on the building to shine away from the building are prohibited.

2) Flood light fixtures mounted on the building to shine away from the building are not permitted unless wall pack lighting fixtures are installed with appropriate glare shields. 400 Watt lighting and greater wattage bulbs are not permitted. All parcels must comply with the New Mexico Night Sky Act.

6. Off-Street Parking and Loading.

Off-street parking shall be required according to the City of Hobbs Municipal Code or Building Code, as applicable. No truck loading or unloading area shall be located on a building wall fronting on a major arterial or collector, or in the front setback of the parcel.

7. Utility Construction.

All Utilities to be constructed in the Hobbs Industrial Air Park, including telephone, electric and cable TV, shall be constructed underground, unless approved in writing by the Board.

D. Architectural Guidelines:

1. Site and Building Design Guidelines.

In general terms, the Board's overall goal for building and site standards is to achieve a unified site and building design concept which will be an asset to the Industrial Park. At the same time, the building must function in an efficient manner for its intended purpose; the design should be cost effective; and the facility will help improve the economy of Hobbs. The Board does not impose specific building or site details and enhancements, leaving specifics up to the owner/builder. However, some of the possible design improvements and architectural details available to consider are:

The site plan including landscaping placement and materials should present "a unified site and building concept" in such a manner that the overall site appearance is consistent with the Hobbs Industrial Air Park development guidelines. For all parcels on HIAP Entrance Road, the intent is for design and use of an industrial design and uses on the frontage of HIAP Entrance Road. The front of the building and the portion of the side exterior walls adjoining the front that will be easily visible from HIAP Entrance Road shall contain design and architectural features meeting these design standards.

Architectural details such as screening or parapet walls; contrasting color trim areas for trim areas, roof canopies, exterior doors; etc. should be utilized. Building trim and design features such as orientation to the visible side of the site for the building(s), with these areas allowed to be constructed of a pre-finished color metal should be considered. The exterior building color(s) and roof color should blend with the natural environment, with bright and shiny materials discouraged. Parapet or screening walls are encouraged to screen roof or ground mounted equipment easily visible from the street. The use of highly reflective roofing material is not acceptable unless screened from view by parapet walls.

For any specific site development, the building entryway should be visible with architectural accents from the street. Design features should be oriented to the visible side of the site. The visible side of the structures should be addressed with refinements constructed of a pre-finished color metal exterior material(s) or stucco or masonry with landscaping enhancements or screening walls encouraged along to shield any stand alone metal equipment buildings, transformers or trash dumpsters which are visible from the perimeter streets. Truck loading areas and employee parking areas greater than 10 parking spaces should be located on the least visible side if possible. Landscaping is not required in truck parking and storage areas.

2. Standards for Construction on Major Arterials and Collectors Streets.

The front of all buildings located on parcels on and fronting on a major arterial or a collector street, as defined by the Circulation Plan, shall be of brick, masonry, stone, stucco or a pre-finished color metal or other material approved by the Board.

3. Standards for Construction on Minor Streets.

The front of all buildings—that is, the side facing the street on which the building is deemed to front—shall be faced with concrete or brick masonry, stone, or other material approved by the Board. The facing shall be to a minimum height of four (4) feet and extend across the full front of the building. That portion of any building facing a side street other than the street on which the building fronts shall be finished in an attractive manner in keeping with the accepted standards used for industrial buildings, but need not be finished in a like manner as that portion of the building referred to as the front. It is the intent of this provision that all structures shall be designed and constructed in such a manner as to provide an aesthetically pleasing and harmonious overall development of the industrial park. Except as otherwise provided herein, the sides and rear of all buildings shall be

finished in an attractive manner in keeping with the accepted standards used for industrial buildings subject to the approval of the Board.

3. Height of Buildings.

Buildings shall normally not exceed 50 feet in height, except in airport height zoning areas. The Board may consider reasonable requests for height variances, depending on the need of the particular industrial application or building requirement.

4. Exceptions.

Exceptions to the above construction standards shall be made for parcels serving the agri-business light industrial (green houses) and for airplane hangers to be constructed on Air Oriented Parcels.

5. Temporary Structures.

No temporary building or structure other than construction offices and structures for related purposes during the construction period shall be installed or maintained on any Building Site without the prior written approval of the Board. All temporary structures used for construction purposes must receive approval by the Board with regard to location and appearance, and must be removed promptly upon completion of construction and that portion of the Building Site from which same are removed, restored to its original condition or to such condition as is otherwise required by this Declaration.

6. FAA Regulations.

All construction must comply with Federal Airport Authority regulations.

E. Submission Requirements For Plan Submission:

The Site Development Plan shall include:

- Parcel boundaries;
- North Arrow;
- Graphic scale;
- Existing topography at one-foot contour intervals;
- Proposed building locations, identities, drawings and square footages;
- Locations of walls and fences;
- Location of screening or buffering and type;
- Parking location, arrangement, aisles, number or spaces;
- Driveways, entrances, and exits;
- Grading plan (proposed topography and drainage courses);
- Streets (Right of Way, pavement widths) if any proposed;
- Sidewalk and paths;
- Existing and proposed utilities;
- Existing and proposed easements;

Landscaped areas outlined with general description
Type of plant materials and irrigation system proposed;
Drainage Plans as required by the City Engineer; and
Traffic Plans or Study, if deemed necessary by the City Engineer.

F. Design Standards for Specific Land Use Categories

1. Industrial - General

A. Land Use: Most common light industrial and manufacturing activities permitted in the City of Hobbs Industrial Air Park. As applicable, the City of Hobbs HIAP Industrial Park may specify additional parameters. The following uses are permitted, including but not limited to the following:

Oil Field Services; Assembly of Electronic or Mechanical Parts and Equipment; Electrical Construction and Electrical Service Facilities; Fabrication Shop; Freighthouse or Truck Terminal; Warehouse; Laboratory; Manufacturing of Consumer Goods to include but not be limited to appliances, garments, and similar products; furniture manufacturing, including finishing of furniture products; packaging of consumer goods as follows, but not limited to food products, cosmetics, pharmaceuticals, toiletries, etc.; processing and manufacture of food products to include bakery goods, candy, beverages, etc.; storage of products including but not limited to merchandise, domestic goods, raw materials, etc.; warehousing or wholesale distribution of goods; metal work and machine shops; heavy equipment sales, service and repair; telecommunications towers and structure, except that these shall only be located within areas that do not conflict with Airport Zoning Regulations and for on-site communication use only – no rental tower facilities are allowed; newspaper, printing shop and distribution of printed materials; sign construction and sales; and plant nursery; and all other types of light industry and warehousing.

Commercial uses may be allowed by the Board, however, each industrial parcel and activity may contain up to twenty percent (20%) of the gross floor area of the building to be used for associated commercial purposes to the specific industrial use. These uses could include, but are not limited to a sales office; factory outlet store; commercial sales of products manufactured or housed on the industrial site.

Residential uses are not permitted. All other uses or activities not specifically listed herein must be approved by the Board.

THE CITY OF HOBBS

Gary Don Reagan
MAYOR GARY DON REAGAN

ATTEST:

Jan Fletcher
JAN FLETCHER, City Clerk

APPROVED AS TO FORM:

Mike H. Stone
Mike H. Stone, City Attorney

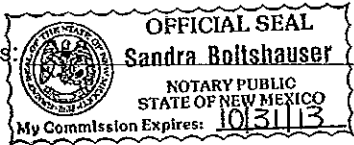
STATE OF NEW MEXICO)
(SS.
COUNTY OF LEA)

The foregoing instrument was acknowledged before me on this day of July 11, 2011, by Gary Don Reagan, as Mayor, of the City of Hobbs, to me personally known, who being by me duly sworn did say that he is the duly elected Mayor and signing officer of the City of Hobbs, and that said instrument was signed on behalf of said City, and Gary Don Reagan acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the City.

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

Notary Public Sandra Boltshauser

My Commission Expires:



35256

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

SEP 21 2011

at 10:48 o'clock A M
and recorded in Book _____
Page _____
Pat Chappelle, Lea County Clerk
By CS Deputy



BOOK 1745 PAGE 706



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: July 5, 2016

SUBJECT: NAVAJO ANNEXATION--FIRST READING OF ORDINANCE TO APPROVE THE NAVAJO ANNEXATION AND AUTHORIZE PUBLICATION OF ORDINANCE.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: June 27, 2016
SUBMITTED BY: Kevin Robinson – Planning Department

Summary: The Navajo Annexation area contains 1.3169 +/- acres and is located northwest of the intersection of E. Navajo Drive and the projection of Ranchland. The annexation is comprised of 1.3169 +/- acres of petitioned property.

The annexation proposal was presented to the Planning Board at the June 21, 2016 meeting. After review the Planning Board recommended approval to the Commission with a 5-0 vote. The Commission must authorize publication of the Ordinance. Final review and adoption of the Ordinance would occur in August.

Fiscal Impact:

Reviewed By: _____

[Signature]
Finance Department

The positive financial impact of GRT generated by the proposed businesses located within the annexation should offset any expenses that the City will incur.

Attachments: Annexation Ordinance; Annexation Plat and Petition; and Planning Board Minutes.

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

Staff recommends that the Commission consider approval of the Publication of the Ordinance Consenting to the Navajo Annexation.

Approved For Submittal By:

[Signature]
Department Director
[Signature] ACM
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS
ORDINANCE NO. _____

AN ORDINANCE CONSENTING TO THE NAVAJO ANNEXATION, WHICH IS PRESENTLY NOT INCLUDED IN THE CITY LIMITS, AS REQUESTED BY THE OWNERS OF THE MAJORITY OF PROPERTY, AND AS RECOMMENDED BY THE PLANNING BOARD.

WHEREAS, the owners of the majority of property have petitioned the City of Hobbs to annex to the City an area in Section 23, Township 18 South, Range 38 East, N.M.P.M Lea County, New Mexico , and containing 1.3169 +/- acres; and more particularly described as follows:

LEGAL DESCRIPTION

A tract of land located in the Northeast quarter of the Northeast quarter of Section 23, Township 18 South, Range 38 East, N.M.P.M., Lea County, New Mexico and being more particularly described as follows:

Beginning at a being the Northeast corner of said Section 23; Thence S.00°39'38"E. along the East line of said Section 23 a distance of 238.46 feet; Thence N.64°20'51"W., 536.74 feet to a point on the North line of said Section 23; Thence N.89°16'33"E. along the North line of said Section 23 a distance of 481.13 feet. Said tract of land containing 1.3169 acres, more or less.

WHEREAS, the properties are contiguous to the present corporate limits of the City, and the Petitioners comprise the majority of land owned within the annexation boundary; and

WHEREAS, the Planning Board conducted a Public Hearing on June 21, 2016 regarding the annexation, and after discussion of the proposal, the Planning Board unanimously recommended approval of the Annexation by a 5-0 vote; and

WHEREAS, The City Commission has determined that it is in the best interests of the City of Hobbs to annex such territory.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, as follows:

1. That the petitions requesting annexation of property in, which lands are presently outside of the City limits hereby is approved and such territories are shown and described upon the Annexation Plat attached as Exhibit A, which is incorporated herein, hereby is annexed to the City of Hobbs.
2. That the Hobbs City Clerk will file the Annexation Ordinance and Plat with the Lea County Clerk after approval by the City Commission.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2016.

SAM D. COBB, MAYOR

ATTEST:

JAN FLETCHER, CITY CLERK

PETITION FOR ANNEXATION

COMES NOW, VMS, Inc (PETITIONER), and petitions the governing body of the City of Hobbs for its consent by ordinance for the annexation of that portion of a tract of land to the City of Hobbs, more particularly described as follows:

REFER TO ATTACHED MAP & DEED

and Petitioner states in support of such Petition, pursuant to Section 3-7-17.1 of the New Mexico Statutes Annotated (1978) that:

1. The property petitioner wishes to be annexed and the real property is contiguous to the present municipal boundary of the City of Hobbs.
2. The petitioner is owner of a majority of the number of acres in the proposed annexation territory.
3. An Annexation Plat is attached hereto showing the boundaries of the real property proposed for annexation and the relationship of such property to the present municipal boundaries of the City of Hobbs.

Petitioner: VMS, Inc. / Kress Jones
By: Kress Jones
Its: President/Owner

June 15, 2016
Date

- 5) **Review and Consider front yard setback variance request for 219 E. Aspen as submitted by Danny O'Boyle, property owner. Aspen is classified as a minor residential with a required setback of 21' from the property line; the proposed structure will be located 4' from the property line requiring a 19' variance. The existing structure was placed on the property without receiving a building permit.**

Mr. Robinson said this is an item that was tabled at last month's meeting. He said staff sent out letters to each of the 14 property owners that are adjacent within the block. He said they did receive back 10 responses and of those there was 71% in favor of the variance. He said it has been the history of the Board to deny these types of variances when the block has been devoid of setback variances.

Mr. Robinson said this carport was built without a permit. He said granting of this variance will allow any other person within the block build a carport. He said there have been several carports that have been denied. He asked if it will be the policy in the future to query every property owner within the block? Mr. Hicks said he would like to put that question off until they address this issue.

Mr. Hicks asked if the minimum distance was 5 feet. Mr. Robinson said yes. Mr. Hicks said it is not about carports, it is about protecting the aesthetics of the neighborhoods and safety. Mr. Kesner asked if the restrictive covenants have been broken? Mr. Robinson said yes. Mr. Ramirez asked how far was it from back of curb? Mr. Randall said 14 feet which would be four and a half feet from the property line.

Mr. Kesner made a motion to approve the variance, seconded by Mr. Ramirez. Mr. Kesner told Mr. O'Boyle that he wants to make sure he understands that the Planning Board can allow the variance to take place but the restrictive covenants may be in violation and he could still be sued by his neighbors for violation of his restrictive covenants. The vote on the motion was 5-0 and the motion carried.

- 6) **Review and Consider Proposed Annexation of 1.3169 +/- acres of property located northwest of the intersection of E. Navajo Drive and the projection of Ranchland.**

Mr. Robinson said this is the annexation of a piece of property in the section corner of Navajo. He said this was part of the Western States annexation. He said the municipality did annex this from Navajo Road but it did not encompass the entirety of this property. He said this is to encompass the entirety of that property within the municipal boundaries. He said it was petitioned by Mr. Cress Jones. Mr. Shaw made a motion, seconded by Mr. Ramirez to approve the annexation. The vote on the motion was 5-0 and the motion carried.

- 7) **Review Proposed HOA Gated Community sketch plan located Southeast and Southwest of the intersection of Millen Road and Paddock Road.**

Mr. Robinson said this is a sketch plan of an HOA gated community to be located in Zia Crossing. He said what is in front of you is read line version of the sketch plan from staff after being reviewed in a DRT meeting. Mr. Kesner asked where the gates would be? Mr. Robinson said they will be located on Paddock Road south of the majority of the