



**Hobbs City Commission**  
**Regular Meeting**  
**City Hall, City Commission Chamber**  
**200 E. Broadway, 1<sup>st</sup> Floor Annex, Hobbs, New Mexico**

**Monday, October 7, 2019 - 6:00 p.m.**

Sam D. Cobb, Mayor

Marshall R. Newman  
Commissioner - District 1

Christopher R. Mills  
Commissioner - District 2

Patricia A. Taylor  
Commissioner - District 3

Joseph D. Calderón  
Commissioner - District 4

Dwayne Penick  
Commissioner - District 5

Don R. Gerth  
Commissioner - District 6

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**A G E N D A**

*City Commission Meetings are  
Broadcast Live on KHBX FM 99.3 Radio  
and Available via Livestream at [www.hobbsnm.org](http://www.hobbsnm.org)*

**CALL TO ORDER AND ROLL CALL**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES**

1. Minutes of the September 16, 2019, Regular Commission Meeting

**PROCLAMATIONS AND AWARDS OF MERIT**

2. Proclamation Proclaiming the Week of October 6 - 12, 2019, as "Fire Prevention Week" (Shawn Williams, Fire Marshal)
3. Recognition of Fire Marshal Shawn Williams as the Code Enforcement Officer of the Year by the New Mexico State Fire Marshal's Office (Barry Young, Deputy Fire Chief)

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

**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.)*

4. Resolution No. 6856 - Authorizing the Purchase of Ten (10) Self-Contained Breathing Apparatus (SCBA) and Thirteen (13) Harness Kits from Municipal Emergency Services in the Amount of \$79,940.00 Utilizing the Houston Galveston Area Council (HGAC) Contract No. EE08-19 *(Barry Young, Deputy Fire Chief)*
5. Resolution No. 6857 - Authorizing the Removal of Uncollectible Returned Checks Dated Prior to June 30, 2015, in the Total Amount of \$5,652.70 *(Toby Spears, Finance Director)*

#### **DISCUSSION**

6. Community Development Consulting Associates, LLC *(Amalio Madueño)*
7. City of Hobbs' Charter Review *(Efren Cortez, City Attorney)*

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

8. *(Tabled Item from September 16, 2019)* Resolution No. 6858 - **PUBLIC HEARING**: Regarding the Transfer of Ownership of Liquor License No. 2584 from Hobbs Oil Patch Inn, LLC, to Jitter Enterprises, LLC, d/b/a Derrick Lounge and Saxony Steak Room Located at 501 North Marland, Hobbs, New Mexico *(Efren Cortez, City Attorney)*
9. Resolution No. 6859 - Relating to the Disposition of 50 Sig Sauer, Model P320 Pistols Used by the City of Hobbs Police Department *(John Ortolano, Police Chief)*
10. Authorizing the Purchase of High Intensity Activated Crosswalk Beacon Equipment (Hawk System) from Gades Sales Co., Inc., in the Amount of \$72,389.00 Utilizing New Mexico State Price Agreement *(Todd Randall, City Engineer)*
11. Resolution No. 6860 - Approving a Development Agreement with Lemke Development, Inc., Concerning the Development of Market Rate Single-Family Housing Units *(Kevin Robinson, Planning Department)*

12. Resolution No. 6861 - Approving the Subdivision of Property Located Southwest of the Intersection of Joe Harvey Blvd. and Grimes Street and Affirming a Variance Granted by the Planning Board Allowing a Subdivision of Property Creating Lot(s) Not Accessible from a Public Street (*Kevin Robinson, Planning Department*)
13. Resolution No. 6862 - Approving an Affordable Housing Development Agreement with Yes Housing, Inc., for an Affordable Housing Complex to be Located Southwest of the Intersection of Navajo and North Dal Paso (*Kevin Robinson, Planning Department*)

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

14. Next Meeting Date:

- ▶ City Commission Regular Meeting  
**October 21, 2019**, 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. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the City Clerk's Office if a summary or other type of accessible format is needed.



# CITY OF HOBBS

## COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 7, 2019

**SUBJECT:** City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office  
DATE SUBMITTED: September 30, 2019  
SUBMITTED BY: Jan Fletcher, City Clerk

**Summary:**

The following minutes are submitted for approval:

- ▶ Regular Commission Meeting of September 16, 2019

**Fiscal Impact:**

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

N/A

**Attachments:**

Minutes as referenced under "Summary".

**Legal Review:**

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

**Recommendation:**

Motion to approve the minutes as presented.

Approved For Submittal By:

  
\_\_\_\_\_  
Department Director

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

CITY CLERK'S USE ONLY  
COMMISSION ACTION TAKEN

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

Minutes of the regular meeting of the Hobbs City Commission held on Monday, September 16, 2019, in the City Commission Chamber, 200 East Broadway, 1<sup>st</sup> 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 Christopher Mills  
Commissioner Patricia A. Taylor  
Commissioner Joseph D. Calderón  
Commissioner Dwayne Penick  
Commissioner Don Gerth

Also present:

Efren Cortez, City Attorney  
John Ortolano, Police Chief  
Chad Wright, Police Captain  
Clipper Miller, Police Captain  
Barry Young, Deputy Fire Chief  
Kevin Shearer, Battalion Chief  
Todd Randall, City Engineer  
Doug McDaniel, Parks and Recreation Director  
Bryan Wagner, Parks and Open Spaces Director  
Michal Hughes, Recreation Superintendent  
Matt Hughes, Rockwind Community Links Superintendent  
Angela Courter, Senior Center Coordinator  
Nicholas Goulet, Human Resources Director  
Tracy South, Assistant Human Resources Director  
Toby Spears, Finance Director  
Ben Maynes, Building Official  
Shelia Baker, General Services Director  
Matthew Berry, Garage Superintendent  
Bobby Arther, Municipal Judge  
Ron Roberts, Information Technology Director  
Sandy Farrell, Library Director  
Ann Betzen, Executive Assistant/Risk Manager  
Mollie Maldonado, Deputy City Clerk  
Jan Fletcher, City Clerk  
15 citizens

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

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

### **Approval of Minutes**

Commissioner Calderón moved that the minutes of the regular meeting held on September 3, 2019, and the special meeting held on September 9, 2019, be approved as presented. Commissioner Newman seconded the motion and the vote was recorded as follows: Mills yes, Newman yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried.

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

#### **Recognition of City Employees - Milestone Service Awards for the Month of September, 2019.**

Mr. Nicholas Goulet, Human Resources Director, recognized the employees who have reached milestone service awards with the City of Hobbs for the month of September, 2019, which total over 65 years of service worked. Mr. Goulet read their names, job titles and gave a brief summary of the job duties performed by each of the following employees:

- 5 years - Raymond Bonilla, Community Services Department
- 5 years - Adrian Lujan, Parks Department
- 5 years - Jarrod Purvis, Hobbs Fire Department
- 5 years - Dustin Seay, Hobbs Police Department
- 5 years - Veronica Sosa, Parks Department
- 15 years - Tennie Clay, Hobbs Police Department
- 25 years - Kim Savage, Water Office

Mr. Goulet thanked the Commission for recognizing the employees and their service to the City. He stated employees are the most important resource and asset within the organization. Mr. Goulet expressed thanks and appreciation to the employees and their families.

### **Public Comments**

Mr. Jerry Paiz stated there is a problem with off-road vehicles driving on City property in his neighborhood near Steven Drive. He stated the Hobbs Police Department has been called and have stated they cannot issue citations because it is private property. Mr. Paiz

stated off-road vehicles continue to drive through the nearby holding pond which stirs up dirt until midnight. He recommended the City install a fence on its property to prevent trespassing.

Mayor Cobb stated he will discuss the matter with Acting City Manager/Fire Chief Manny Gomez to determine what can be done about keeping the off-road vehicles from entering onto the City property.

Mr. Derrick Barry stated he desires to host a Unity Event in the community with the assistance of the City of Hobbs. He stated with the recent tragedies in the community, it would be a good idea to host the event to boost morale. Mr. Barry stated the event would consist of bands, food and be an inspiration of hope. He stated the City of Hobbs has six districts but is all "one" community. Mr. Barry requested the City to assist with this event by providing a place to host the event and provide police officers for safety. Mayor Cobb requested that Mr. Barry give his contact information to Ms. Ann Betzen, Executive Assistant, and he, along with Acting City Manager/Fire Chief Manny Gomez, will schedule a meeting with him. Mayor Cobb agreed the community needs to get together for unity.

Mr. Barry thanked the Commission for all they have done to improve the quality fo life in the community.

### **Consent Agenda**

There were no items presented for the Consent Agenda.

### **Discussion**

There were no items presented for Discussion.

### **Action Items**

*Resolution No. 6851 - PUBLIC HEARING: Regarding the Transfer of Ownership of Liquor License No. 2584 from Hobbs Oil Patch Inn, LLC, to Jitter Enterprises, LLC, d/b/a Derrick Lounge and Saxony Steak Room Located at 501 North Marland, Hobbs, New Mexico.*

Mr. Efren Cortez, City Attorney, was appointed as the Hearing Officer.

In response to Mr. Cortez' question, the applicant, Jitter Enterprises, LLC, d/b/a Derrick Lounge and Saxony Steak Room, nor any representative was present in the audience for the hearing.

Mr. Cortez recommended the Commission table action on Resolution No. 6851 due to a lack of representation for any party being present at the meeting to testify regarding the transfer of ownership of the liquor license .

Ms. Jan Fletcher, City Clerk, stated certified a letter was mailed to Jitter Enterprises, LLC, d/b/a Derrick Lounge and Saxony Steak Room, notifying them of today's public hearing.

In response to Ms. Fletcher's question, Mr. Cortez stated it would be appropriate to republish legal notice of the public hearing date.

Commissioner Penick moved to table Resolution No. 6851 regarding the transfer of ownership of Liquor License No. 2584 until the next meeting on October 7, 2019. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried.

*Resolution No. 6852 - Authorizing a First Amendment to FY 18-19 Memorandum of Agreement with the New Mexico Department of Transportation (NMDOT) Related to Public Transportation Services.*

Ms. Fletcher explained the First Amendment to FY 18-19 Memorandum of Agreement (MOA) with New Mexico Department of Transportation (NMDOT) related to Public Transportation Services. She stated the City was awarded capital funding under the MOA for parking lot paving and installation of gates on the North side of the Hobbs Express property located at 424 W. Broadway. Ms. Fletcher stated additional time is needed to design and complete the project and the term of the MOA is being extended to September 30, 2020. She stated the Engineering Department will be assisting with the project.

Commissioner Newman moved to approve Resolution No. 6852 as presented. Commissioner Gerth seconded the motion and the vote was recorded as follows: Mills yes, Newman yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

*Resolution No. 6853 - Authorizing an FY 19-20 Memorandum of Agreement with the New Mexico Department of Transportation (NMDOT) for Public Transportation Services.*

Ms. Fletcher explained the resolution and stated the MOA with NMDOT is for continued operation of Public Transportation Services for Hobbs Express for the Federal FY 19-20 beginning October 1, 2019, through September 30, 2020. She stated this is a formulary grant and the costs of the program are shared as follows:

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Administrative:	20% City 80% State
Operating:	50% City 50% State
Capital:	20% City 80% State

Ms. Fletcher stated the total local share amount is \$407,261.56 and the total Federal share is \$565,182.36 for a total grant amount of \$972,443.92.

Commissioner Newman moved to approve Resolution No. 6853 as presented. Commissioner Penick seconded the motion and the vote was recorded as follows: Mills yes, Newman yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Ms. Fletcher announced that Hobbs Express will be hosting a 30-Year Anniversary Celebration on Wednesday, October 2, 2019, from 10:00 a.m. to 12:00 p.m., with punch and cookies to be served. She invited the Commission and the public to attend.

Resolution No. 6854 - Approving an Agreement with the Hobbs Municipal Schools Regarding Middle School Athletic Programs.

Mr. Doug McDaniel, Parks and Recreation Director, stated the City of Hobbs has funded the community basketball program, which has been operated by the Hobbs Municipal Schools (HMS), since 1999. He stated prior to that date, the City operated and funded the league. Mr. McDaniel stated the Middle School Athletic Program has since been expanded to include basketball, football and volleyball for 6th and 7th grade students. He stated HMS will use New Mexico Activities Association certified coaches for these programs and will provide documentation of training to the City of Hobbs. Mr. McDaniel stated HMS will also provide a report of activities and participation and the City has the right to request and/or examine these records as provided in the agreement. He stated last year, this free program provided activities for approximately 350 girls and 450 boys. Mr. McDaniel thanked Mr. Cortez for drafting this agreement.

Mr. Gene Strickland, HMS Associate Superintendent, expressed appreciation to the Commission for its youth support.

Ms. Brenda Wilson, HMS Athletic Director, also expressed appreciation to the Commission for its support of local youth and stated Hobbs is the only City in New Mexico that helps fund programs for the schools. She further stated the coaches received their coaching licenses last week.

Commissioner Calderón moved to approve Resolution No. 6854 as presented. Commissioner Mills seconded the motion and the vote was recorded as follows: Mills

yes, Newman yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

*Resolution No. 6855-Authorizing a Memorandum of Agreement with the New Mexico Energy, Minerals and Natural Resources Department for Funding for the Hobbs Fire Department for Hazardous Response Training.*

Deputy Fire Chief Barry Young explained the resolution and stated the New Mexico Energy, Minerals, and Natural Resources Department (EMNRD) has entered into a cooperative agreement with the Department of Energy (DOE) to implement the Waste Isolation Pilot Plant (WIPP) transportation safety program. He stated through this Cooperative Agreement, the EMNRD is responsible for managing funds between the State of New Mexico and the DOE Carlsbad Field Office. Deputy Fire Chief Young stated the MOA provides the City of Hobbs Fire Department access to funds in the amount of \$7,000 which is provided through the Cooperative Agreement. He stated the City of Hobbs Fire Department, through the MOA, would be responsible for developing and implementing a hazardous response training program, provide compliant awareness/operations/technician level training for its personnel and provide training as it applies to any incident involving a WIPP shipment. Deputy Fire Chief Young stated the terms of the MOA are contingent upon the New Mexico Legislature, City Commission and DOE granting sufficient appropriation and authorization.

Deputy Fire Chief Young stated 35 Hobbs Firefighters are certified in Hazmat at a level higher than required by the State of New Mexico.

Commissioner Taylor moved to approve Resolution No. 6855 as presented. Commissioner Gerth seconded the motion and the vote was recorded as follows: Mills yes, Newman yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

**Comments by City Commissioners, City Manager**

Mayor Cobb stated the next regular Commission meeting will be held October 7, 2019.

Commissioner Gerth thanked everyone who attended the Commission meeting. He also stated he attended a tournament at Rockwind Community Links and it seems the golf course is making a name for itself. He added the golf course is getting more use than it has had in a long time.

Commissioner Mills stated Rockwind Community Links is a great facility. He added there is a long wait for a tee time, which is a good thing.

Commissioner Mills gave a brief report on his recent trip to Washington, D.C. He stated it was a great use of his time. He stated he attended a meeting regarding Selective Service as well as a meeting regarding the use of funds to support local drug and alcohol education and treatment programs. Commissioner Mills stated Washington, D.C. has a very bright administration that wants to help rural areas. He stated each speaker mentioned the Permian Basin and the current oil boom.

Mayor Cobb stated the J. F Maddox Foundation has assisted in finding a full time grant writer who will be housed in an office formerly occupied by Congressman Steve Pearce. He stated the grant writer will assist Hobbs in obtaining Federal funds.

Commissioner Taylor thanked Mr. Adrian Lujan, City employee, for his noticeable hard work on Charlie Brown Park. She stated she met with Mr. Bryan Wagner, Parks and Open Spaces Director, regarding upgrades to the parks. Commissioner Taylor expressed her appreciation for all the work done at City Park and stated there are now other parks that need attention as well. She also expressed her appreciation to all City of Hobbs staff for their hard work.

Commissioner Penick stated it was a pleasure and an honor to represent Hobbs and Lea County in Washington, D.C. He stated he was able to meet with Vice President Mike Pence and other senior leaders and speak to them about Lea County and the Permian Basin. He thanked the citizens and City of Hobbs for this opportunity.

Mayor Cobb recognized newly appointed Municipal Judge Bobby Arther in the audience.

### **Adjournment**

There being no further business or comments, Commissioner Calderón moved that the meeting adjourn. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 6:42 p.m.

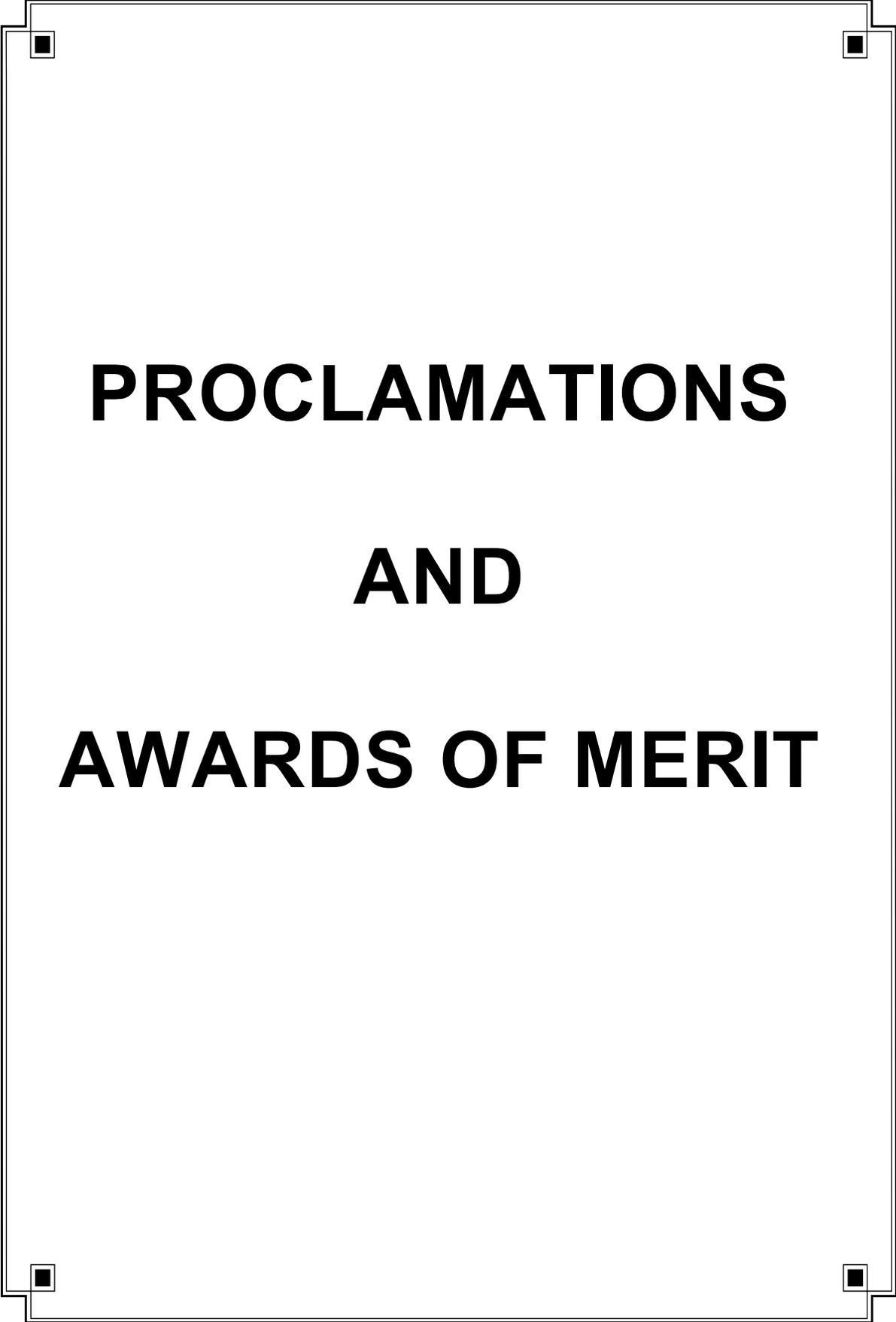
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JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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JAN FLETCHER, City Clerk



**PROCLAMATIONS**

**AND**

**AWARDS OF MERIT**

Office of the Mayor  
Hobbs, New Mexico

## PROCLAMATION

**WHEREAS**, The City of Hobbs Fire Department is committed to ensuring the safety and security of all those living in and visiting the City of Hobbs; and

**WHEREAS**, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

**WHEREAS**, home fires killed 2,630 people in the United States in 2017, according to the National Fire Protection Association (NFPA), and fire departments in the United States responded to 357,000 home fires; and

**WHEREAS**, the majority of U.S fire deaths (4 out of 5) occur at home each year; and

**WHEREAS**, the fire death rate per 1,000 home fires reported to U.S. fire departments was 4 percent higher in 2017 than in 1980; and

**WHEREAS**, when the smoke alarm sounds, residents may have less than two minutes to escape to safety; and

**WHEREAS**, City of Hobbs residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

**WHEREAS**, residents should practice the home fire escape drill at least twice a year, during the day and at night; and

**WHEREAS**, residents should teach children to escape on their own in case adults cannot help them; and

**WHEREAS**, residents should make sure everyone in the home knows how to call 9-1-1 from a cell phone or a neighbor's phone; and

**WHEREAS**, residents are responsive to public education measures and are able to take action to increase their safety from fire, especially in their homes.

**NOW THEREFORE**, I, Sam D. Cobb, Mayor of the City of Hobbs, do hereby proclaim the week of October 6-12, 2019, to be

### "FIRE PREVENTION WEEK"

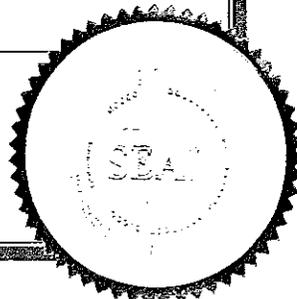
with the theme, "Not Every Hero Wears a Cape – Plan and Practice Your Escape", I urge all citizens of Hobbs, NM to be aware of their surroundings, look for available ways out in the event of a fire or other emergency, respond when the smoke alarm sounds by exiting the building immediately, and to support the many public safety activities and efforts of the City of Hobbs Fire Department during Fire Prevention Week 2019.

**IN WITNESS, WHEREOF**, I have hereunto set my hand this 7<sup>th</sup> day of October, 2019, 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: October 7, 2019

SUBJECT: Purchase of Self-Contained Breathing Apparatus (SCBA)

DEPT. OF ORIGIN: Fire Department
DATE SUBMITTED: September 18, 2019
SUBMITTED BY: Barry Young, Deputy Fire Chief

Summary:

The Hobbs Fire Department wishes to purchase 10 Scott X3 Self-Contained Breathing Apparatus (SCBA) and 13 spare harness kits from Municipal Emergency Services through HGAC contract. The SCBA are utilized by firefighters when entering into an Immediately Dangerous to Life and Health (IDLH) atmosphere, and supply breathing air during these types of operations. The purchase of these 10 SCBA will allow the fire department to replace air packs which are out of warranty and are in poor condition; it also ensures air packs meet the 2018 NFPA standard.

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

The total cost of the 10 SCBA and 13 spare harness kits is \$79,940.00. These funds were budgeted for this fiscal year for this specific purchase in the department's Equipment over \$5,000 line item (43006).

Attachments:

- 1. Resolution
2. Quote
3. HGAC contract

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Mayor and Commission approve the purchase of 10 SCBA and 13 spare harness kits at a cost of \$79,940.00.

Approved For Submittal By:

[Signature] Department Director
[Signature] City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6856

A RESOLUTION AUTHORIZING THE PURCHASE OF TEN (10) SELF-CONTAINED  
BREATHING APPARATUS

WHEREAS, the City of Hobbs Fire Department wishes to purchase ten (10) Self-Contained Breathing Apparatus (SCBA) and thirteen (13) spare harness kits through HGAC contract from Municipal Emergency Services; and

WHEREAS, the purchase of these 10 SCBA will allow the fire department to replace air packs which are out of warranty and in poor condition; and

WHEREAS, the purchase of these 10 SCBA will ensure that air packs meet the 2018 NFPA standard; and

WHEREAS, the total cost of the 10 SCBA and 13 harness kits is \$79,940.00, which will come from funds budgeted this fiscal year in the general fund;

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 effectuate this Resolution authorizing the purchase of then (10) Self-Contained Breathing Apparatus and thirteen (13) harness kits.

PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of October, 2019.

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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



2330 West University Drive  
Unit #10  
Tempe, AZ 85281

# Quote

Date 07/08/2019  
Quote # QT1242629  
Expires 11/05/2019  
Sales Rep Arreola, Hugo A  
PO #  
Shipping Method FedEx Ground

**Bill To**  
Accounts Payable  
City of Hobbs  
200 E. Broadway St.  
Hobbs NM 88240  
United States

**Ship To**  
Chris HenryFire Protection Fund  
City of Hobbs  
301 E. White  
Hobbs NM 88240  
United States

Item	Alt Item #	Units	Description	Qty	Unit Sales Pri...	Amount
Scott X3			Scott X3 X8814025301A04, 4.5, with CGA, standard harness, Parachute buckles, Regulator with QC, Universal dual EBSS, Spare Harness Kit, SEM II Pro. HGAC priced item. -32% off list price \$10,215.00	10	6,946.20	69,462.00
201667-02			SPARE HARN KIT,X3PRO,PARA,EBSS	13	806.00	10,478.00

**Subtotal** 79,940.00  
**Shipping Cost (FedEx Ground)** 0.00  
**Total** \$79,940.00

This Quotation is subject to any applicable sales tax and shipping & handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current local tax information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1242629



CITY OF HOBBS REQUISITION/QUOTE FORM

(Purchases \$500.00-\$5,000.00 SPD & GSA Contract)

TO: CPO

VENDOR NAME:

FROM: Fire

ADDRESS:

DATE: 9/16/19

PHONE/FAX NO:

1) Municipal  
Emergency  
Services

2)

3)

QTY	DESCRIPTION ITEM(S) SERVICE TO BE PURCHASED	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
10	SCOTT X3 X8814025301A04, 4.5, with CGA standard harness, parachute buckles, Regulator with QC, Universal dual EBSS, Spare Harness Kit, SEM II Pro, HGAC priced item - 32% off list price \$10,215 <sup>00</sup>	6946.20	69,462 <sup>00</sup>				
13	SPARE HARNA KIT, X3 PRO, PARA, EBSS	806 <sup>00</sup>	10,478 <sup>00</sup>				
TOTAL AMOUNT			79,940 <sup>00</sup>				
DELIVERY DATE							
ESTIMATED SHIPPING CHARGES							

CHECK ONE: STATE CONTRACT / GSA CONTRACT CONTRACT NO.

HGAC  
EE08-19

EXPIRATION DATE

SPD or GSA contracts should be attached or on file in CPO. GSA contracts must have a letter from the contractor indicating a willingness to extend pricing, and all terms to the City of Hobbs.

AWARD TO: MES

POINT OF CONTACT: Hugo Arredola

(If new vendor make sure address is on this form)

If lowest price is not recommended, please state why (subject to approval by CPO)

Account No. 61-0220-43006

Prepared By:

Dana Ankerholz

Department Approval:

B-747

WHITE-CPO PINK-Department

\$ 159,548<sup>80</sup> Budget



# CITY OF HOBBS

## COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 07, 2019

**SUBJECT:** Removal of outstanding returned checks determined to be uncollectible.

**DEPT. OF ORIGIN:** Finance Department

**DATE SUBMITTED:** September 27, 2019

**SUBMITTED BY:** Deborah Corral, Assistant Finance Director

**Summary:**

Returned checks prior to June 30, 2015 resulting from payments made to the City totaling \$5,652.70 are deemed uncollectible based on efforts made to collect on the account and locate the debtor. In accordance with 3-37-7, NMSA 1978 accounts with balances resulting from activity four years or older are to be removed from the list of accounts receivable of the City of Hobbs.

**Fiscal Impact:**

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

Finance Department

There is no fiscal impact on a cash basis of accounting as these returned checks have been accounted for as they are returned.

**Attachments:** Resolution

**Legal Review:**

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

City Attorney

**Recommendation:**

Approve the resolution to remove the uncollectible accounts from the list of accounts receivable.

Approved For Submittal By:

Department Director

City Manager

CITY CLERK-S USE ONLY  
COMMISSION ACTION TAKEN

Resolution No. \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Approved \_\_\_\_\_

Other \_\_\_\_\_

Continued To: \_\_\_\_\_

Referred To: \_\_\_\_\_

Denied \_\_\_\_\_

File No. \_\_\_\_\_

CITY OF HOBBS

RESOLUTION NO. 6857

A RESOLUTION AUTHORIZING THE REMOVAL  
OF UNCOLLECTIBLE RETURNED CHECKS

WHEREAS, there are several uncollectible returned checks dated prior to June 30, 2015, resulting from various City services totaling \$5,652.70; and

WHEREAS, diligent efforts to collect the returned checks has been unsuccessful for a period of more than four years; and

WHEREAS, it is the Finance Director's opinion the accounts are uncollectible; and

WHEREAS, the city desires to remove the uncollectible returned check amount from the accounts receivable, pursuant to Section 3-37-7 NMSA 1978 amended.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor be and hereby is, authorized and directed to take all necessary and appropriate action to effectuate this resolution on behalf of the City of Hobbs.

PASSED, ADOPTED AND APPROVED this 7<sup>TH</sup> day of October, 2019

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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

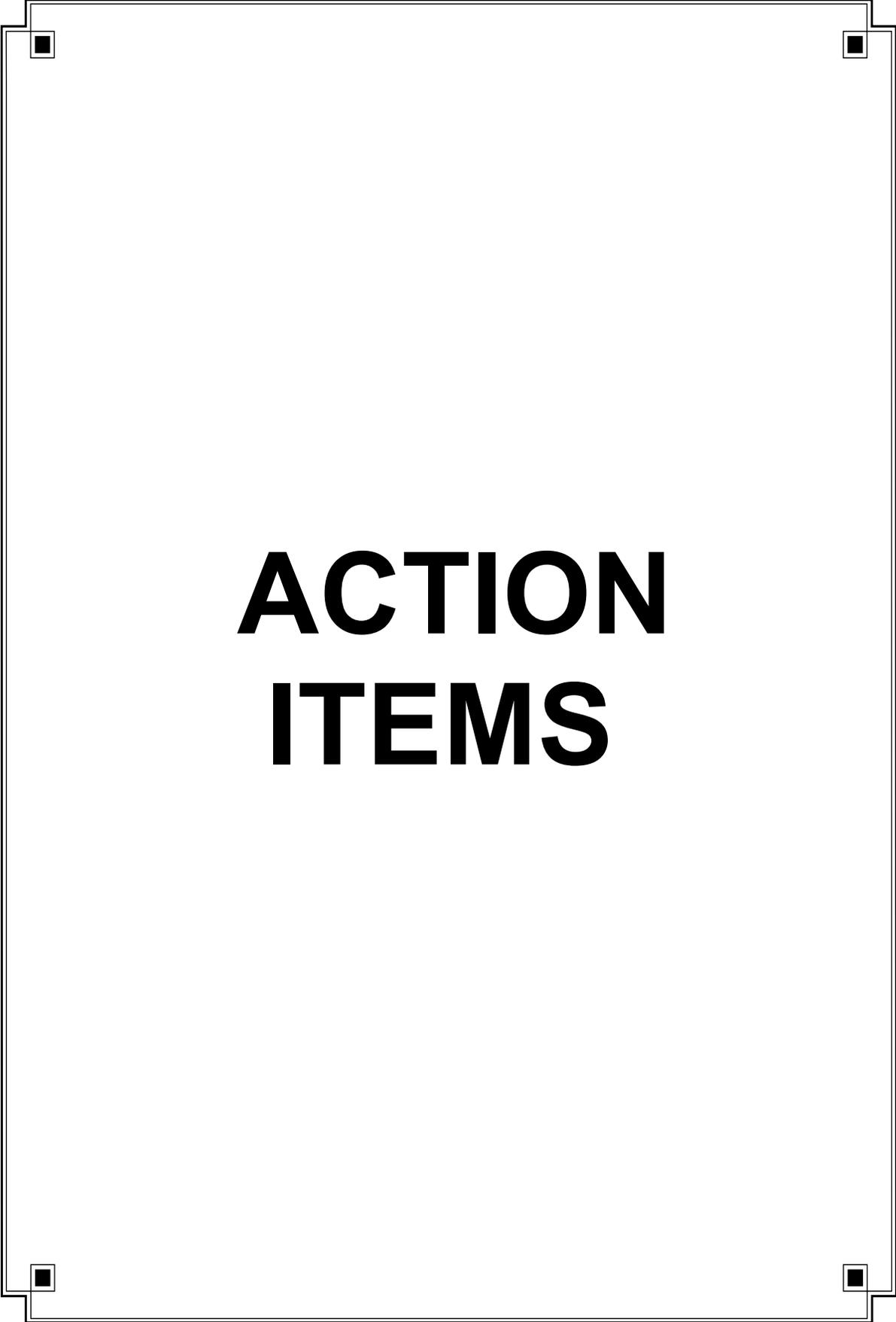
**City of Hobbs**  
**NSF Checks Reconciliation - General Fund 001-10090**  
**07/31/2019**

<b>GL Date</b>	<b>Name</b>	<b>nsf amount</b>	<b>payment</b>	<b>nsf Balance</b>	<b>notes</b>
<b>FY2015</b>					
07/14/2014	Henry or Mickie Gomez	4.00	(4.00)	-	519.00
07/25/2014	Donya Parks	8.00		8.00	8.00
08/27/2015	Jolene Mora	10.00		10.00	18.00
08/29/2014	David J. Escobedo	4.00		4.00	22.00
09/03/2014	Neysa Williams	70.00		70.00	92.00
10/14/2014	Michael Jay Pate	529.00	(500.00)	29.00	121.00
12/19/2014	Anthony Samis	12.00		12.00	133.00
12/01/2014	RWI Construction	60.00		60.00	193.00
06/15/2015	Jake Shirley - GOLF COURSE	1,417.50		1,417.50	1,610.50
06/25/2015	Jake Shirley - GOLF COURSE	358.37		358.37	1,968.87
06/22/2015	Jake Shirley - GOLF COURSE	395.28		395.28	2,364.15
06/30/2015	Michelle Arcidez	80.00		80.00	2,444.15

City of Hobbs  
 NSF Checks Reconciliation - MVD 700-10090  
 04/30/2019

GL Date	Name	NSF Amount	Payment	NSF Balance	GL Balance	Notes
<b>FY2015</b>						
07/11/2014	Craig or Melissa Collins	73.20		73.20	73.20	
07/11/2014	Craig or Melissa Collins	34.00		34.00	107.20	
07/09/2014	Rhonda or Walter Fortner	228.50		228.50	335.70	
07/21/2014	Donya Parks	104.25		104.25	439.95	
10/21/2014	Bobby Campbell	10.00		10.00	449.95	
11/21/2014	Rhonda Fortner	545.00		545.00	994.95	
11/21/2014	Ruben C. Calderon	61.00		61.00	1,055.95	
12/01/2014	RWI Construction	1,689.00		1,689.00	2,744.95	
02/18/2015	Eula Copeland	75.00		75.00	2,819.95	
04/28/2015	Rene Lopez	34.00		34.00	2,853.95	
06/25/2015	Freds Electric	354.60		354.60	3,208.55	

# DISCUSSION



# **ACTION ITEMS**



# CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 7, 2019

**SUBJECT: Resolution Regarding the Transfer of Ownership of Liquor License No. 2584 from Hobbs Oil Patch Inn, LLC, to Jitter Enterprises, LLC, d/b/a Derrick Lounge and Saxony Steak Room located at 501 North Marland, Hobbs, New Mexico**

DEPT. OF ORIGIN: City Clerk's Office  
DATE SUBMITTED: September 30, 2019  
SUBMITTED BY: Jan Fletcher, City Clerk

**Summary:**

Hobbs Oil Patch Inn, LLC, has applied to the State of New Mexico Regulation and Licensing Department, Alcoholic Beverage Control (ABC), for transfer of ownership of Liquor License No. 2584 as referenced above. The application received preliminary approval from the State of New Mexico and was received by the City Clerk's Office on August 12, 2019. A public hearing was previously scheduled on September 16, 2019, but was tabled due to the absence of the applicant. The Deputy Director of ABC has waived the forty-five (45) day hearing requirement in this case. The City has duly published notice of the new hearing date in the *Hobbs News-Sun* and notified the applicant of such hearing by email.

**Fiscal Impact:**

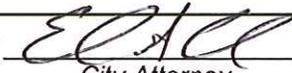
Reviewed By:   
Finance Department

The applicant has paid the required \$250.00 administrative fee to the City.

**Attachments:**

- 1. Application packet from State of New Mexico, Alcohol and Gaming Division
- 2. Affidavit of Publication - Notice of Public Hearing
- 3. Area Map
- 4. Resolution

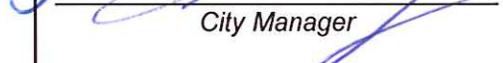
**Legal Review:**

Approved As To Form:   
City Attorney

**Recommendation:**

Motion to approve or disapprove the transfer of ownership; second; vote.

Approved For Submittal By:

  
Department Director  
  
City Manager

CITY CLERK'S USE ONLY  
COMMISSION ACTION TAKEN

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

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

CITY OF HOBBS

RESOLUTION NO. 6858

A RESOLUTION REGARDING THE  
TRANSFER OF OWNERSHIP OF LIQUOR LICENSE NO. 2584  
FROM HOBBS OIL PATCH INN, LLC, TO JITTER ENTERPRISES, LLC, D/B/A  
DERRICK LOUNGE AND SAXONY STEAK ROOM  
LOCATED AT 501 NORTH MARLAND, HOBBS, NEW MEXICO.

WHEREAS, the City of Hobbs has received the following application for transfer of ownership of Liquor License No. 2584:

Owner of Existing License:	Hobbs Oil Patch Inn, LLC
Current D/B/A Name:	Derrick Lounge and Saxony Steak Room
Premises Address:	501 North Marland Blvd. Hobbs, NM 88240

Applicant Name:	Jitter Enterprises, LLC
Applicant D/B/A Name:	Derrick Lounge and Saxony Steak Room
Premises Address:	501 North Marland Hobbs, NM 88240

WHEREAS, the State of New Mexico Regulation and Licensing Department, Alcoholic Beverage Control, has granted preliminary approval to the application for transfer of ownership of the liquor license as requested and a duly advertised public hearing is being held by the governing body of the City of Hobbs on October 7, 2019, on the question of whether or not the proposed transfer of ownership of the license should be granted.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the transfer of ownership of Liquor License No. 2584 from Hobbs Oil Patch Inn, LLC, to Jitter Enterprises, LLC, d/b/a Derrick Lounge and Saxony Steak Room, 501 North Marland, Hobbs, New Mexico, be and is hereby \_\_\_\_\_ (*approved or disapproved*).

PASSED, ADOPTED AND APPROVED this 7<sup>th</sup> day of October,, 2019.

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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



New Mexico Regulation and Licensing Department  
ALCOHOLIC BEVERAGE CONTROL

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

August 6, 2019

Certified Mail No.: 9171 9690 0935 0078 2603 34

RECEIVED

AUG 12 2019

OFFICE OF THE CITY CLERK  
HOBBS, NEW MEXICO

Michelle Lujan Grisham  
Governor

Marguerite Salazar  
Superintendent

Claudia Armijo  
Deputy Superintendent

Daniel Rubin  
General Counsel

Andrew Vallejos  
Director

City of Hobbs  
Attn: Jan Fletcher  
200 East Broadway  
Hobbs, NM 88240

Lic. No. /Appl. No.: License No. 2584  
Name of Applicant: Jitter Enterprises, LLC  
Doing Business As: Derrick Lounge and Saxony Steak Room  
Proposed Location: 501 N Marland Blvd., Hobbs, NM 88240

Greetings:

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

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

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

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

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

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

**THE APPLICANT IS SEEKING A TRANSFER OF OWNERSHIP OF INTER-LOCAL DISPENSER LIQUOR LICENSE NO. 2584.**

Alcoholic Beverage Control  
(505) 476-4875

Boards and Commissions Division  
(505) 476-4600

Construction Industries Division  
(505) 476-4700

Financial Institutions Division  
(505) 476-4885

Manufactured Housing Division  
(505) 476-4770

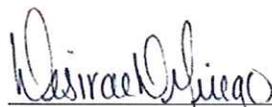
Securities Division  
(505) 476-4580

Administrative Services Division  
(505) 476-4800

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

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

Respectfully,



Desirae D. Griego, Hearing Officer

New Mexico Regulation & Licensing Dept. | Alcoholic Beverage Control

Phone: (505) 476-4552 Fax: (505) 476-4595

Email: [Desirae.Griego@state.nm.us](mailto:Desirae.Griego@state.nm.us)

Enclosures:

1. Original Page 1 of the Application (*must be signed and returned w/notices of publication*)
2. Copy of Page 2 of the Application
3. Copy of the Zoning Statement



New Mexico Regulation and Licensing Department | Alcohol and Gaming Division  
 PO Box 25101 Santa Fe, NM 87504-5101 | Phone: (505) 476-4875 Fax: (505) 476-1500



AGD USE ONLY: Payment| Application Fee \$ 200 Received on: 4-18-19 Receipt No. 2178344  
 Application Number: \_\_\_\_\_ Local Option District: \_\_\_\_\_

**TRANSFER OF DISPENSER-TYPE LIQUOR LICENSE APPLICATION**

\$200.00 Application Fee, non-refundable.

License No. 2584 Type of License: Dispenser Inter-local

Check appropriate boxes:

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

Record Owner of Existing License: Hobbs Oil Patch Inn, LLC

Current D/B/A Name: Derrick Lounge and Saxony Steak Room

Current Premises Address: 501 N Marland Blvd

Current LOD: 501 N Marland Blvd Is License moving out of Local Option District?  Yes  No

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

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

Jitter Enterprises, LLC 1001 E Harmon Ave Tucumcari, NM 88401

D/B/A Name to be used: Derrick Lounge and Saxony Steak Room Business Phone #: 575-379 3251

Email Address (required): neppester@aol.com

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

501 N Marland Blvd Hobbs, NM 88240

County of: Lea

Mailing Address: 1001 E Harmon Ave 1001 E Harmon Ave Tucumcari, NM 88401

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

Agent/Contact Person: Kim Araiza Phone#: 505-270-6005 Email: neppester@aol.com

I, (print name) Kim Araiza, as (title) Member of Jitter Enterprises, LLC

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

Sign before a Notary Public:

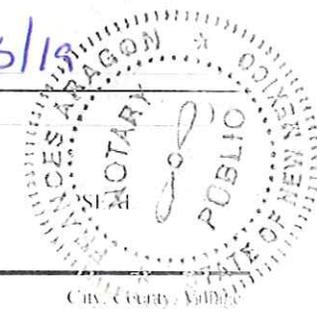
Signature of Applicant: Kim Araiza Date: 4/15/19

NOTARY PUBLIC USE ONLY: (State of New Mexico, County of Quay

SUBSCRIBED AND SWORN TO before me this 15th day of April, 2019

By: \_\_\_\_\_ Notary Public: Frances Araiza

My Commission Expires: 01/27/2022



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

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

Signature and Title of City/County Official: \_\_\_\_\_

FOR ALCOHOL AND GAMING DIVISION USE ONLY: \_\_\_\_\_ Approved \_\_\_\_\_ Disapproved \_\_\_\_\_

Signed by Director: \_\_\_\_\_ Date: \_\_\_\_\_



**PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION**  
NMSA 60-6B 10

1. The land and building which is proposed to be the licensed premises is: (check one)

- Owned by Applicant, copy of deed/document attached
- Leased by Applicant, copy of lease/document attached
- Other (provide details):

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): **Jitter Properties, LLC**

B. Date and Term of Lease: **Five years from Purchase of Property by Jitter Properties, LLC**

3. Premises location is Zoned (example C-1 see Zoning Statement):

**Zoning Statement attached**, which must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. Distance\* from nearest Church: (Property line of church to closest point of licensed premises - shortest distance)

Name of Church: *Chooselife Church*

Miles/feet: *3.3 Miles*

Address/location of Church: *700 N Del Paso Street*

5. Distance\* from nearest School: (Property line of school to closest point of licensed premises - shortest distance)

Name of School: *Murray Elementary School*

Miles/feet: *3 Miles*

Address/location of School: *510 N Del Paso Street*

6. Distance from military installation \*(Property line of military installation to closest point of licensed premises - shortest distance.)

Name of Military Installation, circle one: Kirtland Air Force Base (Albuquerque), White Sands Missile Range (Las Cruces),  
Miles: **127** Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis)

7. Attach Detailed Floor Plan, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8 1/2 x 11 inches and **must be labeled** with designated areas highlighted, which will reflect the proposed Licensed Premises.

8. Type of Operation:  Hotel     Lounge     Package Grocery     Restaurant     Racetrack
- Small Brewer     Craft Distiller     Winery     Wholesaler
- Other (specify):

\*NOTE: If the distance is beyond 300 feet, but less than 400 feet, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.



## PLANNING DEPARTMENT

200 E. Broadway Street, Hobbs, NM 88240  
Ph. 1-505-397-9232 Fax 1-505-397-9227

March 12, 2019

Jitter Enterprises, LLC  
1001 E. Harmon Ave  
Tucumcari, NM 88401

RE: Zoning Certification for 501 N. Marland Blvd. in Hobbs, New Mexico.

Dear Ms. Araiza:

Pursuant to your request for a current zoning certification for 501 N. Marland Blvd. in Hobbs, New Mexico, please be advised that the City of Hobbs has not adopted a zoning ordinance to regulate land uses and location of different types of development or specific business uses throughout the City at this time. Consequently, the City of Hobbs has no current regulations which govern zoning districts and/or land uses, or use of buildings or use of vacant land. Therefore, the proposed land use as referred to herein on the above referenced property in Hobbs is considered a use by right as of this date of March 12, 2019. Therefore, the proposed property use is in conformance with applicable zoning law as of this date.

Please note that the City does have a Major Thoroughfare Plan, Subdivision Regulations, Flood Zone, Fire Zone, Landscaping Regulations, Building Code, Liquor License and other development regulations that must be followed for improvements and changes in building occupancy types, including yard setback requirements. This letter is in regards to that portion of the above referenced real property that exists within the corporate limits of the City of Hobbs, NM on March 12, 2019.

If you have any questions or need further information, please contact me at (575) 397-9351.

Sincerely,

CITY OF HOBBS, NEW MEXICO

A handwritten signature in cursive script that reads "Kevin Robinson".

Kevin Robinson - Planning Department



# Affidavit of Publication

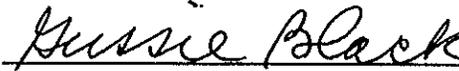
STATE OF NEW MEXICO  
COUNTY OF LEA

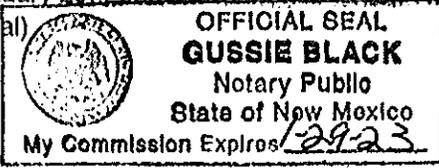
I, Daniel Russell, Publisher of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, solemnly swear that the clipping attached hereto was published in the regular and entire issue of said newspaper, and not a supplement thereof for a period of 2 issue(s).

Beginning with the issue dated  
September 19, 2019  
and ending with the issue dated  
October 03, 2019.

  
\_\_\_\_\_  
Publisher

Sworn and subscribed to before me this  
3rd day of October 2019.

  
\_\_\_\_\_  
Business Manager

My commission expires ~~on or before~~  
January 29, 2023  
(Seal) 

This newspaper is duly qualified to publish  
legal notices or advertisements within the  
meaning of Section 3, Chapter 167, Laws of  
1937 and payment of fees for said

**LEGAL NOTICE**  
**SEPTEMBER 19 and OCTOBER 3, 2019**  
**NOTICE OF PUBLIC LIQUOR HEARING**

NOTICE IS HEREBY GIVEN that the City Commission of the City of Hobbs, New Mexico, will hold a public hearing on Monday, October 7, 2019, in the City Commission Chamber at City Hall, First Floor Annex, 200 East Broadway, Hobbs, New Mexico, for the purpose of considering the application for a liquor license as set forth below and to hear any protests and objections to the granting thereof. Protests and objections may be made by any interested persons at the time, date and place of hearing.

**NOTICE TO PERSONS WITH DISABILITIES:** If you have a disability and require special assistance to participate in the hearing, please contact Jan Fletcher at least three days before the hearing date at (575) 397-9207.

Liquor License Number: 2584  
Applicant: Jitter Enterprises, LLC  
D/B/A: Derrick Lounge and Saxony Steak Room  
Location: 501 North Marland Blvd., Hobbs NM, 88240  
The request is for a Transfer of Ownership of Liquor License No. 2584. The license is currently owned by Hobbs Oil Patch Inn, LLC, at 501 North Marland Blvd. in Hobbs, New Mexico.

DATED this 17th day of September, 2019.

/s/ Sam D. Cobb  
SAM D. COBB, Mayor

#34714

67108146

00233618

CITY OF HOBBS FINANCE DEPT  
200 E. BROADWAY ST  
HOBBS, NM 88240

## NOTICE OF PUBLIC LIQUOR HEARING

NOTICE IS HEREBY GIVEN that the City Commission of the City of Hobbs, New Mexico, will hold a public hearing on **Monday, October 7, 2019**, in the City Commission Chamber at City Hall, First Floor Annex, 200 East Broadway, Hobbs, New Mexico, for the purpose of considering the application for a liquor license as set forth below and to hear any protests and objections to the granting thereof. Protests and objections may be made by any interested persons at the time, date and place of hearing.

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Liquor License Number: 2584

Applicant: Jitter Enterprises, LLC

D/B/A: Derrick Lounge and Saxony Steak Room

Location: 501 North Marland Blvd., Hobbs NM, 88240

The request is for a Transfer of Ownership of Liquor License No. 2584.

The license is currently owned by Hobbs Oil Patch Inn, LLC, at 501 North Marland Blvd. in Hobbs, New Mexico.

DATED this 17<sup>th</sup> day of September, 2019.



SAM D. COBB, Mayor

## NOTICE OF PUBLIC LIQUOR HEARING

NOTICE IS HEREBY GIVEN that the City Commission of the City of Hobbs, New Mexico, will hold a public hearing on **Monday, September 16, 2019, at 6:00 p.m.**, in the City Commission Chamber at City Hall, First Floor Annex, 200 East Broadway, Hobbs, New Mexico, for the purpose of considering the application for a liquor license as set forth below and to hear any protests and objections to the granting thereof. Protests and objections may be made by any interested persons at the time, date and place of hearing.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in the hearing, please contact Jan Fletcher at least three days before the hearing date at (575) 397-9207.

Liquor License Number: 2584

Applicant: Jitter Enterprises, LLC

D/B/A: Derrick Lounge and Saxony Steak Room

Location: 501 North Marland Blvd., Hobbs NM, 88240

The request is for a Transfer of Ownership of Liquor License No. 2584.

The license is currently owned by Hobbs Oil Patch Inn, LLC, at 501 North Marland Blvd. in Hobbs, New Mexico.

DATED this 14<sup>th</sup> day of August, 2019.



SAM D. COBB, Mayor

# Affidavit of Publication

STATE OF NEW MEXICO  
COUNTY OF LEA

I, Daniel Russell, Publisher of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, solemnly swear that the clipping attached hereto was published in the regular and entire issue of said newspaper, and not a supplement thereof for a period of 2 issue(s).

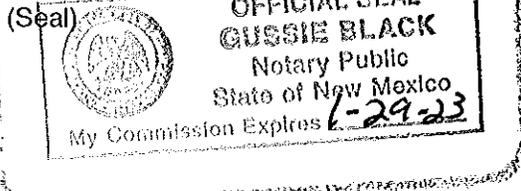
Beginning with the issue dated  
August 15, 2019  
and ending with the issue dated  
August 29, 2019.

  
\_\_\_\_\_  
Publisher

Sworn and subscribed to before me this  
29th day of August 2019.

  
\_\_\_\_\_  
Business Manager

My commission expires  
January 29, 2023



This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1937 and payment of fees for said

LEGAL	LEGAL
<b>LEGAL NOTICE</b> AUGUST 15 and 29, 2019	
<b>NOTICE OF PUBLIC LIQUOR HEARING</b>	
NOTICE IS HEREBY GIVEN that the City Commission of the City of Hobbs, New Mexico, will hold a public hearing on <b>Monday, September 16, 2019, at 6:00 p.m.</b> , in the City Commission Chamber at City Hall, First Floor Annex, 200 East Broadway, Hobbs, New Mexico, for the purpose of considering the application for a liquor license as set forth below and to hear any protests and objections to the granting thereof. Protests and objections may be made by any interested persons at the time, date and place of hearing.	
NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in the hearing, please contact Jan Fletcher at least three days before the hearing date at (575) 397-9207.	
Liquor License Number: 2584 Applicant: Jitter Enterprises, LLC D/B/A: Derrick Lounge and Saxony Steak Room Location: 501 North Marland Blvd., Hobbs NM, 88240 <u>The request is for a Transfer of Ownership of Liquor License No. 2584. The license is currently owned by Hobbs Oil Patch Inn, LLC, at 501 North Marland Blvd. in Hobbs, New Mexico.</u>	
DATED this 14th day of August, 2019.	
/s/ Sam D. Cobb SAM D. COBB, Mayor	
#34568	

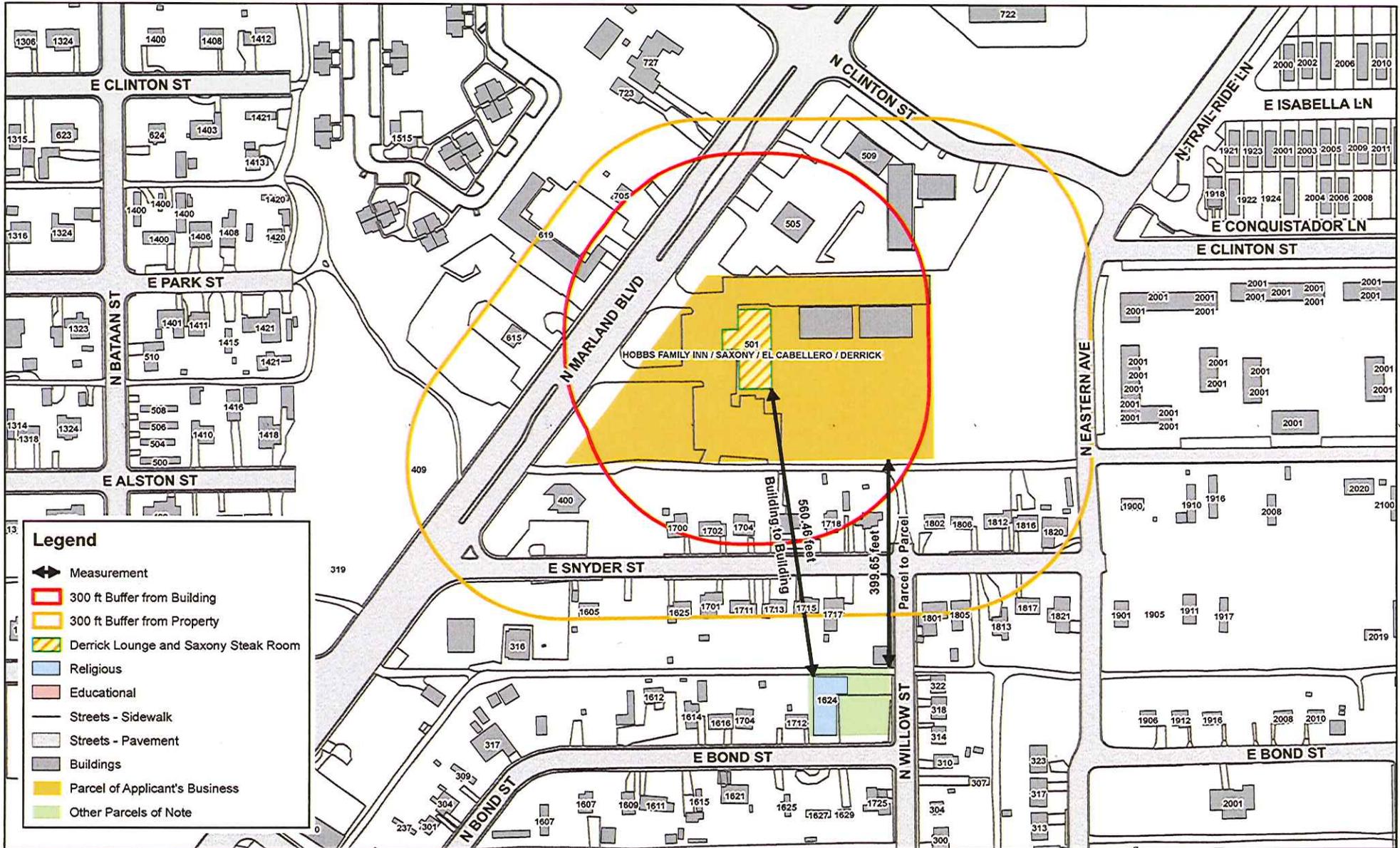
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CITY OF HOBBS FINANCE DEPT  
200 E. BROADWAY ST  
HOBBS, NM 88240

# Derrick Lounge and Saxony Steak Room

## 300 ft Buffer Zone Map for Liquor License



**DISCLAIMER:** THE CITY OF HOBBS MAKES NO WARRANTY, REPRESENTATION OR GUARANTEE OF ANY KIND REGARDING ANY GIS DATA PROVIDED HEREIN OR THE SOURCES OF SUCH DATA. THE CITY OF HOBBS SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. DATA CONTAINED WITHIN THIS PRODUCT IS PROVIDED BY THE CITY OF HOBBS FOR INFORMATIONAL PURPOSES ONLY AND NOT IN COMPLIANCE WITH ANY LEGAL REQUIRED SURVEYING STANDARD.



City of Hobbs GIS Division

SY

Date: 8/19/2019 1 inch = 250 feet Time: 11:57:20 AM

# Advertising Invoice

Hobbs Daily News-Sun

201 N Thorp  
P. O. Box 850  
Hobbs, NM 88241

Phone: 575-393-2123

Fax: 575-397-0610

URL: www.hobbsnews.com

1

CITY OF HOBBS FINANCE DEPT  
200 E. BROADWAY ST  
HOBBS, NM 88240

Customer #: 67108136  
Phone: (575)397-9228  
Date: 09/18/2019  
Ad #: 00233618  
Salesperson: HA Ad Taker: Kayla

Class: 672

Ad Notes: 34714 LIQUOR HEARING

Sort Line: 34714 LIQUOR HEARING

Description	Amount
AFFI Affidavit for legals	4.25
BOLD bold	1.00
	6.08
07 07 Daily News-Sun 2019-09-19	42.00
07 07 Daily News-Sun 2019-10-03	42.00

Ad Text:

LEGAL NOTICE  
SEPTEMBER 19 and OCTOBER 3, 2019

NOTICE OF PUBLIC LIQUOR HEARING

NOTICE IS HEREBY GIVEN that the City Commission of the City of Hobbs, New Mexico, will hold a public hearing on Monday, October 7, 2019, in the City Commission Chamber at City Hall, First Floor Annex, 200 East Broadway, Hobbs, New Mexico, for the purpose of considering the application for a liquor license as set forth below and to hear any protests and objections to the granting thereof. Protests and objections may be made by any interested persons at

Payment Reference:

null

Total: 89.25  
Tax: 6.08  
Net: 95.33  
Prepaid: null

Total Due 95.33



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: 10/07/2019

SUBJECT: A resolution relating to the disposition of 50 Sig Sauer, Model P320 pistols. The department wishes to trade these pistols toward the purchase of new pistols.

DEPT. OF ORIGIN: Police Department  
DATE SUBMITTED: October 1<sup>st</sup>, 2019  
SUBMITTED BY: Chief John Ortolano

Summary:

The City desires to delete from its public inventory and dispose of pistols currently listed on the City of Hobbs inventory. The pistols will be traded in towards the purchase of new Glock, Model 17, 9mm pistols through GT Distributors out of Austin, Texas.

Fiscal Impact:

The trade-in value for each pistol is listed as \$289.50. The total trade-in value for 50 pistols is \$14,475. The total purchase price of new pistols is \$24,050. The total fiscal impact for this purchase will be \$9,575.

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

*Finance Department*

Attachments:

ProForce Quote, GT Distributors Quote, and Glock, Inc. Quote with annotated trade-in value  
Hobbs Police Department Sig P320 serial numbers of proposed trade-in pistols

Legal Review:

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

*City Attorney*

Recommendation:

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. 6859

A RESOLUTION RELATING TO DISPOSITION OF  
50 SIG SAUER, MODEL P320 PISTOLS USED BY  
THE CITY OF HOBBS POLICE DEPARTMENT

WHEREAS, Hobbs Police Department desires to delete from its public inventory and dispose of fifty (50) Sig Sauer, Model P320 pistols currently listed on the City of Hobbs Police Department inventory; and

WHEREAS, the pistols will be traded in towards the purchase of new Glock, Model 17, 9mm pistols through GT Distributors; and

WHEREAS, the trade-in value of each pistol is listed as \$289.50 for a total trade-in value of \$14,475.00; and

WHEREAS, the total purchase price of new pistols is \$24,050.00 which will leave a fiscal impact for this purchase at \$9,575.00;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City of Hobbs, New Mexico, that:

- A. The City desires to delete from its public inventory and dispose of fifty (50) Sig Sauer, Model P320 Pistols incorporated herein by reference and the governing body hereby makes the official, specific finding that each item of property on the attached list:
  - (1) has a current resale value of less than \$5,000.00; and
  - (2) that all such items should be deleted from the City's public inventory and traded-in, pursuant to the provisions of the Procurement Code towards the purchase of fifty (50) new Glock, Model 17, 9mm pistols through GT Distributors of Austin, Texas.
- B. A copy of this official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the governing body.

PASSED, ADOPTED, AND APPROVED this 7<sup>th</sup> day of October, 2019.

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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

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

The undersigned City Commissioners and Mayor, being first duly sworn upon oath, hereby state that the information set forth in the above official findings is true and correct to the best of that person's knowledge, information, and belief.

\_\_\_\_\_  
Sam D. Cobb, Mayor

\_\_\_\_\_  
Patricia Taylor, City Commissioner

\_\_\_\_\_  
Marshall Newman, City Commissioner

\_\_\_\_\_  
Joseph D. Calderón, City Commissioner

\_\_\_\_\_  
Christopher Mills, City Commissioner

\_\_\_\_\_  
Dwayne Perick, City Commissioner

\_\_\_\_\_  
Don R. Gerth, City Commissioner

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of October, 2019.

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

### CITY OF HOBBS REQUISITION/QUOTE FORM

(Purchases \$500.00-\$5,000.00 SPD & GSA Contract)

TO: CPO

VENDOR NAME:

FROM: Hobbs Police Department

ADDRESS:

DATE: 10/01/2019

PHONE/FAX NO:

1) Glock, Inc.  
6000 Highlands Pkwy  
Smyrna, GA 30082  
T (770) 432-1202  
F (770) 437-8719

2) ProForce Law Enfr.  
2625 Stearman Dr.  
Prescott, AZ 86301  
T (928) 776-7192  
F (928) 445-8468

3) GT Distributors-Austin  
PO Box 6080  
Austin, TX 78761  
T (512) 451-8298  
Ext 0000

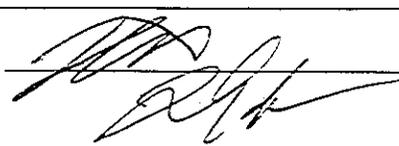
QTY	DESCRIPTION ITEM(S) SERVICE TO BE PURCHASED	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
50	Glock 17, Gen 5, 9mm, Pistols	\$529.60	\$26,480.00	\$481.00	\$24,050.00	\$481.00	\$24,050.00
50	Trade in: Sig Sauer P320, 40 S&W, pistols	N/A	Trade	-\$250.00	(\$12,500.00)	\$289.50	(\$14,475.00)
TOTAL AMOUNT			\$26,480.00		\$11,550.00		\$9,575.00
DELIVERY DATE							
ESTIMATED SHIPPING CHARGES							

CHECK ONE: STATE CONTRACT / GSA CONTRACT    CONTRACT NO. \_\_\_\_\_    EXPIRATION DATE \_\_\_\_\_

SPD or GSA contracts should be attached or on file in CPO. GSA contracts must have a letter from the contractor indicating a willingness to extend pricing, and all terms to the City of Hobbs.

AWARD TO: GT Distributors    POINT OF CONTACT: HL Fahnestock    (If new vendor make sure address is on this form)

If lowest price is not recommended, please state why (subject to approval by CPO) \_\_\_\_\_

Account No. 01020242376    Prepared By: Nathan Eubank    Department Approval: 

 www.glock.com	<b>GLOCK, Inc.</b> USA 6000 Highlands Parkway Smyrna, GA 30082 USA Tel. +1 770 432 1202 Fax +1 770 433 8719	 <b>PERFECTION</b>

**Bill To: City of Hobbs**  
**Attn: Accounts Payable**  
200 E. Broadway  
Hobbs, NM 88240

Date 10/1/2019

Quote: QUO-13158-H7X0F3

Valid From: 10/1/2019

Valid To: 1/1/2020

**ATTN: Nathan Eubank**

Title:  
Email: neubank@hobbsnm.org  
Cell: 5753979239

Glock Representative: Dan Henderson  
Email: Dan.Henderson@glock.us  
Cell: 363-478-8256

**QUOTATION**

Quantity	Description	Cst	Extension
50	GLOCK 17Gen5M19S w/GNS	\$529.60	\$26480.00

**Description:**

- Govt Agency prices do not include sales tax or FET, where applicable
- Prices are due and payable NET 30 days for each invoice
- Trade-in pistols must be in good, serviceable working order
- Deductions made if trade-ins are damaged or not as specified.
- Trade-in or exchange pistols must be turned in within 30 days after receipt of new GLOCKS, unless other arrangements have been made and approved
- All firearms traced to GLOCK, Inc. are subject to being refurbished and sold to other Federally Licensed firearms distributors.
- There is a Limited Lifetime Warranty on GLOCK guns & parts, including postage, labor and replacement parts.
- The Agency agrees that they will not trade in the pistols quoted above for a period of 2 years with the exception of trading to upgrade to new GLOCK pistols
- **USE FACTORY AMMUNITION ONLY**

(+) Total Tax: 0.00

**Grand Total: \$ 26,480.00**

*Dan Henderson*

Authorized Signature

10/1/2019

Date

# PROFORCE LAW ENFORCEMENT

2625 Stearman Drive, Prescott AZ, 86301  
 Tel: 928-776-7192 Fax: 928-445-3468  
 email: sales@proforceonline.com www.proforceonline.com

P R I C E Q U O T E	QUOTE#	PAGE
	460562	1
SHIP DATE		A.S.A.P.

SOLD  
TO

CITY OF HOBBS  
 ATTN: ACCTS PAYABLE/FINANCE  
 200 EAST BROADWAY STREET  
 HOBBS NM 88240

SHIP  
TO

HOBBS POLICE DEPARTMENT  
 ATTN SGT NATHAN EUBANK  
 300 NORTH TURNER  
 HOBBS NM 88240

575-397-9251

JOB #	DATE	CUST.#	LOC.	SALESMAN	SHIP VIA	FRT.
N/A	09/09/19	010014	A	JIM HALSTED	F-2D FOB ORIGIN	
QTY. QUOTED	ITEM NO./DESC.			UNIT PRICE	UOM DISC.	NET PRICE
50	TRADES CREDIT FOR TRADES-IF NOT SENT AS SPECIFIED, MAY BE REDUCED QTY 50 SIG SAUER MODEL P320 40S&W PISTOLS WITH NIGHT SIGHTS, AND 3 MAGS EACH.			250.00-	EA .00	12,500.00CR
50	PA175S702MOS GLK M17 G5 9MM PST FSS MOS GNS 17RD			481.00	EA .00	24,050.00
1	XFET THIS ITEM FET OUT			.00	EA .00	.00
<p>IMPORTANT NOTICES:            This quotation is based on the issuance of a department purchase order, F.A.E.T. Exemption, payment by check in 30 days (unless otherwise agreed) and in stated quantities. ATF or the manufacturer may require additional forms. Sample forms may be found at:  <a href="http://www.ProForceonline.com/forms.html">http://www.ProForceonline.com/forms.html</a></p> <p>Ordering Instructions: Please fax a copy of the department purchase order and F.E.T. form to (928)445-3468. PLEASE MAIL ORIGINALS to ProForce Law Enforcement, 2625 Stearman RD. Ste A, Prescott, AZ 86301.</p>						
Original Copy						
COMMENT						
TERMS						

# PROFORCE LAW ENFORCEMENT

2625 Stearman Drive, Prescott AZ, 86301  
 Tel: 928-776-7192 Fax: 928-445-3468  
 email: sales@proforceonline.com www.proforceonline.com

P R I C E	QUOTE#	PAGE
	460562	2
Q U O T E	SHIP DATE	
	A.S.A.P.	

SOLD  
TO

CITY OF HOBBS  
 ATTN: ACCTS PAYABLE/FINANCE  
 200 EAST BROADWAY STREET  
 HOBBS NM 88240

SHIP  
TO

HOBBS POLICE DEPARTMENT  
 ATTN SGT NATHAN EUBANK  
 300 NORTH TURNER  
 HOBBS NM 88240

575-397-9251

JOB #	DATE	CUST.#	LOC.	SALESMAN	SHIP VIA	FRT.
N/A	09/09/19	010014	A	JIM HALSTED	F-2D FOB ORIGIN	

QTY. QUOTED	ITEM NO./DESC.	UNIT PRICE	UOM DISC.	NET PRICE
	<p>Standard Terms are Net 30 days. If department policy does not allow for partial shipments and payments, separate purchase orders for each item will be necessary.</p> <p>Standard manufacturer's warranty applies to all department purchases unless otherwise specifically noted.</p> <p>This quote is valid for 45 days from date of quote, pending credit approval, and is subject to manufacturer's availability and price change. Please call (800) 367-5855 if this bid is still pending on the expiration date for updated pricing.</p> <p>A 20% restocking fee will apply to all returned goods. Please call us for a return authorization number.</p> <p>ProForce Law Enforcement agrees to defend, indemnify and hold harmless its customers from claims for personal injury or property damages, to the extent arising from the negligent acts or omissions of ProForce Law Enforcement or its employees, agents or independent contractors.</p> <p>This quote is valid for 45 days from the date of quote, pending credit approval, and is subject to inventory, manufacturer's availability and price change. Please call to receive price update upon expiration.</p> <p>Original Copy ORDERING INSTRUCTIONS: Please reply to your sales represen-</p>			

COMMENT

TERMS

# PROFORCE LAW ENFORCEMENT

2625 Stearman Drive, Prescott AZ, 86301  
 Tel: 928-776-7192 Fax: 928-445-3468  
 email: sales@proforceonline.com www.proforceonline.com

P R I C E	QUOTE#	PAGE
	460562	3
Q U O T E	SHIP DATE	
	A.S.A.P.	

SOLD  
TO

CITY OF HOBBS  
 ATTN: ACCTS PAYABLE/FINANCE  
 200 EAST BROADWAY STREET  
 HOBBS NM 88240

SHIP  
TO

HOBBS POLICE DEPARTMENT  
 ATTN SGT NATHAN EUBANK  
 300 NORTH TURNER  
 HOBBS NM 88240

575-397-9251

JOB #	DATE	CUST.#	LOC.	SALESMAN	SHIP VIA	FRT.
N/A	09/09/19	010014	A	JIM HALSTED	F-2D FOB ORIGIN	

QTY. QUOTED	ITEM NO./DESC.	UNIT PRICE	UOM DISC.	NET PRICE
	<p>tative in writing to process this order or send an email to <a href="mailto:sales@proforceonline.com">sales@proforceonline.com</a>. For orders over \$5,000, a PO or signed quote is required to process the order. Returned items are subject to 20% restocking fee. All sales are final on non-stocked/special order items</p> <p>PLEASE READ ATTACHED:</p> <p>Please be aware that handling charges are not actual freight and are therefore subject to sales tax in California and Washington.</p> <p>ProForce Law Enforcement agrees to defend, indemnify and hold harmless its customer from claims for personal injury or property damages, to the extent arising from the negligent acts or omissions of ProForce Law Enforcement or its employees, agents or independent contractors.</p> <p>IMPORTANT: To order from this quotation, please sign below, attach Purchase Order, and email to <a href="mailto:sales@proforceonline.com">sales@proforceonline.com</a></p> <p>-</p>			

Original Copy -

COMMENT	
TERMS	

# PROFORCE LAW ENFORCEMENT

2625 Stearman Drive, Prescott AZ, 86301  
 Tel: 928-776-7192 Fax: 928-445-3468  
 email: sales@proforceonline.com www.proforceonline.com

P R I C E	QUOTE#	PAGE
	460562	4
Q U O T E	SHIP DATE	
	A.S.A.P.	

SOLD  
TO

CITY OF HOBBS  
 ATTN: ACCTS PAYABLE/FINANCE  
 200 EAST BROADWAY STREET  
 HOBBS NM 88240

SHIP  
TO

HOBBS POLICE DEPARTMENT  
 ATTN SGT NATHAN EUBANK  
 300 NORTH TURNER  
 HOBBS NM 88240

575-397-9251

JOB #	DATE	CUST.#	LOC.	SALESMAN	SHIP VIA	FRT.
N/A	09/09/19	010014	A	JIM HALSTED	F-2D FOB ORIGIN	
QTY. QUOTED	ITEM NO./DESC.			UNIT PRICE	UOM DISC.	NET PRICE
	Printed Name: _____					
	Date: _____			P.O.:		
	Signature: _____					
Original Copy					SALES AMOUNT	11,550.00
COMMENT NATHAN EUBANK  BY RYAN SCHREIBER  TERMS DUE NET 30 DAYS						



GT Distributors - Austin  
 P.O. Box 16080  
 Austin TX 78761  
 (512) 451-8298 Ext. 0000

Quote	QTE0111473
Date	10/1/2019
Page:	1

**Bill To:**

Hobbs, City of (NM)  
 Finance Department  
 200 E. Broadway St.  
 Attn: Accounts Payable  
 Hobbs NM 88240

**Ship To:**

Hobbs, City of (NM)  
 300 N Turner  
 Hobbs NM 88240

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
100119 SIG P320TRAI	002360	CH		NET 15	0/0/0000	2,022,360

Quantity	Item Number	Description	UOM	Unit Price	Ext. Price
50	UG-SIG320	Used Sig Sauer 320R Pistol .40	EA	(\$289.50)	(\$14,475.00)
50	GLOCK-PA175S302MO	Glock 17 Gen 5 9mm MOS W FS AB SGHT 3	EA	\$481.00	\$24,050.00
1	NOTES:	Notes:  Trade assumes box and 3 magazines. *Subtract \$5.00 for missing gun box *Subtract \$18.00 for missing magazines	EA	\$0.00	\$0.00
1	NOTES:	Notes:  All guns must be fully functional to receive full trade value.	EA	\$0.00	\$0.00
1	NOTES:	Notes:  The agency is responsible for packaging and all freight charges on trades to G T Distributors.	EA	\$0.00	\$0.00

All returns must be authorized by GT Distributors. Interest charges on past due invoices at the maximum rate allowed by law.

Subtotal	\$9,575.00
Misc	\$0.00
Tax	\$0.00
Freight	\$0.00
<b>Total</b>	<b>\$9,575.00</b>

Your salesperson is H.L. Fahnestock. Thank You.  
 Sergeant Nathan D. Eubank  
 Office: (575)391-2621  
 Nathan Eubank <neubank@hobbsnm.org>



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 7th, 2019

SUBJECT: STATE PRICE AGREEMENT PURCHASE ORDER (No. 60-805-15-13798)
HIGH INTENSITY ACTIVATED CROSSWALK BEACON EQUIPMENT (HAWK SYSTEM)
DEPT. OF ORIGIN: Engineering Department
DATE SUBMITTED: 10-1-19
SUBMITTED BY: Todd Randall, City Engineer

Summary:

The City of Hobbs received grant funding through the Local Government Road Fund Program for fiscal year 2018/2019 for improvement to existing crosswalks located at 1) Dal Paso/Texas and 2) Dal Paso/Sunset. The improvements at the crosswalks include the installation of a High-Intensity Activate crossWalk beacon system (HAWK System). The purchase order (PO) is through a New Mexico State Price Agreement (Agreement No. 60-805-15-13798) with Gades Sales Co. Inc. for a total amount of \$72,389.00 This PO is only for the poles and mast arms and the Traffic Dept will be making separate purchase for controllers, signal heads and signs for the complete installation. If approved, the anticipated delivery is 12 weeks after the purchase order is delivered. Due to the long lead time the Engineering Department is requesting a grant extension, which will be presented to the City Commission on October 21st for their consideration.

Fiscal Impact:

Reviewed By:

[Signature]
Finance Department

Budget FY20: \$218,291.91 (Line No. 48-4048-44901-00284)
Local Match: \$ 52,333,33 (25%)
State Match: \$157,000.00 (75%)
Engineering: \$40,000
Material Costs: \$120,000 estimated (PO \$72,389 not including GRT)
Labor Costs: \$100,000 estimated

\*Note: All State Agreement purchase orders over \$60,000 require City Commission Approval. A budget adjustment will be requested for an additional \$100,000 to cover additional ADA improvements needed at the intersections.

Attachments:

State Agreement, Estimate

Legal Review:

Approved As To Form:

[Signature]
City Attorney

Recommendation:

Consideration and approval of Purchase Order with Gades Sales Co. Inc. for \$72,389.00

Approved For Submittal By:

[Signature]
Department Director
[Signature]
City Manager

CITY CLERKS USE ONLY
COMMISSION ACTION TAKEN

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



State of New Mexico  
General Services Department  
Purchasing Division

Price Agreement Amendment

Awarded Vendor  
8 Vendors  
  
Telephone No.

Price Agreement Number: 60-805-15-13798

Price Agreement Amendment No.: Four

Term: March 25, 2016 – March 24, 2020

Ship To:  
New Mexico Department of Transportation  
Various Locations

Procurement Specialist: Raelynn Lujan *RL*

Telephone No.: (505) 827-0484

Invoice:  
New Mexico Department of Transportation  
Various Locations

Email: raelynn.lujan@state.nm.us

For questions regarding this Price Agreement please contact:  
India Garcia 505-827-5183

Title: Traffic Signal Equipment and Supplies

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from March 25, 2019 to March 24, 2020 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

*[Signature]*  
New Mexico State Purchasing Agent

Date: 1/14/2019

*nm*

State of New Mexico  
General Services Department  
Purchasing Division  
Price Agreement #: 60-805-15-13798

Page-6

**Awarded Vendors:**

**(AA)**

**0000045699**

AM Signal, Inc.  
9935 Titan Park Circle  
Littleton, CO 80125  
720-348-6925  
brooke@amsignalinc.com

**(AB)**

**0000044213**

Consolidated Traffic Controls, Inc.  
1016 Enterprise Place  
Arlington, TX 76001  
817-265-3421  
president@cto-traffic.com

**(AC)**

**0000056102**

Econolite Control Products  
DEPT LA 24173  
Pasadena, CA 91185-4173  
505-989-3949  
apark@econolite.com

**(AD)**

**0000105445**

Gades Sales Company, Inc.  
PO BOX 9003  
Wichita, KS. 67277  
303-862-1770  
msearle@gadestraffic.com

**(AE)**

MO's Consulting  
1016 Enterprise Place  
Arlington, TX 76001  
817-265-3421  
mark@themosconsulting.com

**(AF)**

Rhythm Engineering  
11228 Thompson Ave  
Lenexa, KS 66219  
916-227-0603  
morgan.kyle@rhythmtraffic.com



Date: 09/27/19

Bill to: Hobbs

Job: Signal Poles

NM PA - 60-805-15-13798

Qty	Description	Unit Price	Line Total
2	30' Comb. Mast Arm Assembly - Type IIA	\$14,525.00	\$29,050.00
1	40' Comb. Mast Arm Assembly - Type IIIB	\$20,440.00	\$20,440.00
1	50' Comb. Mast Arm Assembly - Type IIIB	\$22,899.00	\$22,899.00
-	Mast arm assemblies will be Multi-sided and galvanized only.		
-	Signal supports are not included		
-	Sign supports are not included		
-	Sign arms are not included		
-	Vibration dampers are not included		
-	Anchor bolts are included		
-	Steel transformer bases are included		
-	Luminaire arms are included on type III structures only		
-	State of New Mexico P.EI stamped drawings and calculations are not included		
-	Poles are per current state of NM standard design and Spec		
-	Foundation designs are not included		
-	Delivery is 10-12 weeks after drawing approval		
-	Current shipping schedule is subject to change		
-	F.O.B. Destination		
-	All quotes are subject to acceptance by Pelco Structural at the time of the order		
-	Pricing is valid for 2 weeks from date of quotation		
-	Pricing is subject to increase based upon date for release		
		Subtotal	\$72,389.00
		Total	\$72,389.00

Quote good for 2 weeks

Sincerely,

John Beale

[jbeale@gadestraffic.com](mailto:jbeale@gadestraffic.com)

303-862-1770

7100 N. Broadway #5T Denver, CO. 80221 (303) 862-1770



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 7, 2019

**SUBJECT:** CONSIDERATION TO APPROVE A DEVELOPMENT AGREEMENT WITH LEMKE DEVELOPMENT, INC. CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY HOUSING.

DEPT. OF ORIGIN: Planning Division  
DATE SUBMITTED: September 30, 2019  
SUBMITTED BY: Kevin Robinson – Planning Department

**Summary:** Lemke Development, Inc. has requested a Development Agreement concerning the development of single-family housing units located within the municipal boundaries. The developer proposes to produce market rate single-family units and is requesting infrastructure incentives of \$30,000.00.

**Fiscal Impact:**

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

*[Signature]*  
Finance Department

FY20 Budget Available \$1,112,280.00

Affordable Housing #010100-44901-170

**Attachments:** Resolution and Development Agreement.

**Legal Review:**

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

*[Signature]*  
City Attorney

**Recommendation:**

Commission considers approval / denial of the attached Development Agreement.

Approved For Submittal By:

*[Signature]*  
Department Director

*[Signature]*  
City Manager

CITY CLERK'S USE ONLY  
COMMISSION ACTION TAKEN

Resolution No. \_\_\_\_\_

Continued To: \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Referred To: \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

Other \_\_\_\_\_

File No. \_\_\_\_\_

CITY OF HOBBS

RESOLUTION NO. 6860

**A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT WITH LEMKE DEVELOPMENT, INC. CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY.**

WHEREAS, the City of Hobbs is proposing to enter into a Development Agreement with Lemke Development, Inc. concerning the development of market rate single-family housing; and

WHEREAS, the aforementioned Development Agreement allows for an incentive of reimbursement of public infrastructure for this type of development, said agreement being in the best interest of the City.

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

1. The City of Hobbs hereby approves the Development Agreement, which is attached hereto and made a part of this Agreement as Exhibit #1 and the Mayor, and/or his designee, is hereby authorized to execute the Agreement.
2. That City staff and officials are authorized to do any and all deeds to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 7<sup>th</sup> day of October, 2019.

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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

## MARKET RATE SINGLE FAMILY DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into on this 7<sup>th</sup> day of October, 2019 by and between the City Of Hobbs, New Mexico, a municipal corporation (hereinafter "City"); and Lemke Development Inc., 4008 N. Grimes Street, Hobbs, NM 88240, (hereinafter "Developer") for the purpose of delivering Housing Developer Services to be provided to the City.

### RECITALS:

\*\* The City requires to contract with a Market Rate Single Family Development Company to deliver Single Family Market Rate Housing to the Citizens of Hobbs, New Mexico.

\*\* Developer has submitted a proposal to the City to deliver the required Market Rate Single Family Housing, to be produced within 365 days of the date of this agreement, within the Municipal Boundaries.

\*\* Any outstanding Development Agreements between the Developer and the City of Hobbs concerning the production of Market Rate Single Family Housing shall become null and void upon the ratification of this agreement herewith.

NOW, THEREFORE, the City of Hobbs and Developer do hereby agree as follows:

#### A. Work To Be Performed.

1. The Developer shall furnish to the City its Professional Housing Developer Services for certain work regarding the Market Rate Single Family Housing. All single family structures completed under this agreement shall be located within the municipal boundaries and shall have received a certificate of occupancy after the date of this agreement.

2. Developer shall furnish to City its professional Housing Developer Services as provided by this Agreement. The specific duties include the production and delivering to the public Market Rate Single Family Housing Units in Hobbs. Produced Units receiving an infrastructure incentive reimbursement shall not now or in the future be utilized in a pecuniary manner by renting, leasing, exchanging or bartering habitation privileges to the property for a period of no less than 30 days at a time.

3. Specific activities required are to develop privately owned real property in the City including designing, building and transferring to the public individual market rate single family housing units. The City's subsidy may include any or all of the following funding assistance from the City:

Incentives are available for installed public municipal infrastructure only, providing compliance with:

- a. Incentive not to exceed per square footage basis:
  - i. \$10.00 per sq. ft. north of Sanger
  - ii. \$20.00 per sq. ft. south of Sanger
  - iii. Calculation based on living area only
- b. Incentive not to exceed per unit basis:
  - i. \$10,000.00 per single family unit
  - ii. \$5,000.00 per multi-family unit

- c. Incentive not to exceed fair share per linear foot of infrastructure basis:
  - i. \$180.00 per lineal front footage of complete public infrastructure installed, and further broken down as follows:
    - 1. Water (\$25 / lf):
      - a. Twenty Five (\$25) per equivalent front foot of lot to which water service is provided (8" minimum service single family & 10" minimum service for multi-family);
    - 2. Sewer (\$35 / lf):
      - a. Thirty Five (\$35) per equivalent front foot of lot to which sewer service is provided (8" minimum service single family & 10" minimum service for multi-family);
    - 3. Street (\$90/ lf):
      - a. Ninety (\$90) per equivalent front foot of lot to which street is provided (built to Minor Residential standards as promulgated within the City of Hobbs Major Thoroughfare Plan);
    - 4. Sidewalk:
      - a. Thirty (\$30) per equivalent front foot of lot to which sidewalk (includes driveway with ADA accessible path) is provided;

Based on quantities of required publicly owned infrastructure installed supporting the project, the City Engineer shall determine if the value of the infrastructure is adequate as an equal exchange of value for the amount of City subsidy contributed to the market rate single family housing unit. The City Engineer shall resolve any issues concerning value or extent of infrastructure and amount of square footage of constructed housing units. Specifically, the City Engineer will determine the value or unit costs of the publicly owned infrastructure according to any City of Hobbs Annual Pavement/Concrete/Utility Contracts or public infrastructure projects and estimates.

#### **B. Payment For Services.**

- 1) The City shall pay for said services at the rates agreed to and as specified above in the Infrastructure details, as shown herein. Payment will not be made by the City for any unit until a certificate of occupancy is issued, based on this Agreement.
- 2) The total compensation to be paid to the Developer during the term of this Agreement shall not exceed Thirty Thousand Dollars (\$30,000.00), unless the Agreement is amended by the City Commission.
- 3) City subsidy shall be paid when each individual single family unit is complete and certificate of occupancy is issued, provided the certificate of occupancy for the unit is issued after date of this agreement. Payment will be made within fifteen (15) days following a written request from the Developer and upon City inspection of project completion.
- 4) Produced Units receiving an infrastructure incentive reimbursement shall not now or in the future be utilized in a pecuniary manner by renting, leasing, exchanging or bartering habitation privileges to the property for a period of no less than 30 days at a time. Such usage either now or in the future, for a period not to exceed 10 years from date of issuance of a C.O.,

shall require Developer to return any incentive funds received for any unit thus utilized, upon demand by the City. Developer shall record a "Declaration of Restrictive Covenants", attached hereto as Exhibit 2, to restrict such usage and to notify parties involved in future conveyances.

**C. Construction Requirements.**

Construction shall be of energy-efficient design per New Mexico Energy Conservation Code 2009, utilizing either stucco or brick on the exterior of all buildings.

**D. Assignment of Agreement.**

This Section refers to assignability of this Agreement, and not to assignability of the Project to be developed for housing. Developer shall not assign or transfer any interest in this Agreement. Except that Developer is permitted, upon City approval, to assign its interest to a Partnership or Corporation in which the Developer is the principal party or to an affiliated company, working with the Developer on the Project. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns; provided that upon any assignment of this Agreement by either party, the other party shall not be released from any obligation under, or liability accruing pursuant to this Agreement. Consent shall not unreasonably be withheld by either party.

**E. Insurance Requirements and Hold Harmless Provision.**

1. Developer agrees to obtain and maintain appropriate insurance during the course of the development of market rate single family housing with the City of Hobbs, as follows, and shall indemnify and hold harmless City, its employees, agents, officers and officials from any and all claims, losses, causes of action, and/or liabilities resulting from the conduct, negligence, errors or omissions of Developer or any employee or agent of Developer while engaged in performing the services called for herein.

2. The Developer shall maintain insurance coverage for General Liability, Automobile Liability, Errors and Omissions Insurance, and Workers' Compensation, subject to review and approval of the City Attorney.

**F. Governing Law and Provisions.**

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

2. If any party is found by a court to have breached this Agreement, the breaching party agrees to pay all reasonable costs, attorney's fees and expenses that shall be made or incurred by another party in enforcing any covenant or provision of this Agreement, including the expenses of in house counsel.

**G. Final Payment and Release of Claims.**

1. Developer, upon final payment of all amounts due under this Agreement, releases the City and its officers and employees from all liabilities, claims and obligations whatsoever arising

from or under this Agreement.

2. City, upon Developer's final completion of all work items and covenants required of the Developer under this Agreement, shall release the Developer from all liabilities, claims and obligations whatsoever arising from or under this Agreement, on the day that is ten (10) years following the date of the City's issuance of a final certificate of occupancy on the Project.

#### **H. Amendments.**

This Agreement shall not be altered, changed, or amended except by written instrument approved and executed by both parties hereto.

#### **I. Breach.**

1. The following events constitute a breach of this Agreement by Developer:
  - a) Developer's failure to perform or comply with any of the terms, conditions or provisions of this Agreement.
2. The following events constitute a breach of this Agreement by City:
  - a) City's failure to perform or comply with any of the terms, conditions or provisions of this Agreement, including making timely and appropriate payments to the Developer.

#### **J. Remedies Upon Breach.**

1. Any party may sue to collect any and all damages that may accrue by virtue of the breach of this Agreement.
2. If any party is found by a court to have breached this Agreement, the breaching party agrees to pay all reasonable costs, attorney's fees and expenses that shall be made or incurred by another party in enforcing any covenant or provision of this Agreement.

#### **K. Termination.**

This Agreement shall be terminated upon the completion of all tenants herein specified or 365 days from date of ratification whichever comes first. A request for infrastructure reimbursement, for a qualified unit produced within the terms of this agreement, received after the Termination Date of this agreement will not be eligible for payment.

#### **L. Notice.**

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by regular mail, postage prepaid, to the City, ATTN: City Attorney, 200 E. Broadway, Hobbs, NM 88240; to Developer ATTN and Lemke Development Inc., 4008 N. Grimes Street, Hobbs, NM 88240 and to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

**M. Entire Agreement.**

The foregoing constitutes the entire agreement between the parties hereto and may be modified only in writing by the parties hereto.

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

**City of Hobbs**

**Developer**

\_\_\_\_\_  
By: Sam D. Cobb, Mayor

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

*LENKE DEVELOPMENT*

**ATTEST:**

**APPROVED AS TO FORM:**

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

\_\_\_\_\_  
Efren Cortez, City Attorney



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 7, 2019

SUBJECT: RESOLUTION TO APPROVE THE SUBDIVISION OF PROPERTY LOCATED SOUTHWEST OF THE INTERSECTION OF JOE HARVEY AND GRIMES AND AFFIRM A VARIANCE GRANTED BY THE CITY OF HOBBS PLANNING BOARD OF MUNICIPAL CODE 16.16.050(E) ALLOWING A SUBDIVISION OF PROPERTY CREATING LOT(S) NOT ACCESSIBLE FROM A PUBLIC STREET.

DEPT. OF ORIGIN: Planning Department
DATE SUBMITTED: September 30, 2019
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: The Final Plan for Subdivision to create Tracts C-6, C-7 and C-8 and Replat of Tracts C-2 and C-3, is submitted by property owner Horizon Partners, LLC. The proposed Subdivision is located southwest of the intersection of Joe Harvey and Grimes. The Planning Board reviewed this Subdivision on September 17, 2019 and voted 5 to 0 to recommend approval with a variance from MC 16.16.050(E) allowing a subdivision of property creating lot(s) not accessible from a public street, contingent upon documentation assigning maintenance responsibilities for the "Mutual Access" arears.

Variances from Municipal Code Title 16 are allowed providing the finding that compliance will result in an extraordinary hardship as stated in MC 16.04.020(A) below:

A. Hardships. Where the Planning Board finds that extraordinary hardships may result from strict compliance with this title, it may vary the regulations contained in this title, so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of such regulations.

Options for the City Commission to consider are 1) Vote YES to Approve the Resolution and affirm the Planning Boards variance decision; 2) Vote NO on the Resolution and rescind the Planning Boards variance decision

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

Attachments: Resolution, Draft Planning Board packet, excerpts from Municipal Code Title 16, Covenants & Restrictions and Proposed Subdivision.

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Study the issues and render a decision on the information presented.

Approved For Submittal By:

[Signature] Department Director
[Signature] City Manager

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COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6861

**A RESOLUTION TO APPROVE THE SUBDIVISION OF PROPERTY LOCATED  
SOUTHWEST OF THE INTERSECTION OF JOE HARVEY AND GRIMES AND  
AFFIRM A VARIANCE GRANTED BY THE CITY OF HOBBS PLANNING  
BOARD OF MUNICIPAL CODE 16.16.050(E) ALLOWING A SUBDIVISION OF  
PROPERTY CREATING LOT(S) NOT ACCESSIBLE FROM A PUBLIC STREET.**

WHEREAS, Horizon Partners, LLC, property owner, did submit a subdivision for approval under the Alternate Summary Procedure MC 16.12; and

WHEREAS, upon review Staff notified the subdivider that the subdivision as submitted did not conform to MC Title 16, specifically MC 16.16.050(E) requiring each lot created to be accessible from a public street; and

WHEREAS, due to unusual circumstances that exist the subdivider chose to have the subdivision reviewed under the standard procedures as per MC 16.12.030(B); and

WHEREAS, the City of Hobbs Planning Board reviewed this subdivision on September 17, 2019 and voted 5 to 0 to recommend approval with a variance from MC 16.16.050(E) allowing a subdivision creating lot(s) allowing a subdivision of property creating lot(s) not accessible from a public street, contingent upon documentation assigning maintenance responsibilities for the "Mutual Access" areas; and

WHEREAS, upon sufficient findings it has been determined that granting this variance from Municipal Code 16.16.050(E) does not "have the effect of nullifying the intent and purpose of such regulations".

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

A. The City of Hobbs hereby affirms a variance granted by the City Of Hobbs Planning Board of municipal code 16.16.050(E) allowing a subdivision of property creating lot(s) not accessible from a public street.

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

PASSED, ADOPTED AND APPROVED this 7<sup>th</sup> day of October, 2019.

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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

# Excerpts from MC Title 16

## Chapter 16.12 **ALTERNATE SUMMARY PROCEDURE**

### **16.12.010 Eligible subdivisions.**

B. The land shall abut on a public street or streets of adequate width and is so situated that no additional streets, alleys, easements for utilities or other public property are required; or if required to conform to other public streets, alleys or other public ways and such additional property is shown on the plat as "Herein Dedicated", or if within the extraterritorial jurisdiction those public ways required being conveyed as a surface and sub-surface easement.

### **16.12.030 Approval procedure.**

A. The City Manager's designated representative is authorized to approve subdivisions meeting the conditions of this section and conforming to the provisions of this chapter and shall, within ten (10) days of final submittal of all requested information, accept the proposed subdivision or send a written rejection detailing the reason for the rejection. Any municipal infrastructures serving the subdivision shall be completed or adequate surety provided prior to receiving final approval.

B. The subdivider or the City Manager's designated representative may choose to have the subdivision reviewed by the Planning Board under the standard procedures if difficulties or unusual circumstances exist.

### **16.16.050 Lots.**

(E) Access to Existing Public Streets. The subdividing of the land shall be such as to provide, by means of a public street, and each lot shall be provided with a thirty-five (35) feet minimum access to an existing public street. Minimum access width for each lot fronting a cul-de-sac shall be thirty (30) feet minimum measured on the property line to the curb line, and a thirty-five (35) feet minimum width measured at the building setback line. Each "flag" lot, defined herein as a parcel of land accessible only by an extension of land connecting a public access street to the building site area of the parcel, shall have a minimum continuous access width of thirty-five (35) feet. Access shall mean a contiguous and continuous direct property boundary connecting to the public street.

### **16.04.020 Variances and modifications.**

A. Hardships. Where the Planning Board finds that extraordinary hardships may result from strict compliance with this title, it may vary the regulations contained in this title, so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of such regulations.

**AGREEMENT REGARDING EASEMENT,  
COVENANTS AND RESTRICTIONS**

**THIS AGREEMENT REGARDING EASEMENT, COVENANTS AND RESTRICTIONS** (“Agreement”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between Janak VI, Inc., a New Mexico Corporation (hereinafter referred to as “Janak”), Horizon Partners, LLC, a New Mexico Limited Liability Company (hereinafter referred to as “Horizon”), Japanese Restaurant, Church Chicken, and Walgreens Pharmacy (hereinafter collectively referred to as “OWNERS.”)

**I. RECITALS**

1. **WHEREAS** there exists eight (8) lots of property located at the corner of Joe Harvey Blvd and Grimes Street in Hobbs, New Mexico as shown on Exhibit “A” attached and incorporated herein by reference.

2. Janak is purchasing from Horizon the lots labeled C-6 and C-7.
3. Japanese Restaurant owns Lot C-4.
4. Churches Chicken owns Lot C-5.
5. Horizon owns Lots C- \_\_\_\_\_ and intends to sell the property to Acute Care.
6. Horizon owns Lot C-3 and leases it to Cotton Patch Restaurant.
7. Walgreens Pharmacy owns Lot C-\_\_\_\_\_ .
8. Horizon owns Lot C-\_\_\_\_\_.
9. Horizon owns the 10.22+/- acre lot labeled as Lot C-\_\_\_\_\_.
10. Owners desire to enter into the herein Agreement regarding Easement, Covenants, and Restrictions for the purpose of creating an easement as diagramed and shaded in Exhibit “A”

11. All Owners have executed this agreement and agree to be bound by the terms of this agreement.

12. This Agreement shall be filed against the land and shall follow the land with all future ownership of the lots above.

**NOW THEREFORE**, as a term of the purchase of Lots C6 and C7 by Janak, the mutual promises and covenants of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

## **II. AGREEMENT**

1. Recitals: All of the terms, conditions and provisions set forth in the foregoing recital are hereby restated and affirmed to part of this Agreement.

2. Definitions: Unless otherwise indicated to the contrary, the following terms shall have the meanings set forth herein.

2.1. Common Areas: The Common Areas as identified as a shared easement on Exhibit "A" are for common use by the Owners, their tenants, customers, or business invitees. Repair and maintenance of the Common Area is described in paragraph 6 below.

2.2 Property: Shown on Exhibit "A".

3. Exhibits: All exhibits attached hereto are incorporated herein as if set forth in full herein.

4. Creation of New Roads: Horizon will develop and create roads on the shaded areas labeled New Road on Exhibit "A". Payment for the development and creation of the roads will be handled by Horizon. Janak will not be responsible for contributing any sums towards the development or creation of the roads.

5. Grant of Access Easements: Each Owner does hereby establish for the benefit of and grants and conveys to the other Owner from time to time of the Common Area and such Owner's successors in title, assigns, tenants, customers, invitees and employees, as an appurtenance to each Lot a permanent non-exclusive easement for pedestrian and vehicular ingress and egress, across and upon the Common Area from time to time located on each Lot for access to and from adjacent public property. There shall be no obstructions to the easement by any Owner at any time, including no gates or doors that swing open from any trash bins that might obstruct or hinder travel along the easement. The easement is to be kept open and accessible at all times.

6. Maintenance and Operation: Horizon shall supervise, operate, manage, repair, replace and maintain the Common Area in good repair and in a sightly, safe, sound, and functional condition, free from refuse, rubbish and dirt and in conformity with all governmental regulations.

6.1 Paving and Marking: Horizon shall repave, restripe and replace markings on the surface on such Common Area from time to time so as to provide for the orderly flow of automobiles and shall place and maintain adequate exit and entrance and other traffic control signs to direct traffic in and out of said Common Area.

Each of the owners of the eight (8) lots shall equally share all costs one-eighth (1/8th) each incurred by Horizon in the maintenance and operation of Common Area. Horizon shall give the Owners ten (10) days Notice to approve maintenance needed. In the event approval is not received Horizon will do the maintenance and invoice the Owners.

Upon being invoiced by Horizon at the address set forth below for each Owner, the Owners will pay one-eighth (1/8th) of all costs and expenses incurred by Horizon within two (2) weeks of receipt of the invoice. If any Owner fails to timely pay Horizon, Horizon is entitled to collect from such Owner all fees and expenses (including legal fees) incurred in collecting the balance owed. Interest shall accrue at one and a half percent (1½ %) per month on any past due sum.

7. Public Liability Insurance: Horizon shall obtain and maintain at all times public liability insurance insuring against claims on account of death, bodily injury or property damage that may arise from or be occasioned by the condition or use of the Common Area. Said insurance shall be obtained and maintained in a reputable insurance company or companies qualified to do business in the State of New Mexico and having limits for bodily injury or death in the amount of not less than \$1,000,000 for injury to or death of one person, \$2,000,000 for injury or death of more than one person in one accident and property damage insurance in an amount of not less than \$100,000 (or, as an alternative, single limit coverage in the amount of \$2,000,000).

8. Common Area Restoration: In the event any Common Areas of the Property are damaged or destroyed, Horizon shall promptly cause the repair, restoration or rebuilding of the

Common Area so damaged or destroyed so that the restored portions of the Common Area shall comply with the applicable requirements of this Agreement.

9. Remedies: Horizon shall have all of the remedies available to it under the prevailing circumstances at law or in equity, and all remedies shall be cumulative, to the extent permitted by law. In addition the general remedies available at law or in equity, Horizon shall have the specific remedies set out in the below paragraphs.

Owners shall have all of the remedies available to it under the prevailing circumstances at law or in equity, and all remedies shall be cumulative, to the extent permitted by law. In addition the general remedies available at law or in equity, Owners shall have the shall have the specific remedies set out in the below paragraphs.

9.1 Default: In addition to the remedies set forth above, if any Owners shall default in the performance of its obligations hereunder, in addition to its claim for reimbursement The Owner may file a lien therefor which shall attach to defaulting Owners' Lot and improvements thereon effective upon recording of a notice thereof in the Registry. Such lien shall be subordinate to all matters appearing of record in the Registry at the time of recording of such lien.

9.2 Effect of Delay and Waiver: No delay or omission of Horizon in the exercise of any right accruing upon any default of Horizon shall impair any such right or be construed as a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by Horizon of a breach of, or a default in, any of the terms and conditions of this Agreement by the other Owner shall not be construed to be a waiver of any subsequent breach of, or default in, the same or any other provision of this Agreement.

Except as otherwise specifically provided in this Agreement, no remedy provided in this Agreement shall be exclusive but shall be cumulative with all other remedies provided in this Agreement or at law or in equity.

9.3 Breach not a Termination: No breach of this Agreement shall entitle Horizon to cancel, rescind or otherwise terminate this Agreement. Such limitation shall not affect, in any manner, any other rights or remedies that Horizon may have hereunder by reason of any breach of this Agreement. No breach of this Agreement shall affect or render invalid the lien of any mortgage or deed of trust made in good faith and for value covering any part of the Property and any improvements thereon. This Agreement shall be binding upon and effective against Horizon and any successors whose title is acquired by foreclosure or trustee's sale or any grantee by deed in lieu of foreclosure.

10. Compliance: Owners without cost or expense to Horizon, shall promptly comply with all laws, ordinances, rules and regulations of any governmental authority having jurisdiction that may at any time be applicable to the Common Area.

11. Successor to Horizon: In the event Horizon decides to resign as the administrator as set forth in the herein Agreement Regarding Easements, Covenants and Restrictions it will give ninety (90) days notice to all of the land owners of it's desire to resign. After ninety (90) days Janak shall become the administrator of all obligations of Horizon to oversee and maintain the property as set forth in this Agreement.

12. Term: The provisions of this Agreement shall commence on the date hereof and shall be perpetual and not terminate, absent a written agreement signed by all of the then-owners of the Property. No party shall have the right to terminate this Agreement as a result of any default or alleged default of the other party.

13. Modification: This Agreement may not be modified in any respect except with the written consent of all parties. No modification or termination of this Agreement shall affect the rights of any lienholder unless the lienholder consents in writing to the modification or termination.

14. General:

14.1 Invalidity: If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement or the application of such provision or portion thereof to any other persons or circumstances shall not be affected thereby.

14.2 Applicable Law: This Agreement shall be construed in accordance of the laws of the State of New Mexico.

14.3 Headings: The article headings in this Agreement are for convenience only. They shall in no way define or limit the scope or content of this Agreement and shall not be considered in any construction or interpretation of this Agreement.

14.4 Counterparts: This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which, together, shall constitute one and the same instrument.

15. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

15.1 Covenants Run with the Land: Unless expressly stated otherwise herein, the covenants herein are to be construed as covenants running with the land and the same shall run with the land and shall bind each person having any fee, leasehold or other interest in any part of the Property at any time.

15.2 No Easements to Benefit Outside Parties: No party shall grant an easement with respect to the Common Area to any person for the benefit of property not within the Property, or otherwise so burden the easements granted herein, without the prior written consent of the all parties, which consent shall not unreasonably be withheld.

15.3 Additional Documents for Implementation: Each party shall execute such documents in recordable form as may be necessary to effectuate this Agreement from time to time including, without limitation, any documents granting easements, licenses and similar rights to utility companies and governmental bodies or agencies thereof.

15.4 Addresses: The addresses of Owners for notice purposes are as follows:

Janak: 6108 Homestead Blvd, Midland Texas 79707

Horizon: 1000 N. Dal Paso, Hobbs, New Mexico 88240

Japanese Restaurant: \_\_\_\_\_

Churches Chicken: \_\_\_\_\_

Walgreens Pharmacy: \_\_\_\_\_

**IN WITNESS WHEREOF**, the undersigned have caused this Agreement to be executed effective the year and day first above written.

Janak VI, Inc., a New Mexico Corporation  
Limited Liability Corporation

by: \_\_\_\_\_  
\_\_\_\_\_ (Title)

\_\_\_\_\_, a New Mexico Limited  
Liability Corporation / Corporation

By: \_\_\_\_\_  
\_\_\_\_\_ (Title)

\_\_\_\_\_, a New Mexico Limited  
Liability Corporation / Corporation

By: \_\_\_\_\_  
\_\_\_\_\_ (Title)

Horizon Partners, LLC., a New Mexico

by: \_\_\_\_\_  
\_\_\_\_\_ (Title)

\_\_\_\_\_, a New Mexico Limited  
Liability Corporation / Corporation

By: \_\_\_\_\_  
\_\_\_\_\_ (Title)





















CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 7, 2019

SUBJECT: RESOLUTION TO APPROVE AN AFFORDABLE HOUSING DEVELOPMENT AGREEMENT WITH YES HOUSING, INC. FOR AN AFFORDABLE HOUSING COMPLEX LOCATED SOUTHWEST OF THE INTERSECTION OF NAVAJO AND NORTH DAL PASO.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: September 30, 2019
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: Yes Housing, Inc. has received an allocation of Low-Income Housing Tax Credits from the New Mexico Mortgage Finance Authority to finance the development of a 72 unit affordable multi-family housing complex, to be named "Skyview Terrace Apartments".

Fiscal Impact:

Reviewed By: [Signature] Finance Department

The City incurred an expense of \$1,570,000.00 in fund 01-0100-44901-00169 upon approval of Resolution #6759 on February 4, 2019.

Attachments: Resolution, Development Agreement with Exhibits.

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Staff recommends consideration of the Resolution to approve the Development Agreement.

Approved For Submittal By:

[Signature]

Department Director

[Signature]
City Manager

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

CITY OF HOBBS

RESOLUTION NO. 6862

**A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN YES HOUSING, INC. AND THE CITY OF HOBBS CONCERNING THE DEVELOPMENT OF AN AFFORDABLE HOUSING COMPLEX, SKYVIEW TERRACE APARTMENTS, UPON PROPERTY LOCATED SOUTHWEST OF THE INTERSECTION OF NAVAJO AND DAL PASO.**

WHEREAS, the City amended Municipal Code Chapter 3.14 by adopting Ordinance #1050 on December 5, 2011 allowing a local contribution to developers providing for the affordable housing needs of working families; and

WHEREAS, the City adopted Resolution # 6759 adopted on February 4, 2019, appropriating \$1,570,000 to the Developers project; and

WHEREAS, the Development includes a mixed income, affordable rental project, located within the corporate limits of the City; and

WHEREAS, the Developer has received an allocation of Low-Income Housing Tax Credits from the New Mexico Mortgage Finance Authority which will fund a significant portion of the overall cost of the Project; and

WHEREAS, the Developer has the necessary construction, and marketing expertise to develop and market the Development; and

WHEREAS, the Developer has formed Skyview Terrace Apartments Limited Partnership, LLLP (the "Partnership") to develop, own and operate the Project. The Developer, through its wholly owned subsidiary, YES Skyview Terrace, LLC, will serve as general partner of the Partnership.

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

1. The City of Hobbs hereby approves the Development Agreement for the Affordable Multi-Family Housing Project, and the Mayor is hereby authorized to sign the same and all attachments thereto, a copy of which is attached hereto as Exhibit "1" and made a part of this Resolution.

2. That City staff and officials are authorized to do any and all deeds to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 7<sup>th</sup> day of October, 2019

\_\_\_\_\_  
JOSEPH D. CALDERÓN, Mayor Pro Tem

ATTEST:

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

**DEVELOPMENT AGREEMENT**

**By and between the  
City of Hobbs, New Mexico  
a municipal corporation,**

**and**

**Yes Housing, Inc.  
901 Pennsylvania St. NE  
Albuquerque, NM, 87110**

\_\_\_\_\_, 2019

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## DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2019, by and between the City of Hobbs, New Mexico, a municipal corporation, (hereinafter "City") and Yes Housing, Inc., a Non Profit New Mexico Corporation, (hereinafter "Developer"). City and Developer are sometimes hereinafter referred to collectively as "the Parties" and individually as "a Party."

### RECITALS

WHEREAS, the City amended Municipal Code Chapter 3.14 by adopting Ordinance #1050 on December 5, 2011 allowing a local contribution to developers providing for the affordable housing needs of working families; and

WHEREAS, the City adopted a Resolution on February 4, 2019, Resolution #6759, appropriating \$1,570,000 to the Development (defined below); and

WHEREAS, the Development (defined below) includes a mixed income, affordable rental project located at 3600 Skyview Street, located within the corporate limits of the City; and

WHEREAS, the Developer has received an allocation of Low-Income Housing Tax Credits ("LIHTC") (the "Tax Credit Award") from the New Mexico Mortgage Finance Authority (hereinafter "MFA") which will fund a significant portion of the overall cost of the Project; and

WHEREAS, the Developer has the necessary construction, and marketing expertise to develop and market the Development; and

WHEREAS, the Developer has formed Skyview Terrace Limited Partnership, LLLP, a New Mexico limited liability limited partnership (the "Partnership") to develop, own and operate the Project. The Developer, through its wholly owned subsidiary, YES Skyview Terrace LLC, will serve as general partner of the Partnership. The obligations of the "Developer" under this Agreement will be assigned to, and assumed by, the Partnership prior to or at the time of the closing of the City Loan described hereunder.

NOW, THEREFORE, and in consideration of the premises and the mutual covenants hereinafter, set forth, the Parties formally covenant and agree as follows:

### ARTICLE I

#### Definitions

Section 1.1 The Definitions in the City's Municipal Code Chapter 3.14, if any, as they exist at the time of the execution of this Agreement or as amended during the term of this Agreement are adopted by reference and incorporated herein as though set forth in full in this paragraph.

## ARTICLE II

### Project Purpose and Description

Section 2.1 Purpose of Project. The purpose of the Project is to develop an affordable, mixed income, rental housing development. Populations to be served will range from the very low income to moderate income tenants. Rents for all units shall be restricted for Low to Moderate households.

Section 2.2 Project Term. The development of the Project and the provision of the affordable housing units shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement but, in any event, the obligation to provide the Affordable Housing Units required hereunder shall be continued for thirty five (35) years from the completion of the Project ("Affordability Period").

Section 2.3. Project Description. The Project named Skyview Terrace is located at 3600 Skyview Street, as legally described in Exhibit A. The community will consist of 12 one-bedroom units, 44 two-bedroom units, 16 three-bedroom units, and a community building. The site will be sustainable, provide for efficient use of water and energy, and keep the community healthy for residents. All units in this development will have rents at or below 80% of AMI, and be compliant with the affordability requirements of the New Mexico Mortgage Finance Authority Low Income Housing Tax Credit Allocation.

## ARTICLE III

### Funds Committed to the Project

Section 3.1 Description of City Loan. To assist with the Development, the City shall lend to the Developer an amount not to exceed One Million Five Hundred Seventy Thousand Dollars and Zero Cents (\$1,570,000.00) of Municipal Funds which are not the proceeds of tax exempt bonds (the "Funds") subject to the terms and conditions contained herein. Funds loaned to the Developer will be evidenced by a City Note in the form attached as Exhibit B. The Developer shall loan the Funds to the Partnership, which loan will be evidenced by a Promissory Note (the "YES Note") and secured by a Mortgage, Assignment of Rents and Security Agreement (the "YES Mortgage") on the Project, which YES Mortgage will be subordinate in all respects to any mortgage or other security instrument of any construction or permanent lender, including those of Senior Lender and Permanent Lender (each defined below). The City acknowledges that, except as otherwise provided in the Collateral Assignment described below, the Developer shall have the right to retain all amounts repaid to Developer by the Partnership in repayment of the Loan. Notwithstanding anything in the Development Agreement to the contrary, the YES Note is not forgivable and requires payment in full by the maturity date stated therein. In order to ensure that the terms of the Development Agreement are met, the Developer and the Partnership shall execute the Restrictive Real Estate Covenants attached as Exhibit C. The Funds proceeds shall be subject to repayment, without interest, to the City by the Developer or the Partnership in the event of an uncured violation of the Restrictive Real Estate Covenants or the Development Agreement (the "City Repayment Obligation"). The City Repayment Obligation shall be secured by a collateral assignment of the YES Note and the YES Mortgage to the City (the "Collateral Assignment").

Section 3.2 Project Budget. The Project Budget is attached in Exhibit F.

Section 3.3 Other Loans/Subsidies. Other loans and subsidies, if applicable, are listed on the attached Exhibit F and incorporated herein as though set forth in full in this paragraph. Without the prior knowledge and written approval of the City, the Developer shall not encumber either the Project or the Developer as a whole with obligations which could impede the success of the Project, other than those loans and encumbrances of any construction or permanent lender on the Project.

Section 3.4 Tax Credits. Tax Credits are listed on the attached Exhibit F and incorporated herein as though set forth in full in this paragraph.

## ARTICLE IV

### Commencement and Completion of the Project

Section 4.1 Agreement to Construct and Complete the Project. Developer agrees that:

A. It shall construct the Project in accordance with the Plans, Specifications and Elevations (the "Plans") prepared by Developer, including any and all supplements, amendments and additions or deletions thereon or therein, as approved by the City.

B. It shall construct the Project with all reasonable dispatch and according to the Development Schedule attached as Exhibit G. An updated Development Schedule shall be provided within sixty (60) days after execution of the Agreement and shall be provided as part of the subsequent quarterly reports.

C. Developer, through the Partnership, shall have sole responsibility for construction of the Project and shall perform the responsibilities by itself or through affiliates, agents, contractors, subcontractors or others selected by it in whatever lawful manner it deems necessary or advisable provided it is in conformance with all applicable funding sources. Developer shall procure from the appropriate state, county, municipal and other authorities and corporations appropriate building permits and certificates of occupancy, connection arrangements for the supply of water, electricity and other utilities and discharge of sewage and industrial waste disposal for the operation of the Project.

Section 4.2 Establishment of Completion Date.

A. The Developer shall complete the construction of the Project no later than December 31, 2021.

B. The completion date shall be evidenced to the City by a Certificate(s) of Occupancy issued by the City; (ii) if applicable, a certificate of completion and acceptance by the City accepting public infrastructure required to be constructed; and (iii) release of liens by contractors, subcontractors and suppliers employed in the Project. Such documents shall be delivered to the City promptly but not later than thirty (30) days after the completion of the Project, unless an extension of such date has been agreed to in writing by the parties to this Agreement. Notwithstanding the foregoing, such certificates of occupancy shall be given without prejudice to any rights of the City against any third party existing at the date of such documents or which may subsequently come into being.

C. City may conduct inspections of the Project during normal business hours after giving reasonable notice to Developer. Notwithstanding the above, Developer shall use its best effort to arrange for a Project walk through within five (5) days after substantial completion of the Project with the Developer's Authorized Representative, City's Authorized Representative, Construction Contractor and Independent Architect/Engineer.

Section 4.3 Developer to Pursue Remedies Against Contractor and Subcontractors and their Sureties. In the event of default of any contractor or subcontractor under any contract made in connection with the Project, Developer shall promptly precede either separately or in conjunction with others to exhaust any remedies against the contractor or subcontractor so in default and against each surety for the performance of such contractor or subcontractor. Developer may prosecute or defend any action or proceeding or take other action involving such contractor or subcontractor or surety or other guarantor or indemnitee which Developer deems reasonably necessary.

## ARTICLE V

### Plans and Financing.

Section 5.1 Project Plans. Prior to the funding of the City Loan, the Developer shall submit one complete set of the Plans, Specifications and Elevations for the Project to the City. As a condition to the funding of the City Loan, The City shall review and approve the proposed Plans, Specifications and Elevations prior to the commencement of any construction work pursuant hereto, such approval to not be unreasonably withheld, conditioned or delayed. In a case of material change, the Developer shall certify to the City that such revised Plans, Specifications and Elevations (not to be confused with plans for building permits) will not materially affect the purpose of the Project as a 'livable' affordable housing project, provided that no such material change shall be made without the prior written consent of the City.

Section 5.2 Construction Financing. Prior to the funding of the City Loan, the Developer shall submit, or cause to be submitted to the City evidence of the Tax Credit Award and commitments to the Developer to provide the balance of all construction financing for this Project. In the event that the Developer does not receive the Tax Credit Award, this Agreement shall terminate and the City shall have no obligation to loan the Funds.

## ARTICLE VI

### Usage and Documentation of City Funds

Section 6.1 Use of Loan Proceeds, Repayment, Discharge. The City Funds shall be an amount not greater than ONE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS AND NO CENTS (\$1,570,000.00), which includes all City funds allocated for this Project, and shall be used for the development and construction of the Project. The City Funds shall be repayable to the City by the Developer in accordance with the terms and conditions of this Agreement.

Section 6.2 Disbursement of City Loan Proceeds Authorized Under This Agreement. The City Loan authorized under this Agreement in the amount of ONE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS (\$1,570,000.00) shall be disbursed to the Developer, which funds will be loaned by the Developer to the Partnership, to pay actual costs incurred by the Partnership for purposes authorized under this Agreement and per the project

budget attached hereto and incorporated herein as Exhibit F.

A. In addition to any other requirements herein, the City Funds shall only be disbursed in the event Developer meets the criteria set forth herein.

B. Developer agrees to provide City with a Request for City Loan Disbursement, in a form acceptable to City and, not less than ten (10) days prior to distribution date.

C. Plans and Specifications. Prior to the funding of the City Loan, Developer shall submit one complete set of the Plans and Specifications for the units to the City. The City shall review and approve the proposed Plans and Specifications prior to the funding of the City Loan. In a case of material change, the Authorized Development Representative shall certify to the City that such revised Plans and Specifications will not materially affect the purpose of the development Project as set forth herein, provided that no such material change shall be made without the prior written consent of the City.

Section 6.3 Loan Documentation. Developer shall execute and deliver the City Note to the City in order to evidence the obligation to repay to the City the City Loan.

Section 6.4 Subordination and Release. The YES Mortgage shall be subject to and subordinate to any mortgage or bond securing the construction loan(s) and the initial permanent loan(s) for the Project, and the New Mexico Mortgage Finance Authority Mortgage and Land Use Restriction Agreement, and City, Developer or other applicable parties shall execute documents as may be necessary to effectuate such subordination on terms satisfactory to Senior Lender and Permanent Lender (each defined below). City acknowledges and agrees that (a) the YES Mortgage and YES Note will be subject to the terms and provisions of Subordination Agreements (the "Subordination Agreements") with Wells Fargo Bank, N.A. ("Senior Lender") and Rocky Mountain Community Reinvestment Corporation, a Utah nonprofit corporation ("Permanent Lender"), which, among other things, will subordinate the YES Mortgage to the lien, terms and provisions of the mortgage in favor of Senior Lender and Permanent Lender; (b) the assignment of the YES Mortgage and the YES Note by Developer to the City will include the assignment of the Subordination Agreement and; (c) the City agrees to be bound by the terms of the Subordination Agreements.

## ARTICLE VII

### Warranties and Obligations

Section 7.1 Warranties and Obligations by the City. The City makes the following warranties as the basis for the undertakings on its part contained herein.

A. The City is a municipal corporation organized and existing under and pursuant to the laws of the State of New Mexico and is authorized by the Act to provide financing for, acquire, construct, own, lease, rehabilitate, improve, sell and otherwise assist projects for the purpose of providing adequate residential housing including residential housing for individuals and families of low and moderate income by inducing private enterprise to locate, develop and expand such residential housing facilities in the City.

Section 7.2 Warranties and Obligations by Developer. Developer makes the following warranties as the basis for the undertakings on its part herein contained.

A. Developer is a New Mexico non-profit Corporation duly organized and validly existing as such under the laws of the State of New Mexico with authority to perform the transactions set forth herein, has the power to enter into this Agreement and by proper action has duly authorized the execution and delivery of this Agreement.

B. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the compliance with the terms and conditions of this Agreement violate or will violate the terms of Developer's Articles of Incorporation or Bylaws or conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or any instrument to which Developer is now a party or by which it is bound or constitutes or will constitute a default under any of the foregoing or will result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the Real Property or assets of Developer under the terms of any instrument or agreement.

C. To Developer's knowledge, there are no pending or threatened legal or administrative proceedings against Developer or affecting the Project which, if determined adversely, would have a material adverse effect on Developer or the Project.

D. The Real Property shall be used for the development of the Project.

E. The Restrictive Real Estate Covenants attached hereto as Exhibit C will be binding on the Project and the Developer who shall comply therewith.

F. The Developer shall comply with the following provisions, if applicable, including, but not limited, to:

1. Requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) and Section 104(d) of the Housing and Community Development Act of 1974.
2. Regulations of the Uniform Administrative Requirements as described in 24 CFR Part 92.505.
3. Federal laws and regulations as described in 24 CFR Part 92, Subpart E.
4. Maintain accurate records which document and verify affirmative marketing efforts.

G. None of the units in the Project shall at any time be utilized on a transient basis; and none of the Project nor any portion thereof shall ever be used as a hotel, motel dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

H. At all times material hereto, the Project shall comply in all material respects with all applicable municipal codes, planning ordinances, building codes, Federal Model Energy Code, flood regulations, environmental laws, ordinances, statutes, rules and regulations relating to the Project.

I. Developer shall not, during the term of this Agreement, amend or change its Bylaws or Articles of Incorporation in any manner if such amendment or change would result in a conflict with the terms of this Agreement.

J. The Developer shall comply with the provisions of, and act in accordance with, all federal laws, rules and regulations, and Executive Orders related to equal employment opportunity, affirmative action, equal access to programs and services, and the enforcement of Civil Rights, including, but not limited to, Section 3 of the Housing and Urban Development Act of 1968, Sections 103 and 109 of the Housing and Community Development Act of 1974, as amended, Title VI and Title VII of the Civil Rights Act of 1964, as amended, Title VIII of the Civil Rights Act of 1968, Sections 502, 503, 504 and 505 of the Rehabilitation Act of 1973, Equal Pay Act of 1963, Age Discrimination in Employment Act of 1967, as amended, the Vietnam Era Veterans Readjustment Act of 1974, the 1986 U.S. Immigration Reform and Control Act, Americans With Disabilities Act of 1990, Executive Order 11063 of 1962 and Executive Order 11246 of 1965, as amended, and the Nontraditional Employment for Women Act of 1991; the New Mexico Human Rights Act as well as all rules and regulations pertaining to each such statute or ordinance; and will not discriminate against any person or applicant because of race, color, religion, sex, age, family status, national origin or ancestry, physical or mental handicap, sexual orientation, gender identity, disability, or Vietnam-era or disabled veteran status, and will make reasonable accommodation to the known physical or mental handicap or disability of an otherwise qualified applicant for tenancy.

K. Required Assurances: During the performance of this Agreement, the Developer agrees as follows:

1. Compliance with Civil Rights Laws and Executive Orders:

a. The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual preference, sexual orientation, age, national origin or ancestry, physical or mental handicap, disability, or Vietnam era or disabled veteran status.

b. The Developer will make reasonable accommodation to the known physical or mental handicap or disability of an otherwise qualified employee or applicant for employment.

c. The Developer will ensure and maintain a working environment free of sexual harassment and other unlawful forms of harassment, intimidation, and coercion in all facilities at which the Developer's employees are assigned to work.

d. The Developer will in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration of employment without regard to race, color, religion, gender, sexual preference, sexual orientation, age, national origin or ancestry, or physical or mental handicap or disability.

L. The Developer shall comply with all applicable provisions of the Act including, but not limited to:

1. Provide the City with an approved schedule of activities from the date of acquisition of the Real Property through completion of construction of the Project

2. Requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) and Section 104(d) of the Housing and Community Development Act of 1974.

3. Regulations of the Uniform Administrative Requirements as described in 24 CFR Part 92.505.

4. Federal laws and regulations as described in 24 CFR Part 92, Subpart E.

5. Federal laws and regulations as described in 24 CFR Part 92, Subpart F.

6. Federal laws and regulations as described in 24 CFR Part 92, Subpart H.

7. Federal laws and regulations as described in 24 CFR Part 893.6(b).

8. Adhere to all applicable labor provisions outlined in 24 CFR 92.354.

M. The Plans and Specification for the construction of the Project shall be reviewed by the City.

N. The provisions contained herein shall be binding on the successors and assigns of Developer.

O. Developer shall have sole responsibility for construction of the units and may perform the same by itself or through affiliates, agents, contractors, subcontractors or others selected by it in whatever lawful manner it deems necessary or advisable provided it is in conformance with the terms of this Agreement. Developer shall procure from the appropriate state, county, municipal and other authorities and corporations appropriate building permits and

certificates of occupancy, connection arrangements for the supply of gas, water, electricity and other utilities and discharge of sewage and industrial waste disposal for the operation of the units.

P. Developer shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry or physical handicap.

## ARTICLE VIII

### Monitoring /Reports Required

Section 8.1 The Developer shall report, in writing, at least quarterly during the construction and lease-up phases of the Project. The quarterly report shall include the progress of construction as a percentage complete, construction funds expended with remaining balance, and number of units completed.

Section 8.2 The Developer shall comply with all applicable monitoring provisions of the New Mexico Mortgage Authority as determined by the NMMFA.

## Article IX

### Fees, Taxes, Insurance and Other Amounts Payable

Section 9.1 Payment. Fees and Other Amounts Payable. Developer shall promptly pay or cause to be paid, as the same become due, all governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any interest therein or other property constructed, installed or bought by Developer therein or thereon which, if not paid, will become a lien on the Real Property prior to or on a parity with the City Mortgage including all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, provided that with respect to governmental charges that may lawfully be paid in installments over a period of years, Developer shall be obligated to pay only such installments as are required to be paid during the term of this Agreement when due. Developer may, in good faith, contest any such charges and in the event of any such contest may permit the charges so contested to remain unpaid during the period of such a contest and any appeal therefrom, provided that during such period, enforcement of any such contested item shall be effectively stayed. If Developer shall fail to pay any of the foregoing items required herein to be paid by Developer, the City may (but shall be under no obligation to) pay the same and any amounts so advanced therefore by the City shall become an additional obligation of Developer to the City, which amounts, together with interest thereon at statutory judgment interest rate from the date thereof, Developer agrees to pay on demand. Any such amounts so advanced by the City shall be secured by the City Mortgage.

Section 9.2 Payments Required. The obligations of Developer to make the payments required in Section 9.1 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional without offset or counterclaim for claims against the City or any other party.

Section 9.3 Maintenance of Project. Developer agrees that, during the term of this Agreement, it shall, at its own expense, keep, or cause to be kept, the Project in as reasonably safe condition as its operations shall permit and keep the buildings and all other improvements forming a part of the Project in good repair and in good operating condition making, from time to time, all necessary repairs thereto and renewals and replacements thereof. Any tangible property purchased or installed with proceeds from the City Funds or Loans or received in exchange for tangible property purchased or installed with proceeds from the City Funds or Loans shall become a part of the Project and the Real Property thereof. Developer shall not permit any mechanic's lien, security interest, or other encumbrance to be established or to remain against the Project for labor or materials furnished in connection with the construction or installation of the Project or any additions, modifications, improvements, repairs, renewals or replacements made by it, provided that if Developer shall notify the City of its intention to do so, Developer may, in good faith, contest any mechanic's or other liens filed or established against the Project and such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Developer determines or the City shall notify Developer that, in the opinion of the City, by non-payment of any such items, the City Mortgage as to any part of the Project shall be materially endangered or the Project or any part thereof shall be subject to loss or forfeiture in which event the Developer shall promptly pay and cause to be satisfied and discharged all such unpaid items.

Section 9.4 Insurance Required. During the construction period and throughout the term of this Agreement, Developer itself through its contractors, subcontractors or agents shall keep the Project insured against loss or damage by maintaining policies of insurance and by paying, as the same become due and payable, all premiums with respect thereto including but not necessarily limited to the following coverage:

A. **COMPREHENSIVE GENERAL LIABILITY INSURANCE.** Developer shall obtain comprehensive general liability insurance, including automobile insurance, with liability limits in amounts not less than \$1,000,000 aggregate limit of liability for bodily injury, including death, and property damage in any one occurrence. Said policies of insurance must include coverage for all operations performed on or about the Project, including coverage for collapse, explosion and underground liability coverage, coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off the Project site and contractual liability coverage which shall specifically insure the indemnification provisions of this Agreement. The above requirement shall include but shall not be limited to protection against damage or destruction of public and private property, including telephone conduit, telegraph conduit, power conduit, telephone signal cables, fiber optics cables, television cables, computer cables, fire alarm circuits, gas mains, water service connections, sanitary sewer, sewer, house or building connections, water mains, water service connections, steam lines, petroleum products pipelines, storm drains, storm inlet lines including all appurtenances thereto while located below the surface of the ground including injury or death to person or persons caused by Developer's operations including blasting and trenching, backfilling, tamping, with or without the use of mechanical equipment, and the collapse of or structural damage to a building, house or structure including power, telephone, telegraph, fire alarm, street light poles, curb, gutter and sidewalk on public or private property and destruction of or damage to other public or private property resulting therefrom including injury or death to person or persons and all causes by Developer's operations in the removal of other building structures including their supports, trees and utility poles or by excavation including blasting and trenching, backfilling, tamping with or without use of mechanical equipment. Other public and private property as used above shall include but not be limited to lawns, plants, flowers, trees, fences, yards, walls.

B. **WORKER'S COMPENSATION INSURANCE.** Developer shall comply with the provisions of the Worker's Compensation Act, the Subsequent Injury Act and the New Mexico Occupational Disease Disablement Law. Developer shall procure and, maintain, during the life of the Project complete Worker's and Employer's Liability Insurance in accordance with New Mexico law and regulations. Such insurance shall include coverage

permitted under NMSA 1978, §52-1-10 for safety devices. With respect to worker's compensation insurance, if Developer elects to be self-insured, it shall comply with the applicable requirements of law. If any portion of the construction of the Project is to be subcontracted or sublet, Developer shall require the contractor and subcontractor to similarly provide such coverage (or qualify as self-insured) for all latter's employees to be engaged in such work. It is agreed with respect to all worker's compensation insurance, Developer and its surety shall waive any right of subrogation they may acquire against the City, its officers, agents and employees by reason of any payment made on account of injury, including death, resulting therefrom sustained by any employee of the insured arising out of performance of this Agreement. Neither the Developer nor its employees are considered to be employees of the City of Albuquerque for any purpose whatsoever. The Developer is considered to be an independent contractor at all times in the performance of this Agreement. The Developer further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Worker's Compensation Act of the State of New Mexico, nor to any of the benefits granted to employees of the City under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

C. BUILDER'S RISK INSURANCE. Developer shall procure and maintain, until completion of the construction, builder's risk, vandalism and malicious mischief insurance. Alternatively, Developer shall procure and maintain insurance against loss or damage to the Project by fire, lightning, vandalism, and malicious mischief with the uniform extended coverage endorsement limited only as may be provided in the standard form or extended coverage endorsement at the time in use by the State of New Mexico to provide for not less than 90% recovery of the market value of the buildings and other improvements but in any event no less than the cost of fully paying the City Note.

D. PROOF OF INSURANCE: Prior to any funding and during the term of this Agreement, not less than once each year, on or before May 31, Developer shall provide to the City without demand, or more frequently upon demand, proof of all required insurance coverages.

Section 9.5 Performance, Payment and Other Bonds. Developer or Contractor shall furnish or cause to be furnished, performance and payment bonds, or other security such as an irrevocable letter of credit, acceptable to the City, as security for the faithful performance and payment of all its obligations pursuant to the construction of the Project. These bonds shall be in amounts at least equal to the amount of the City Note and in such form and with such sureties as are licensed to conduct business in the State of New Mexico and are named in the current list of surety companies acceptable on federal bonds as published in the Federal Register by the Audit Staff of Accounts, U. S. Treasury Department. The performance bond shall also include coverage for any guaranty period provided by the contractor. The surety on the performance bond shall furnish a waiver whereby it consents to the progress or partial payment to any contractor of amounts for materials and acknowledges that such payment shall not preclude enforcement of such remedied as may be available against such surety. Developer shall cause the City to be named a joint obligee on such bonds. If the surety on any bond furnished by Developer is declared bankrupt or becomes insolvent or its right to do business in the State of New Mexico is revoked, Developer shall substitute or cause to be substituted another bond and surety within ten (10) days thereafter. The Developer may furnish an irrevocable letter or letters of credit in form satisfactory to the City as an alternative to the performance, payment bonds specified above. Any such letter must be drawn against a New Mexico institution whose deposits are federally insured and shall be payable exclusively to the City on demand.

Section 9.6 Application of Net Proceeds of Insurance. The Net Proceeds of builder's risk insurance and of fire and other hazard and casualty insurance, carried pursuant to the provisions of this Agreement hereof, shall be applied as provided in this Agreement and the Net Proceeds of liability insurance carried pursuant to the provisions of this Agreement hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds have been paid. The net proceeds of the bonds provided pursuant to this Agreement shall be applied to curing the defect in performance or payment.

Section 9.7 Additional Provisions Respecting Insurance. Subject to Section 10.1, all insurance required to be taken out by Developer pursuant to this Agreement shall be taken out and maintained in generally recognized responsible insurance companies authorized to do business in the state of New Mexico selected by Developer. All applicable policies evidencing such insurance shall name both the City and Developer as named insured and the City shall be named as loss payee as to the City's mortgages under the builder's risk and property insurance required by this Agreement. An original or duplicate copy of the insurance policies providing the coverage required by Section 6 hereof shall be deposited with the City. Prior to expiration or exchange of such policy, Developer shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced or is no longer required by this Agreement. All policies required hereunder shall provide that the City shall be given thirty (30) days prior written notice of cancellation, non-renewal or material alteration of coverage. Provisions that the insurance company shall "endeavor to give the City notice" shall not be allowed.

Section 9.8 Advances by City. If Developer shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Project in as reasonably safe condition as its operating condition shall permit or shall fail to keep the buildings in good repair and good operating condition, the City may, but shall be under no obligation to, obtain the required policies of insurance and pay the premiums on the same or make the required repairs, renewals and replacements and all amounts so advanced therefore by the City shall become an additional obligation of Developer to the City which amounts, together with any interest thereon at the statutory judgment interest rate thereof, Developer agrees to pay on demand. Any such amounts advanced by the City shall be secured by the City Mortgage and shall be paid upon demand by the City.

## ARTICLE X

### Damage, Destruction and Condemnation

Section 10.1 Damage, Destruction, and Condemnation. In the event the Project is destroyed or damaged, in whole or in part, by fire, or other casualty or title to or the temporary use of the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or any person, firm or corporation, acting under governmental authority, Developer shall have the right to use the net proceeds of insurance or from any award made in such eminent domain proceedings to be applied to the restoration of the buildings and other improvements located on the Real Property to substantially the same conditions as existed prior to the casualty causing the damage or destruction or the exercise of eminent domain; provided that such proceeds are sufficient to rebuild the Project or if such proceeds are insufficient, then Developer shall fund any deficiency.

Section 10.2 Partial Damage, Destruction, and Condemnation If the casualty or condemnation affects only part of the Project and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the City Loan, in a manner that provides adequate security to the City for repayment of the remaining balance of the City Loan. In the event City and Developer cannot agree on the approach to take, City shall make the final decision and Developer agrees to be bound by that decision. In the event of any conflicts between the terms of mortgages encumbering the Project regarding the application of casualty proceeds or condemnation proceeds, the terms of the mortgages shall control in the order of their priority.

## ARTICLE XI

### Special Covenants

Section 11.1 City's Right of Access to the Project. Developer agrees that the City and any of its duly authorized agents shall have the right at all reasonable times upon at least 24 hours' prior notice to Developer, and subject to the rights of the tenants to enter upon and examine and inspect the Project provided that any such inspections shall be conducted in a manner that will minimize any intrusion on the operations of the Project.

Section 11.2 Good Standing. Developer warrants and represents that it has executed, filed and recorded all certificates and other documents and has done and shall continue to do throughout the term of this Agreement such other acts as may be necessary or appropriate to comply with all applicable requirements for the formation, qualification and operation of a limited liability company and the operation and ownership of the Project under the laws of the State of New Mexico.

Section 11.3 Granting of Easements. If no Event of Default under this Agreement shall then be continuing, Developer may at any time grant easements, licenses, rights-of-way including the dedication of public roads, streets or highways, and other rights or privileges in the nature of easements with respect to any Real Property included in the Project, consistent with the purposes of the Project, free from the lien of the City Mortgage or Developer may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration subject to review and approval by the City. Developer shall furnish to the City a survey showing such easement, license or right-of-way, a copy of the instrument of grant and a certificate executed by a duly Authorized Developer Representative stating that such grant or release is not detrimental to the proper conduct of the business of Developer and that such grant or release shall not impair the effective use of market value or interfere with the effective operation of the Project.

Section 11.4 Release and Indemnification Agreement. Developer releases the City from, and covenants and agrees that the City shall not be liable to the Developer for any loss or damage to property or any injury to or death of any person or persons occasioned by any cause whatsoever pertaining to the Project or the use thereof.

Developer shall defend, indemnify and hold harmless the City from any loss, claim, claims alleging violations of any federal, state, or local law, damage, acts, penalty, liability, disbursement, litigation expense, attorney's fees and expense or court costs arising out of or in any way relating to this Agreement, the City Mortgage, the City Note or any other cause whatsoever pertaining to the Project, subject to the limitations found in NMSA 1978 § 56-7-1. The City shall promptly, after receipt of notice of the existence of a claim in respect of which indemnity hereunder shall be sought or of the commencement of any action against the City in respect of which indemnity hereunder may be sought, notify Developer in writing of the existence of such claim or commencement of such action. This section shall not apply to the negligent act or failure to act of the City or of its officials, employees and agents.

**This indemnification agreement shall survive the term or termination of this Agreement.**

Section 11.5 Sale, Assignment or Encumbrance of Project. Except as otherwise expressly permitted herein including the financing referenced in Exhibit F or in the YES Mortgage, the Partnership shall not sell, assign, dispose of, mortgage or in any way encumber the Project or any part thereof without the prior written consent of the City. Any conveyance of the Project during the term of this Agreement shall incorporate the covenants found in Exhibit C and agreements contained herein.

Section 11.6 Exceptions. Notwithstanding the foregoing, the following shall not constitute a sale or conveyance, cause a default under this Agreement, or cause an acceleration of the City Loan: (A) the withdrawal, removal, and/or

replacement of the General Partner of the Partnership pursuant to the terms of the Partnership Agreement of the Partnership, provided that any required substitute General Partner is reasonably acceptable to the City (an affiliate of Enterprise Community Asset Management, Inc. shall be acceptable to the City); (B) an admission of a Limited Partner into the Partnership, or a transfer of a Limited Partner's interest in the Partnership (which shall be permitted without the City's consent); (C) the execution and delivery of a purchase option and right of first refusal agreement (the "Option"), as described in the Partnership Agreement of the Partnership; and (D) the exercise of the Option by the project sponsor identified therein.

The City's consent to (a) the exercise of the Option by the project sponsor identified therein shall not be unreasonably withheld.

Section 11.7 Authority of Authorized City Representative. Whenever, under the provisions of this Agreement, the approval of the City is required or Developer is required to take some action at the request of the City, such approval or such request shall be made by the Authorized City Representative unless otherwise specified in this Agreement and Developer shall be authorized to act on any such approval or request.

Section 11.8 Authority of Authorized Developer Representative. The Developer represents and warrants to the City that the Authorized Developer Representative is empowered to take all actions contemplated herein and that reliance by the City on the authority of the Authorized Developer Representative shall not give rise to a complaint against the City as a result of any action taken by the City.

Section 11.9 Financial Statement of Developer. During the term of this Agreement, Developer agrees to furnish the City a copy of its audited annual financial statements at least annually within ninety (90) days of the end of the Developer's fiscal year.

## ARTICLE XII

### Events of Default Defined and Remedies Upon Default

Section 12.1 Events of Default Defined. The following shall be "material events of Default" under this Agreement, also referred to as "Events of Default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

A. Failure by Developer to pay within fifteen (15) days of the receipt of notice of monies due any amount required to be paid pursuant to the City Note.

B. Failure by Developer to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days after written notice from City to Developer

specifying such failure and requesting that it be remedied. Provided, however, if the default in question is not reasonably susceptible to cure within such thirty (30) day period Developer shall not be in default if, within such ten day period, Developer notifies City that it has undertaken reasonable measures to cure the default and specifies the nature of such measures. If Developer fails to take corrective action or to cure the default within a reasonable time, the limited partner of the Partnership may remove and replace the general partner of the Partnership with a substitute general partner reasonably acceptable to the City who and shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions.

C. Failure by Developer to maintain its existence as a New Mexico Non-Profit Corporation, or if Developer dissolves or otherwise disposes of all or substantially all of its assets with or merge into another entity.

D. The occurrence of an "Event of Default" under the City Note or Restrictive Real Estate Covenants.

E. Cure by limited partner of the Partnership on behalf of the Developer on the Partnership shall be accepted on the same terms as cure by the Developer.

Section 12.2 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City nor any remedy conferred upon or reserved to the City pursuant to the or the City Note is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be herein expressly required.

Section 12.3 Agreement to Pay Attorneys' Fees and Expenses. If Developer defaults under any of the provisions of this Agreement or the City Note or the Restrictive Real Estate Covenants and the City employs attorneys, in house or outside, or incurs other expenses for the enforcement of performance or observance or any obligations or agreement on the part of Developer herein contained in this Agreement, the City Note or the Restrictive Real Estate Covenants, Developer agrees that it shall on demand therefore pay to the City the reasonable fees of such attorneys and such other reasonable expenses incurred by the City.

Section 12.4 No Additional Waiver Implied by One Waiver. If any agreement contained in this Agreement should be breached by any Party and thereafter waived by the Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waiver any other breach.

#### Section 12.5 Remedies Upon Default.

A. Upon any Event of Default ("Default") and regardless of any other notices previously provided, the City shall send a Final Notice of Default to Developer describing the Default and requiring cure within thirty (30) days from the date of the mailing or delivery of the Notice.

B. If the Default is not cured or arrangements satisfactory to the City made to cure the Default, the City may elect to (1) accelerate, impose interest and call due the City Note; and (2) sue for compensatory and consequential damages suffered by the City due to the Default as well as, if appropriate, punitive damages; provided that in no event shall any right or remedy of City under this Development Agreement, under the Restrictive Real Estate Covenants, or under any other document or agreement, foreclose, extinguish or wipe out the interests of Senior Lender or Permanent Lender in the Project.

## ARTICLE XIII

### Miscellaneous

Section 13.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the City:           Authorized City Representative  
                                  Legal & Planning Department  
                                  City of Hobbs  
                                  200 E. Broadway  
                                  Hobbs, NM 88240

If to Developer:        Yes Housing, Inc.  
                                  901 Pennsylvania St, NE  
                                  Albuquerque, NM, 87110

with a copy to:

Rocky Mountain Community Reinvestment Corporation

c/o Closing Manager

64 East Winchester Street, Suite 230

Salt Lake City, UT 84107

Wincopin Circle, LLLP

c/o Enterprise Community Asset Management

11000 Broken Land Parkway Suite 700

Columbia, MD 21044

Attn: General Counsel

The City and Developer may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificate or other communication shall be sent.

Section 13.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City and Developer, and their respective successors and assigns, subject however to the limitations contained herein.

Section 13.3 Severability. In the event any covenant, condition or provision herein is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City of, or the Developer in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

Section 13.4 Amendments, Changes and Modifications. Except as otherwise provided in this Agreement or in the City Mortgage, this Agreement shall not be effectively amended, changed, modified, altered or terminated except by mutual written agreement of the Parties. The City Manager is authorized to enter into amendments to this Agreement which do not materially adversely impact the City's rights or obligations pursuant to this Agreement.

Section 13.5 Execution of Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.6 Other Instruments. Developer and the City covenant that they shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such instrument, supplemental hereto and further acts, instruments and transfers as may be required hereunder.

Section 13.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

Section 13.8 Recording. This Agreement as well as the Restrictive Real Estate Covenants and every assignment and modification thereof shall be recorded in the office of the County Clerk of Lea County New Mexico, by the Planning Department.

Section 13.9 No Pecuniary Liability of City. No provision, covenant or agreement contained in this Agreement or any obligations herein imposed upon the City or the breach thereof shall constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitations of the State of New Mexico or shall constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

Section 13.10 Officials, Agents and Employees Not Personally Liable. No official, agent or employee of the City and no member of the City Council shall be personally liable on this Agreement.

Section 13.11 Waiver. No provisions of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice which may evolve between the parties in the administration of the terms of this Agreement be construed to waiver or lessen the right of either party to insist upon the performance of the other party in strict accordance with the terms of this Agreement. Further, the waiver by any party of a breach by the other party or any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

Section 13.12 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

Section 13.13 Captions and Section Headings. The captions, section headings, and table of contents contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Agreement.

Section 13.14 Relationship of Contract Documents. All documents attached to this Agreement or incorporated into this Agreement are complementary, and any requirement of one contract document shall be as binding as if required by all. Any inconsistency among the various documents shall be resolved in favor of the language in this Development Agreement which, along with its amendments, if any, is deemed to be the primary document.

Section 13.15 Exhibits, Certificates, Documents Incorporated and Attachments. Incorporation by Reference: All certificates, documents, exhibits, attachments, riders, and addenda referred to in this Agreement are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Section 13.16 Governmental Rights and Powers. Nothing in this Agreement shall be construed or interpreted as limiting, relinquishing, waiving, or defining governmental rights and the police powers of the City or abrogating the requirement of any ordinance.

Section 13.17 Cross References. References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections or exhibits of this Agreement unless otherwise specified.

Section 13.18 Time is of the Essence. Subject to the qualifications otherwise set forth herein, time is of the essence in the performance of this Agreement.

Section 13.19 Assignment and Subletting. The Developer shall not delegate, assign, sublet, mortgage or otherwise transfer, in whole or in part, any of the rights or responsibilities granted in this Agreement or the City Mortgage, the City Note and the Restrictive Real Estate Covenants without the prior written approval of the City, except that the Developer may assign such rights and responsibilities under this Agreement and such other documents to the Partnership without the consent of the City. The City has no obligation to and shall not be required to approve any

assignment or other transfer of this Agreement that would result in the services required in this Agreement being performed by any other person or entity other than the Developer.

Section 13.20 No Partnership or Agency. Nothing contained in this Agreement is intended or shall be construed in any respect to create or establish any relationship other than that of the owner and contractor, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Developer the general representative or agent of City for any purpose whatsoever.

Section 13.21 Force Majeure. Except as expressly provided in this Agreement, neither City, nor Developer shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations, other than payment of rental, fees and charges hereunder, by reason of strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of the public enemy, weather conditions and the results of acts of nature, riots, rebellion, sabotage, or any other similar circumstances for which it is not responsible or which are not within its control. After the termination of any such event of Force Majeure forbearance shall terminate, and the obligation to perform shall recommence with an appropriate and reasonable extension to any deadlines.

Section 13.22 Forum Selection. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall only be brought in a state district court located in Lea County, New Mexico or in a federal district court located in New Mexico. The parties irrevocably admit themselves to, and consent to, the jurisdiction of either of both said courts. The provisions of this section shall survive the termination of this Agreement.

Section 13.23 Compliance with Laws. The Developer shall comply with all applicable laws, ordinances, regulations and procedures of Federal, State, and local governments in the development, construction, maintenance and management of the Project

Section 13.24 Savings. City and Developer acknowledge and agree that they have thoroughly read this Agreement, including all exhibits thereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. City and Developer further acknowledge that the Agreement is the result of negotiations between them and this Agreement shall not be construed against either party by reason of that party's preparation of all or part of this Agreement.

Section 13.25 Survival. All obligations, covenants and agreements contained herein which are not performed at or before the closing but which are to be performed after the closing as provided in this Agreement shall survive the closing of this transaction.

Section 13.26 Approval Required. This Agreement shall not become effective or binding until approved by the City of Hobbs Commission. The effective date of this Agreement shall be the date of the Commission's approval.

Section 13.27 Agreement Binding This Agreement and all parts contained herein shall be binding upon each party and such transferees, their successors, assigns and all parties claiming by, through or under any of them. It is further agreed that each and every conveyance of any portion of the Project shall contain the covenants specified in this Agreement and those contained in Exhibit I, Restrictive Real Estate Covenants, attached hereto.



WITNESS WHEREOF the City and Developer have caused this Agreement to be executed in their respective names and all as of the date first written above.

Developer: Yes Housing, Inc.  
a Non Profit New Mexico Corporation  
901 Pennsylvania St. NE  
Albuquerque, NM, 87110

By: \_\_\_\_\_  
Joseph R. Ortega Senior Vice President of Development

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

CITY OF HOBBS, a New Mexico municipal corporation:

\_\_\_\_\_  
Sam D. Cobb - Mayor

ATTEST:

\_\_\_\_\_  
Jan Fletcher, City Clerk

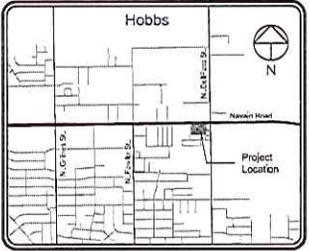
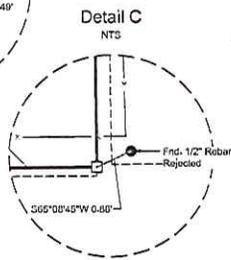
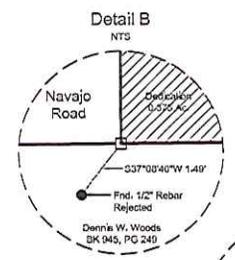
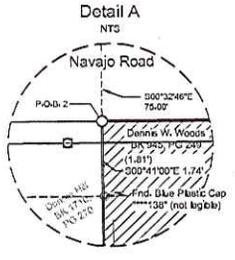
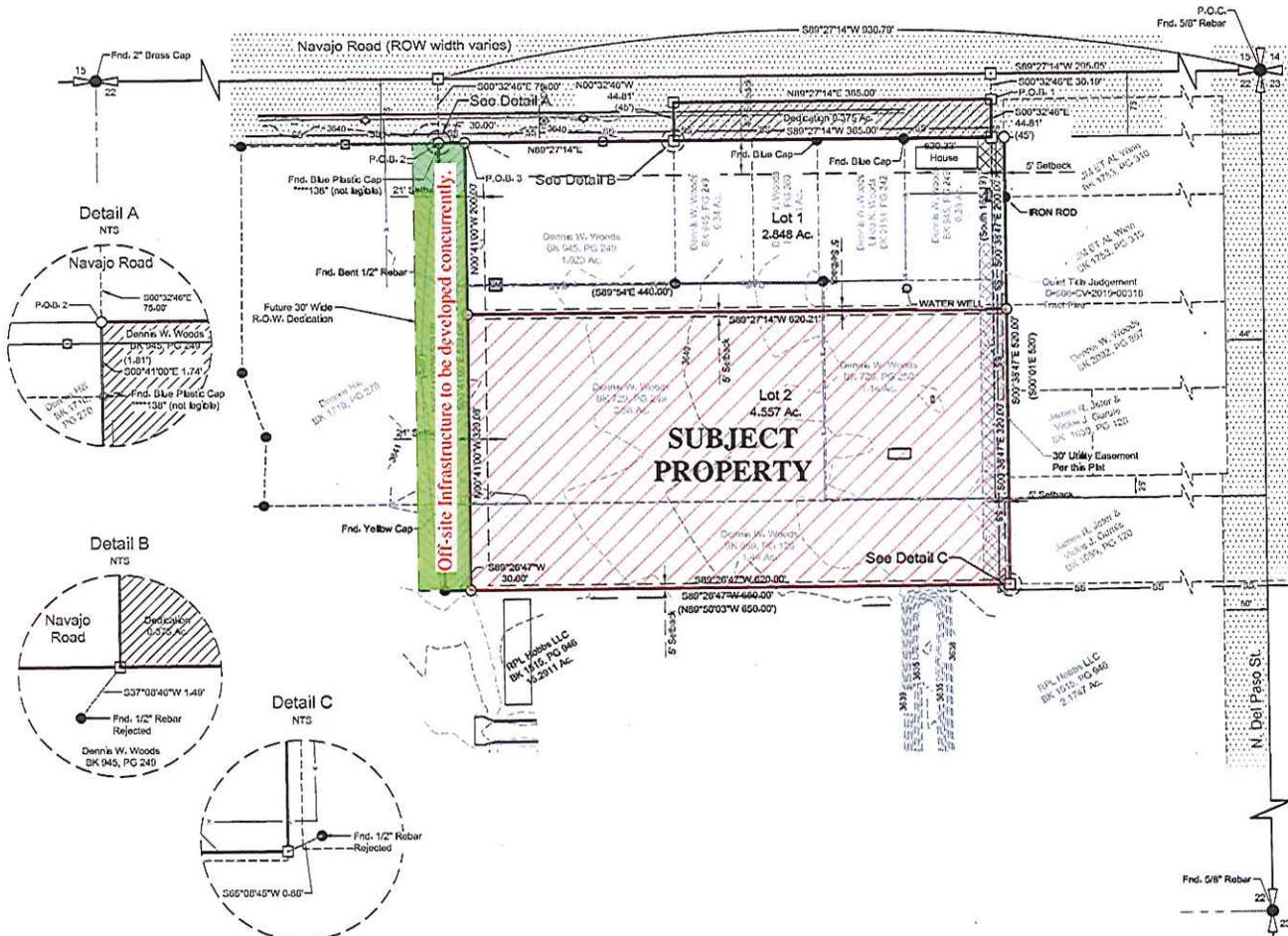
APPROVED AS TO FORM:

\_\_\_\_\_  
Efren Cortez, City Attorney

Legal Description

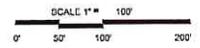
# SKYVIEW TERRACE SUBDIVISION

A CITY OF HOBBS SUMMARY SUBDIVISION OF A TRACT OF LAND LOCATED IN THE NE1/4 OF SECTION 22, T18S, R38E, N.M.P.M., LEA COUNTY, NEW MEXICO



**BASIS OF BEARING**  
 The basis of bearing for this survey is Grid North based on the New Mexico State Plane Coordinate System, East Zone, as determined by GPS/IGNSS observations. Ground coordinates are modified by scaling about a control point located at N32°40'03.64577", W103°10'44.87082" by a grid to ground scale factor of 1.0001175665. True north can be obtained by applying a convergence angle of 00°38'58" at the southwest corner of Tract 3, Eagle Ridge Subdivision.

**FLOOD ZONE INFORMATION**  
 By graphic plotting only, this property is in Zone "D" (Unshaded), as shown on the Flood Insurance Rate Map, Community Panel No. 35025C1335D, which bears an effective date of 12/16/2008 and is not in a Special Flood Hazard Area. No field surveying was performed to determine this zone and an elevation certificate may be needed to verify this determination or apply for a variance from the Federal Emergency Management Agency.  
 Zone D (Unshaded) is defined as areas in which flood hazards are undetermined, but possible.



**LEGEND**

- Found 1/2" Rebar (except as noted)
- Set 5/8" rebar with orange plastic cap marked "R MULLIKEN PS 16873"
- Calibrated point
- ⊙ Chanout
- ⊕ Sewer Manhole
- ⊙ Water Spicket
- ⊕ Water Meter
- ⊕ Fire Hydrant
- ⊕ Water Valve
- ⊕ Water Well
- ⊕ Found section corner
- ⊕ Found quarter section corner
- - - - - DLDG. Setback Line
- - - - - Major Contour (Interval \* 1')
- - - - - Minor Contour
- - - - - Edge of road concrete
- - - - - Fence line
- - - - - 65 Sanitary Sewer line
- - - - - GAS
- - - - - Gas line
- - - - - Lot line
- - - - - Section line
- - - - - Quarter Section line
- - - - - Property line
- Future 30' Wide R.O.W. Dedication
- R.O.W. Dedication area
- 30' Utility Easement
- AlphaRoad
- XXX'XXX' XXX'XX' Measured bearing and distance
- (XX'XXX' XX'XX') Record bearing and distance

**PETTIGREW & ASSOCIATES PA**  
 ENGINEERING | SURVEYING | TESTING  
 DEFINING QUALITY SINCE 1965  
 100 E. Navajo - Suite 100, Hobbs New Mexico 88240  
 T 575 393 9827 F 575 393 1543  
 Pettigrew.us

PROJECT SURVEYOR: Richard Mulliken  
 DRAWN BY: Haegay



**INDEXING INFORMATION FOR COUNTY CLERK**  
 OWNER: DENNIS W. WOODS  
 LOCATION: Located in the NE1/4 of Section 22, T18S, R38E, N.M.P.M., City of Hobbs, Lea County, New Mexico

**REVISIONS**

No.	DATE	DESCRIPTION

State of New Mexico, County of \_\_\_\_\_  
 I here by certify that this instrument was filed for record on:  
 The \_\_\_\_\_ Day of \_\_\_\_\_  
 20 \_\_\_\_ A.D.  
 At \_\_\_\_\_ O'Clock \_\_\_\_\_ M.  
 Cabinet \_\_\_\_\_ Side \_\_\_\_\_  
 Book \_\_\_\_\_ Page \_\_\_\_\_  
 By \_\_\_\_\_  
 County Clerk  
 By \_\_\_\_\_  
 Deputy

Summary Subdivision Plat  
 OF  
 Skyview Terrace  
 FOR  
 Yes Housing

PROJECT NUMBER:  
 2019.1201

SHEET:  
 1 of 2  
 SU - 101

RECORD DESCRIPTION - PER DEED BOOK 945, PAGE 249

FOR SURFACE TITLE ONLY:

Section-22, Township-18, Range-38  
0.38 AC Loc NE4NE  
Tr Beg W 296' & S 30' of NE Cor of Sec 22, Th S 210', W 100', N 210', E 100',  
to Beg "Less N 45' to Navajo Rd"

Section-22, Township-18, Range-38  
1.14 AC Loc NE4  
Tr Beg 296' W & 240' S of NE Cor of Sec 22, Th W 195', S 255', E 195',  
N 255' to Beg "1975-Winn, Elife"

Section-22, Township-18, Range-38  
.28AC Loc NE4NE4  
Tr Beg 496' W & 30' S of NE Cor of Sec 22, Th S 210', W 75', N 210',  
E 75' to Beg "Less N 45' to Navajo Rd"

Section-22, Township-18, Range-38  
2.58 AC Loc NE4NE4  
Tr Beg NE Cor Sec 22 S89D54'W 931', Th S0D1E 240', Th S89D54'E,  
440', Th S0D1W 255', Th N89D54'W 440', Th N0D1W 255' to Beg

Section-22, Township-18, Range-38  
.34 AC Loc NE4NE4  
Tr Beg 571' W & 30' S of NE Cor of Sec Th S 210', W 90', N 210',  
E 90' to Beg "Less N 45' to Navajo Rd"

Section-22, Township-18, Range-38  
1.023 AC Loc NE4NE4  
Tr Beg 661' W & 75' S from NE Cor of Sec 22 Th W 270', S 165', E 270',  
N 165' to Beg

RECORD DESCRIPTION - PER DEED BOOK 059, PAGE 120

FOR SURFACE TITLE ONLY:

SECTION-22, TOWNSHIP-18S, RANGE-38E  
1.49 AC LOC NE4NE4  
TR BEG S0D1' E 495' & N89D50' W 281'  
FROM NE COR SEC 22, TH  
SOD1' E 100', N89D50'03"W  
650', N0D01' W 100', S89D50'03" E  
650' TO BEG  
\*1992-NORTH AND CORP

RECORD DESCRIPTION - PER QUIET TITLE JUDGEMENT D-506-CV-2019-00318

FOR SURFACE TITLE ONLY:

A tract of land situated in the Northeast Quarter of the Northeast Quarter  
(NE4NE4) of Section 22, Township 18 South, Range 38 East, N.M.P.M., Lea  
County, New Mexico, and being more particularly described as follows:

Beginning at the Southeast corner of said tract, a point which lies S00°01'E  
495.00 feet(470.00 feet of record) and N89°54'W 281.00 feet from the Northeast  
corner of said Section 22; thence N89°54'W 15.00'; thence N00°01'W 420.00  
feet; thence S89°54'E 15.00 feet along the South line of Navajo Road; thence  
S00°01'E 420.00 feet the point of beginning.

NEW DESCRIPTION - SKYVIEW TERRACE SUBDIVISION  
A tract of land located in the N1/2, NE1/4, NE1/4 of Section 22, T18S, R38E,  
N.M.P.M., City of Hobbs, Lea County, New Mexico and being more particularly  
described by metes and bounds as follows:

Commencing at a found 5/8" Rebar, being accepted as the Northeast corner of  
Section 22; then S89°27'14"W a distance of 930.79 feet along the north line of  
the section to a calculated point; then S00°32'46"E 75.00 feet to a set 5/8" rebar  
with orange plastic cap marked "R MULLIKEN PS 16873"; then N89°27'14"E  
30.00 feet, along the South R.O.W. line of E. Navajo Drive, to a set 5/8" rebar  
with orange plastic cap marked "R MULLIKEN PS 16873" for the Point of  
Beginning (P.O.B. 3); thence continuing along said  
R.O.W. line, N89°27'14"E 620.33 feet to a set 5/8" rebar with orange plastic cap  
marked "R MULLIKEN PS 16873", being the northeast corner; thence  
S00°38'47"E 520.14 feet to a calculated point, from which a found 1/2" Rebar  
bears S01°09'00"E 0.98 feet; thence S89°26'47"W 620.00 feet to a  
set 5/8" rebar with orange plastic cap marked "R MULLIKEN PS 16873", being  
the southwest corner; thence N00°41'00"W 520.08 feet to the Point of Beginning  
and containing 1.648 acres, more or less.

R.O.W. DEDICATION DESCRIPTIONS

Two(2) tracts of land located in the NE1/4 of the NE1/4 of Section 22, T18S,  
R38E, N.M.P.M., Lea County, New Mexico and being more particularly described  
as follows:

Commencing at the Northeast corner of Section 22, being a found 5/8" Rebar,  
then S89°27'14"W a distance of 295.05 feet along the north line of the section to  
a calculated point; then S00°32'46"E 30.19 feet to a calculated point, the Point of  
Beginning (P.O.B. 1); thence S00°32'46"E 44.81 feet to a calculated point; thence  
S89°27'14"W 365.00 feet to a calculated point; thence N00°32'48"E 44.81 feet to  
a calculated point; thence N89°27'14"E 365.00 feet to the Point of Beginning,  
containing 0.375a acres.

AND

Commencing at the Northeast corner of Section 22, being a found 5/8" Rebar,  
then S89°27'14"W a distance of 930.79 feet along the north line of the section to  
a calculated point; then S00°32'46"E 75.00 feet to the Point of Beginning (P.O.B  
2), being a set 5/8" rebar with orange plastic cap marked "R MULLIKEN PS  
16873"; thence N89°27'14"E 30.00 feet to a set 5/8" rebar with orange plastic  
cap marked "R MULLIKEN PS 16873"; thence S00°41'00"E 520.08 feet to a set  
5/8" rebar with orange plastic cap marked "R MULLIKEN PS 16873"; thence  
S89°26'47"W 30.00 feet to a found 1/2" rebar; thence N00°41'00"W 520.09 feet  
to the Point of Beginning, containing 0.358a acres.

CERTIFICATE OF SURVEY

I, Richard L. Mulliken, New Mexico Professional Surveyor, hereby certify that this  
Summary Subdivision Plat was prepared from an actual ground survey  
performed by me or under my supervision, that this survey is true and correct to  
the best of my knowledge and belief. I further certify that this plat and the field  
survey upon which it is based meet the Minimum Standards for Surveying in New  
Mexico.

Richard L. Mulliken NMPS #16873 Date

OWNERS STATEMENT AND AFFIDAVIT

State of New Mexico:  
County of Lea:

The undersigned first duly sworn on oath, state: On behalf of the owners and  
proprietors we have of our own free will and consent caused this plat with its  
tracts to be platted. The property described on this plat lies within the platting  
jurisdiction of the City of Hobbs.

By \_\_\_\_\_  
Dennis W. Woods

By \_\_\_\_\_  
Linda K. Woods

ACKNOWLEDGMENT

State of New Mexico:  
County of Lea:

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before  
me \_\_\_\_\_ and \_\_\_\_\_ to me known to be the  
person(s) described in and who executed the foregoing instrument and  
acknowledged that they executed the same as their free act and deed.

Witness my hand and official seal the day and year last above written.

My Commission Expires: \_\_\_\_\_

Notary Public

CERTIFICATE OF MUNICIPAL APPROVAL

I, Kevin Robinson, Development Director for the City of Hobbs, Lea County, New  
Mexico, do hereby certify that the foregoing plat in the City of Hobbs, Lea  
County, New Mexico, was reviewed and deemed compliant with the Municipal  
Summary Process Regulations on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

Kevin Robinson, Development Director

Jan Fletcher, City Clerk

ACKNOWLEDGMENT

State of New Mexico:  
County of Lea:

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, Kevin  
Robinson and Jan Fletcher to me known to be the persons described in and who  
executed the foregoing instrument and acknowledged that they executed the  
same as their free act and deed.

Witness my hand and official seal the day and year last above written.

My Commission Expires: \_\_\_\_\_

Notary Public

**PETTIGREW & ASSOCIATES PA**  
ENGINEERING | SURVEYING | TESTING  
DEFINING QUALITY SINCE 1965  
100 E. Navajo - Suite 100, Hobbs New Mexico 88240  
T 575 393 9827 F 575 393 1543  
Pettigrew.us

PROJECT SURVEYOR: Richard Mulliken  
DRAWN BY: Hsegey



INDEXING INFORMATION  
FOR COUNTY CLERK  
OWNER:  
Dennis W. Woods  
Linda K. Woods  
LOCATION:  
Located in the NE1/4 of Section 22,  
T19S, R38E, N.M.P.M. City of Hobbs,  
Lea County, New Mexico

REVISIONS

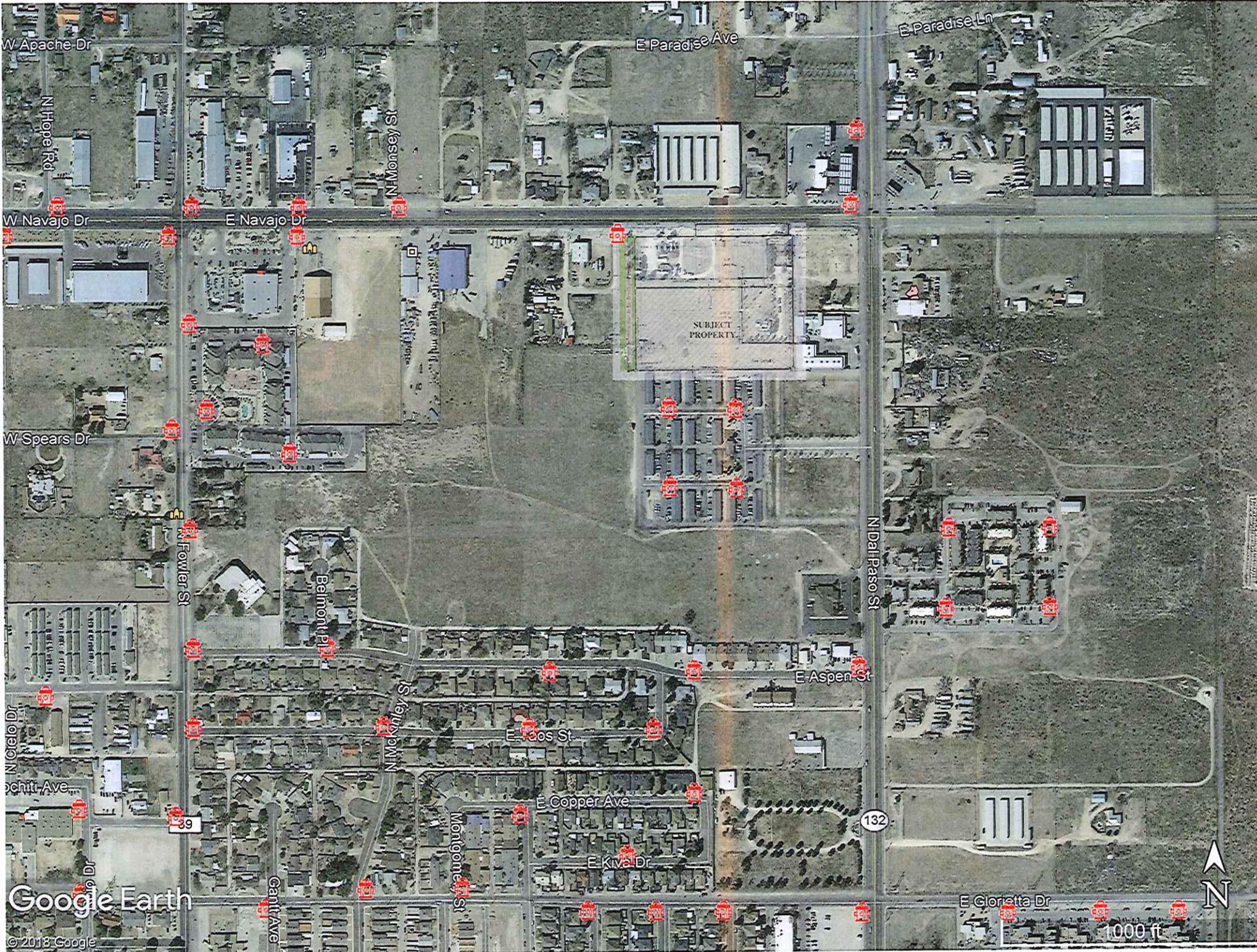
No.	DATE	DESCRIPTION

State of New Mexico, County of \_\_\_\_\_  
I here by certify that this instrument was filed for  
record on:  
The \_\_\_\_\_ Day of \_\_\_\_\_  
20\_\_\_\_ A.D.  
At \_\_\_\_\_ O'Clock, \_\_\_\_\_ M.  
Cabinet \_\_\_\_\_ Slide \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
By \_\_\_\_\_  
County Clerk  
By \_\_\_\_\_  
Deputy

Summary Subdivision Plat  
OF  
Skyview Terrace  
FOR  
Yes Housing

PROJECT NUMBER:  
2019.1201

SHEET:  
2 of 2  
SU - 102



SUBJECT PROPERTY

Google Earth

© 2013 Google



1000 ft



## PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned YES HOUSING, INC ("Maker") promises to pay to the order of the CITY OF HOBBS ("Holder"), a New Mexico municipal corporation, organized and existing under the Constitution and laws of the State of New Mexico and its charter, and having an office at 200 E. Broadway, Hobbs, New Mexico 88240, or its assigns, the principal sum of ONE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS AND NO CENTS (\$1,570,000.00), or so much thereof as shall have been advanced to Maker by Holder from time to time, together with all charges as provided herein and in the Mortgage, as hereinafter defined.

On \_\_\_\_\_, 2019, the Maker and the Holder entered into a certain Development Agreement (the "Development Agreement") which provided for the above referenced loan and grants by the Holder to the Maker of an amount not to exceed the Principal Sum of this Note. All capitalized terms used in this Note have the meaning provided in the Development Agreement.

No interest shall accrue nor is interest payable on this Note. –

The proceeds of the loan evidenced by this City Note may be assigned, with prior written City approval, to any successors, assignees or purchasers of the Project who agree in writing to assume all of the obligations of Maker, its successors and assigns under the Agreement, this City Note and the Maker shall thereupon be released from all future liability hereunder.

Except as otherwise provided in the next sentence, no payments shall be made under the Note. However, the \$1,570,000.00 shall become immediately due and payable, to the extent and if permitted by federal bankruptcy law, upon: (i) the dissolution or liquidation of the Maker prior to the permitted assignment of Maker's rights and assumption of its obligations hereunder; and (ii) Maker's uncured default in any warranty, obligation or other term, condition, of the Development Agreement.

Prepayments of all or any part of the principal balance of this City Note may be made at any time and from time to time by Maker. No premium or penalty shall be charged in connection with such prepayment.

The proceeds of this City Note shall be disbursed or applied by the Holder to or for the benefit of the Maker for the construction and development of the improvements on the Project site as provided in the Development Agreement, and for costs related thereto. Disbursements of principal hereon shall be made in accordance with the terms of the Agreement.

The Maker waives presentment for payment, protest notice of protest and notice of dishonor. The Maker consents to any number of renewals or extensions of the time of payment hereof. Any such renewals or extensions may be made without notice to Maker and without affecting its liability.

Failure to accelerate the indebtedness evidenced hereby by reason of default in the payment of an installment of principal, interest, or principal and interest, or the acceptance of a past due installment of the same, shall not be construed as a novation of this City Note or as a waiver of the right of the Holder to thereafter insist upon strict compliance with the terms of this City Note without previous notice of such intention being given to the Maker. This City Note shall not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

As used herein, the terms "Maker" and "Holder" shall be deemed to include their respective successors, legal representatives and assigns, whether voluntary by action of the parties or involuntary by operation of law. This City Note shall be construed according to the laws of the State of New Mexico.

Any and all references in the City Note to any other document or documents shall be references to such document or documents as the same may from time to time be modified, amended, renewed, consolidated or extended.

Subject to the qualification otherwise set forth herein, time is of the essence in the performance of this Note.

The representative of Maker subscribing below represents that he has full power, authority and legal right to execute and deliver this Note and that the debt evidenced hereby constitutes a valid and binding obligation of Maker.

The indebtedness evidenced by this City Note is and shall be subordinate in right of payment to the prior payment in the full of (a) the indebtedness evidenced by a note ("Wells Note") in the original principal amount of \$6,800,000 issued by Skyview Terrace Limited Partnership, LLLP (the "Partnership") and payable to Wells Fargo Bank, National Association, a national banking association ("Wells"), to the extent and in the manner provided in that certain Subordination and Standstill Agreement dated of even date herewith between the Holder of this City Note, Wells, and the Partnership (the "Wells Subordination Agreement"), and (b) the indebtedness evidenced by a note ("RMCRC Note") in the original principal amount of \$[ ] issued by the Partnership and payable to Rocky Mountain Community Reinvestment Corporation, a Utah nonprofit corporation ("RMCRC"), to the extent and in the manner provided in that certain Subordination Agreement between the Holder of this City Note, RMCRC, and the Partnership (the "RMCRC Subordination Agreement"). The YES Mortgage (the "Subordinate Mortgage") securing this City Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of (i) the mortgage securing the Senior Notes as more fully set forth in the Wells Subordination Agreement, and (ii) the mortgage securing the Note as more fully set forth in the RMCRC Subordination Agreement. The rights and remedies of the Holder and each subsequent holder of this City Note under the Subordinate Mortgage securing this City Note are subject to the restrictions and limitations set forth in the Wells Subordination Agreement and the RMCRC Subordination Agreement. Each subsequent holder of this City Note shall be deemed, by virtue of such holder's acquisition of the City Note, to have agreed to perform and observe all the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Wells Subordination Agreement and the RMCRC Subordination Agreement.



RESTRICTIVE REAL ESTATE COVENANTS

Made in Hobbs, New Mexico

Date \_\_\_\_\_

These Restrictive Real Estate Covenants are made by YES Housing, Inc., a Non Profit New Mexico Corporation ("Developer") and Skyview Terrace Limited Partnership, LLLP (the "Partnership") in favor of the City of Hobbs whose address is 200 E. Broadway, Hobbs, New Mexico, 88240, a municipal corporation ("City"), and shall run with the land until modified or released by the City.

1. Recitals:

A. The Partnership is the owner fee simple, and the Developer is the developer of the Project on, that certain real estate ("Real Property") in Lea County New Mexico, which is located in Hobbs, NM and whose legal description is:

B. For consideration for the assistance given by the City directly to the Developer and the Partnership, the Developer and the Partnership have agreed to restrictions on the use and rental of the Real Property.

2. Definitions

"AMI" means Area Median Income which is the annual income figure for a specific geographic area which is determined annually by the Department of Housing and Urban Development and adjusted for family size.

"Annual Income" means the anticipated total income from all sources, as defined in 24 CFR 5.609, to be received by the Family Head and spouse and each additional member of the household during a twelve month period.

"Low Income" families means households earning Family Income of 80% or less of the City's median income for the area, as determined by the U.S. Department of Housing and Urban Development.

"Very Low-Income" families means households earning Family Income of 50% or less of Median Family Income.

"Family" means one or more individuals residing in a household.

"Family Income" means the gross annual income earned or received through all sources by a Family.

"HUD" means the U. S. Department of Housing and Urban Development.

"Project" means the residential apartment development to be constructed upon the Real Property, including a flood water retention area located upon Tract Two, related on-site and off-site improvements, equipment and related rights therein.

"Special Needs" households means homeless people and/or people with physical or developmental disabilities or chronic mental illnesses as defined in HUD's Handbook 4571.2, Section 1-5, Parts A.2. and A.3.

"Utility Allowance" is the amount established by a schedule that is appropriate for a specific rent to cover the cost of utilities that are paid to the utility company as approved by the City.

### 3. Restrictive Covenants

A. Use of Property. The Real Property shall be used as and only for the Project. The Project shall consist of seventy-two (72) units; all units shall have rents at or below 80% of AMI, and shall remain compliant with affordability requirements of the NMMFA throughout the term of this covenant.

B. Income Qualifications. The Partnership shall determine the annual income of a household occupying or seeking to occupy the Affordable Units, in accordance with 24 CFR Part 5.609. The income of the household shall not exceed eighty percent (80%) of the City's Median Income for the Affordable Units.

(1) The Partnership shall determine whether the annual income of household(s) occupying or seeking to occupy the Affordable Units, exceeds the applicable income limit prior to admission of the household(s) to occupancy.

(2) The Partnership shall annually re-examine and document the income of households residing in the Affordable Units to ensure compliance with Sections B of these covenants.

C. Rent Determination. Rents charged occupants of the affordable units must not exceed 30% of the imputed income limit applicable to such unit.

1) Affordable Units continue to qualify as affordable housing despite a temporary noncompliance caused by

increases in the income of existing tenants, if actions are being taken to ensure that a vacancy is filled in accordance with B above, until the noncompliance is corrected.

2) The Partnership shall ensure that each household occupying the affordable units will have an executed lease with the Owner in compliance with 24 CFR Part 92.253.

3) Encumbrances. The Partnership covenants and agrees that it shall not refinance, mortgage, suffer or allow the creation of a lien, nor otherwise encumber the Real Property, without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed; however, without the consent of the City, the Owner or Partnership may enter into a Land Use Restriction Agreement with the New Mexico Mortgage Finance Authority and the Owner may encumber the Real Property and Project with the mortgages securing the construction and permanent financing of the Project, including those of Wells Fargo Bank, N.A. ("Senior Lender") and Rocky Mountain Community Reinvestment Corporation, a Utah nonprofit corporation ("Permanent Lender").

4) Property Standards Requirements. The project will meet all Housing Quality Standards, or other physical property standards regulated by HUD, and local building code requirements, and allow the City to inspect the property, for the duration of this Agreement.

5) Monitoring/Reporting Requirements

a) The Partnership shall report, in writing, at least quarterly during the construction and lease-up phases of the Project. The quarterly report shall include the process of construction as a percentage complete, construction funds expended with remaining balance, and number of units completed. Following completion of construction and the lease-up of 65% of the units, the City, at its discretion, may require an Administrative Fee from the Partnership for the purpose of monitoring the Project, if monitoring is so requested.

b) At any time during normal business hours and as often as the City and/or the appropriate funding entity may deem necessary, there shall be made available to the City for examination, all of the Owner's records with respect to all matters covered by this Agreement. The Partnership shall permit the City, at the City's expense, and/or the appropriate funding entity to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

6) Term. The Developer's and the Partnership's obligations designated herein are to commence upon the execution of this Restrictive Real Estate Covenants by the last party to sign ("Commencement Date"), and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement but, in any event, the provision of the Affordable Units required hereunder shall be continued for thirty five (35) years from the completion of the Project ("Affordability Period"). These Restrictive Real Estate Covenants shall be and constitute covenants running with the Real Property during the term of these Covenants and shall be enforceable by the City by legal and equitable action, including an action for injunctive relief; provided that in no event shall any right or remedy of City under this Restrictive Real Estate Covenants, or under any other document or agreement, foreclose, extinguish or wipe out the interests of Senior Lender or Permanent Lender in the Project.

7) The City has contributed the sum of \$1,570,000.00 Funds towards the development of the Project on the Real Property. The Funds must be repaid, without interest, to the City by the Developer in the event of a violation of the Affordable Unit obligations pursuant to these Restrictive Real Estate Covenants (the "Funds Repayment Obligation") during the thirty five (35) years of the term of these Restrictive Real Estate Covenants. The Funds Repayment Obligation is the sole obligation of the Developer, its successors and assigns. In the event of violation of this Restrictive Real Estate

Covenant the City shall give written notice to the Developer and the Partnership, the Partnership's limited partner, (the "Investor") and all holders of financial encumbrances against the Real Property, and these parties shall have thirty (30) days to cure the violation (or if the violation cannot reasonably be cured within thirty (30) days, then to commence to cure the violation and diligently pursue to cure the violation) before the Funds Repayment Obligation shall become due. The addresses for the Developer and the Tax Credit Investor are as follows:

Developer: YES Housing, Inc.  
901 Pennsylvania St NE  
Albuquerque, New Mexico 87110

Partnership: Skyview Terrace Limited Partnership, LLLP  
901 Pennsylvania St NE  
Albuquerque, New Mexico 87110

Limited Partner:  
Wincopin Circle, LLLP  
c/o Enterprise Community Asset Management  
11000 Broken Land Parkway Suite 700  
Columbia, MD 21044  
Attn: General Counsel

Permeant Lender:  
Rocky Mountain Community Investment Corporation  
c/o Closing Manager  
64 East Winchester Street, Suite 230  
Salt Lake City, UT 84107.

11) Binding Effect.

Upon execution of these Restrictive Real Estate Covenants by the Developer and the Partnership, the terms, conditions and covenants under these Restrictive Real Estate Covenants shall be binding and inure to the benefit of the parties and their representatives, successors and assigns.

12) Construction and Severability. If any parts of these Restrictive Real Estate Covenants are held to be invalid or unenforceable, the remainder of the Restrictive Real Estate Covenants will remain valid and enforceable if the remainder is reasonably capable of completion.

IN WITNESS WHEREOF, the said Developer and the Partnership hereunto duly authorized, have caused, this instrument to be executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

DEVELOPER:  
Yes Housing, Inc. a Non Profit New Mexico Corporation

By: \_\_\_\_\_  
Joseph R. Ortega, Senior Vice President of Development

Its: \_\_\_\_\_

**PARTNERSHIP:**

Skyview Terrace Limited Partnership, LLLP, a New Mexico Limited Liability Limited Partnership

By YES Skyview Terrace, LLC, a New Mexico Limited Liability Company, General Partner

\_\_\_\_\_  
By YES Housing Inc., Its Manager

By: \_\_\_\_\_  
Joseph R. Ortega, Senior Vice President of Development

STATE OF NEW MEXICO    )  
  )  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on \_\_\_\_\_, 2019, by Joseph R. Ortega, Senior Vice President of Development of Yes Housing, Inc. a Non Profit New Mexico Corporation, on behalf of the corporation.

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

My Commission Expires:  
\_\_\_\_\_

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared JOSEPH R. ORTEGA, Senior Vice President of Development for YES Housing Inc., Manager of YES Skyview Terrace,

LLC, a New Mexico limited liability company, as General Partner of Skyview Terrace Limited Partnership, LLLP, a New Mexico limited liability limited partnership.

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Notary Public

My Commission Expires:

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**2019 MFA MULTIFAMILY PROJECT APPLICATION  
SCHEDULE E: DEVELOPMENT SCHEDULE**

Project Name: Skyview Terrace

Date: 9/20/2019

ACTIVITY	Scheduled Date: Month/Year
<b>Site</b>	
Option/Contract Executed	11/18
Environmental Review Completed	9/19
Site Acquisition	11/19
Zoning Approval	N/A
<b>Financing: Non-MFA Sources</b>	
<u>Construction Loan</u>	
Application	6/19
Approval	8/19
Closing	11/19
<u>Permanent Loan</u>	
Application	6/19
Approval	8/19
Closing	11/19
<u>Tax Credit Equity</u>	
RFP	6/19
Letter of Intent	8/19
Partnership Closing	11/19
<u>Other Loans &amp; Grants</u>	
Type/Source: <u>MFA HOME &amp; HTF</u>	
Application	5/19
Award	6/19
Closing	11/19
<u>Other Loans &amp; Grants</u>	
Type/Source: <u>City of Hobbs</u>	
Application	1/19
Award	2/19
Closing	11/19
<b>Plans &amp; Specifications Completed</b>	10/19
<b>Relocation Plan Completed</b>	N/A
<b>Building Permits Obtained</b>	11/19
<b>Construction Start</b>	11/19
<b>Construction Completion</b>	5/21
<b>Fair Housing Marketing Plan Completed</b>	6/19
<b>Placed-in-Service/C of O</b>	5/21
<b>Lease-Up</b>	12/21

**2019 MFA MULTIFAMILY PROJECT APPLICATION  
SCHEDULE A: DEVELOPMENT COST BUDGET**

Project Name: Skyview Terrace

Date: 9/20/2019

Total Units: 72

Low Income Units: 72

\*Round figures to nearest dollar

	TOTAL ACTUAL COST	COMMERCIAL	RESIDENTIAL	FEDERAL HTC REQUESTS ONLY	
				RESIDENTIAL COSTS ONLY	
				ACQUISITION BASIS	REHAB/NEW CONSTRUCTION BASIS
<b>ACQUISITION COSTS</b>					
Land Acquisition	625,164		625,164		
Building Acquisition					
Other (a)	25,000		25,000		25,000
<b>SUBTOTAL</b>	<b>650,164</b>	<b>-</b>	<b>650,164</b>	<b>-</b>	<b>25,000</b>
<b>TOTALS FROM SCHEDULE "D" CONTRACTOR'S AND MORTGAGOR'S COST BREAKDOWN</b>					
Demolition (I)	-	-	-	-	-
Accessory Structures (II)	-	-	-	-	-
Site Construction (III)	-	-	-	-	-
Buildings and Structures (IV)	9,276,339	-	9,276,339	-	9,276,339
Off-Site Improvements (V)	-	-	-		
Other Costs (VI)	-	-	-	-	-
<b>SUBTOTAL (VII)</b>	<b>9,276,339</b>	<b>-</b>	<b>9,276,339</b>	<b>-</b>	<b>9,276,339</b>
<b>OTHER CONSTRUCTION COSTS</b>					
Contractor Overhead	185,527		185,527		185,527
Contractor Profit	556,580		556,580		556,580
General Requirements	556,580		556,580		556,580
Construction Contingency	576,655		576,655		576,655
Gross Receipts Tax (GRT)	661,951		661,951		661,951
Landscaping					
Furniture, Fixtures, & Equipment	90,000		90,000		90,000
Other (b)	226,122		226,122		226,122
<b>SUBTOTAL</b>	<b>2,853,415</b>	<b>-</b>	<b>2,853,415</b>	<b>-</b>	<b>2,853,415</b>
<b>PROFESSIONAL SERVICES/FEEES</b>					
Architect (Design/Supervision)	500,000		500,000		500,000
Architect - lender's pkg	20,500		20,500		20,500
Attorney (Real Estate)	40,000		40,000		40,000
Engineer/Survey	13,700		13,700		13,700
Other (c)	53,345		53,345		53,345
<b>SUBTOTAL</b>	<b>627,545</b>	<b>-</b>	<b>627,545</b>	<b>-</b>	<b>627,545</b>
<b>CONSTRUCTION FINANCING</b>					
Hazard Insurance	25,000		25,000		25,000
Liability Insurance					
Performance Bond					
Interest	400,000		400,000		120,000
Origination\Discount Points	65,000		65,000		65,000
Credit Enhancement					
Inspection Fees	12,000		12,000		12,000
Title and Recording	40,000		40,000		40,000
Legal	40,000		40,000		40,000
Taxes	10,000		10,000		10,000
Other (d)	22,000		22,000		22,000
<b>SUBTOTAL</b>	<b>614,000</b>	<b>-</b>	<b>614,000</b>	<b>-</b>	<b>334,000</b>

--CONTINUED ON NEXT PAGE--

**FOOTNOTES**

- 1) Subtotal from Section I. Schedule "D"
- 2) Subtotal from Section II. Schedule "D"
- 3) Subtotal from Section III. Schedule "D"

- 4) Subtotal from Section IV. Schedule "D"
- 5) Subtotal from Section V. Schedule "D"
- 6) Subtotal from Section VI. Schedule "D"
- 7) Subtotal from Section VII. Schedule "D"

**2019 MFA MULTIFAMILY PROJECT APPLICATION  
SCHEDULE A: DEVELOPMENT COST BUDGET**

Project Name: Skyview Terrace

Date: 9/20/2019

Total Units: 72

Low Income Units: 72

\*Round figures to nearest dollar

	TOTAL ACTUAL COST	COMMERCIAL	RESIDENTIAL	FEDERAL HTC REQUESTS ONLY	
				RESIDENTIAL COSTS ONLY	
				ACQUISITION BASIS	REHAB/NEW CONSTRUCTION BASIS
<b>PERMANENT FINANCING COSTS</b>					
Bond Premium					
Credit Report					
Origination\Discount Points	28,750		28,750		
Credit Enhancement					
Title and Recording	10,000		10,000		
Legal					
Costs of Bond Issuance					
Pre-Paid MIP					
Reserves and Escrows					
Other (e)					
<b>SUBTOTAL</b>	<b>38,750</b>	<b>-</b>	<b>38,750</b>		
<b>SOFT COSTS</b>					
Market Study	20,000		20,000		20,000
Enviromental	2,690		2,690		2,690
Tax Credit Fees	87,299		87,299		
Appraisal	8,000		8,000		8,000
Hard Relocation Costs					
Accounting/Cost Certification	25,000		25,000		
Other (f)	30,000		30,000		30,000
<b>SUBTOTAL</b>	<b>172,989</b>	<b>-</b>	<b>172,989</b>	<b>-</b>	<b>60,690</b>
<b>SYNDICATION</b>					
Organization	72,000		72,000		
Bridge Loan					
Tax Opinion					
Other (g)	-				
<b>SUBTOTAL</b>	<b>72,000</b>	<b>-</b>	<b>72,000</b>		
TDC before Dev. Fees & reserves	14,305,202	-	14,305,202	-	13,176,989
<b>RESERVES</b>					
Rent Up	30,000		30,000		
Operating	402,100		402,100		
Replacement					
Escrows/Working Capital					
Other (h)					
<b>SUBTOTAL</b>	<b>432,100</b>	<b>-</b>	<b>432,100</b>	<b>-</b>	<b>-</b>
<b>DEVELOPER FEES</b>					
Developer Fee	1,404,000		1,404,000		1,404,000
Consultant Fee					
Relocation Consultant					
<b>SUBTOTAL</b>	<b>1,404,000</b>	<b>-</b>	<b>1,404,000</b>	<b>-</b>	<b>1,404,000</b>
<b>Total Development Cost TDC)</b>	<b>16,141,302</b>	<b>-</b>	<b>16,141,302</b>	<b>-</b>	<b>14,580,989</b>

Applicant is required to provide detail on each "Other" row.

ACQUISITION COSTS [Other (a)]	
DESCRIPTION OF COST	AMOUNT
Closing/Title Costs	25,000
TOTAL	25,000

OTHER CONSTRUCTION COSTS [Other (b)]	
DESCRIPTION OF COST	AMOUNT
Builder's Risk Insurance	84,052
Payment and Performance Bond	112,070
Construction Management	30,000
TOTAL	226,122

PROFESSIONAL SERVICES/FEES [Other (c)]	
DESCRIPTION OF COST	AMOUNT
HERS Testing	36,025
Phase 1/2	2,320
Geotechnical/Compaction Testing	15,000
TOTAL	53,345

CONSTRUCTION FINANCING COSTS [Other (d)]	
DESCRIPTION OF COST	AMOUNT
Lender 3rd party review	22,000
TOTAL	22,000

PERMANENT FINANCING COSTS [Other (e)]	
DESCRIPTION OF COST	AMOUNT

TOTAL	-

SOFT COSTS [Other (f)]	
DESCRIPTION OF COST	AMOUNT
Soft Cost Contingency	30,000
TOTAL	30,000

SYNDICATION [Other (g)]	
DESCRIPTION OF COST	AMOUNT
TOTAL	-

RESERVES [Other (h)]	
DESCRIPTION OF COST	AMOUNT
TOTAL	-

**2019 MFA MULTIFAMILY PROJECT APPLICATION**  
**Schedule A-1: Sources of Funds**

Project Name: Skyview Terrace

Date: 9/20/2019

Financing Sources	Lender/Program	Permanent Amount	Interest Rate	Payment		Term	
				Amount	Frequency	Amort. Yrs.	Loan Yrs.
First Mortgage	Rocky Mtn CRC	2,300,000	5.071%	134,387	annual	40	16
Second Mortgage	MFA HOME Loan	600,000	0.00%	7,500	annual	80	40
Third Mortgage	MFA Housing Trust Fund Loan	500,000	3.00%	25,296	annual	30	30
Other Mortgage	Construction Loan - WFB						
Other Mortgage							
Grant	City of Hobbs - Forgivable Loan	1,570,000					
Grant							
Deferred Developer Fee		292,446					
	<b>Subtotal:</b>	5,262,446					
Other Equity							
Other Equity							
Tax Credit Proceeds	Investor Equity - ENTERPRISE	10,878,856					
		16,141,302					

**Equity Installment Schedule**

Note: Total of Permanent Amount Column **Must** Equal Total

	Date	Amount
Initial Installment	11/1/2019	543,943
2nd Installment	1/1/2020	1,087,886
3rd Installment	3/1/2021	247,796
4th Installment	12/1/2021	8,678,178
5th Installment	7/1/2021	321,053
Total		10,878,856

16,141,302 TDC

Are you willing to defer your developer fee without interest, if MFA's e

If you plan to issue bonds, indicates amounts.

Complete highlighted cells

Estimated annual tax credits times 10 years **11,573,250.000**  
 Multiply by tax investor ownership percentage **0.99990**  
 Total tax credits **11,572,093**  
 Expected credit price **0.940**  
 Expected cash equity 10,878,856

REQUEST FOR CITY LOAN DISBURSEMENT

As of this date, \_\_\_\_\_, YES Housing, Inc. a New Mexico Corporation ("Borrower") hereby requests disbursement of Loan Proceeds from CITY OF HOBBS, a New Mexico municipal corporation ("Lender") as per supporting documents and authorities contained within Resolution # \_\_\_\_ and ratified by the local governing authority on \_\_\_\_\_.

Said disbursement request is for:

- Six Hundred Twenty Eight Thousand Dollars and Zero Cents (\$628,000), draw down available to Developer when the Project is "dried-in". Attach hereto documentation from the City of Hobbs Chief Building Inspector of dried in status. Dried in status is hereby defined as a complete water tight envelope of each structure including rough in of all electrical and mechanical.
  
- Nine Hundred Forty Two Thousand Dollars and Zero Cents (\$942,000.00), is available to Developer upon issuance of Municipal Certificate of Occupancy. Attach hereto documentation from the City of Hobbs Chief Building Inspector.

Developer: YES Housing, Inc.  
 901 Pennsylvania St. NE  
 Albuquerque, NM, 87102  
 YES Housing, Inc. a New Mexico Corporation

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

(printed name)\_\_\_\_\_

Manager and Member