

Commission Meeting Agenda



Mayor

Samuel D. Cobb

City Commission

Marshall R. Newman

Christopher R. Mills

Larron B. Fields

Joseph D. Calderón

Dwayne Penick

Don R. Gerth

Acting City Manager

Manny Gomez

March 1, 2021



Hobbs City Commission

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

Monday, March 1, 2021 – 6:00 p.m.

Virtual Meeting Held by Video Conference

Sam D. Cobb, Mayor

Marshall R. Newman
Commissioner – District 1

Joseph D. Calderon
Commissioner – District 4

Christopher R. Mills
Commissioner – District 2

Dwayne Penick
Commissioner – District 5

Larron B. Fields
Commissioner – District 3

Don R. Gerth
Commissioner – District 6

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

CALL TO ORDER AND ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes of the February 16, 2021, Regular Commission Meeting

PROCLAMATIONS AND AWARDS OF MERIT

2. Proclamation Proclaiming the Month of March, 2021, as “National Nutrition Month” (*Rachel Lam, Clinical Dietitian, Covenant Health Hobbs Hospital*)

3. Recognition and Appreciation to Chevron for Donation of \$20,000.00 to the City of Hobbs and \$5,000.00 to the Hobbs Fire Department (*Beverly Allen and Mark Hemanic, Chevron*)

PUBLIC COMMENTS

Written public comments are welcome. Due to the current COVID-19 State of Emergency and the orders of the New Mexico Department of Health, public comment should be submitted in writing to the City Clerk at jfletcher@hobbsnm.org or faxed to (575) 397-9334 no later than 4:30 p.m. on March 1, 2021.

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.*)

None

DISCUSSION

4. Update from Hobbs Police Department – New Online Reporting System and Department Reorganization (*John Ortolano, Police Chief*)

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

5. Resolution No. 7030 – Authorizing Approval to Submit a Grant Application to the Department of Homeland Security and the Federal Emergency Management Agency for the Staffing for Adequate Fire and Emergency Response Grant for the Hobbs Fire Department (*Barry Young, Deputy Fire Chief*)
6. Resolution No. 7031 - Approving the Vacation of a Portion of Main Street and Jefferson Street Adjacent to Lots 21 – 24, Block 24, Original New Hobbs Addition (*Kevin Robinson, Planning Department*)
7. Resolution No. 7032 – Approving a Development Agreement with Lemke Development, Inc., Concerning the Development of Market Rate Single-Family Housing (*Kevin Robinson, Planning Department*)
8. Resolution No. 7033 - Approving a Development Agreement with Stuard Homes, LLC, Concerning the Development of Market Rate Single-Family Housing (*Kevin Robinson, Planning Department*)

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

9. Next Meeting Date:

- City Commission Regular Meeting
Monday, March 15, 2021, at 6:00 p.m.

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) 397-9200 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: March 1, 2021

SUBJECT: City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: March 1, 2021
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The following minutes are submitted for approval:

- Regular Commission Meeting of February 16, 2021

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 Tuesday, February 16, 2021, in Hobbs, New Mexico. This was a virtual meeting held by video conferencing and viewable to the public via Livestream on the City's website at www.hobbsnm.org.

Call to Order and Roll Call

Mayor Cobb called the meeting to order at 6:00 p.m. and welcomed everyone viewing through Livestream. Ms. Jan Fletcher, City Clerk, called the roll and the following identified themselves as participating remotely through video conferencing and answered present:

Mayor Sam D. Cobb
Commissioner Marshall R. Newman
Commissioner Christopher Mills
Commissioner Larron B. Fields
Commissioner Dwayne Penick
Commissioner Don Gerth

Absent: Commissioner Joseph D. Calderón *(attending Hobbs School Board meeting)*

The following staff members participated remotely in the meeting via video conference:

Manny Gomez, Acting City Manager/Fire Chief
Efren Cortez, City Attorney
Valerie Chacon, Assistant City Attorney
Doug McDaniel, Recreation Director
Jessica Silva, Code Enforcement Officer
Shawn Williams, Fire Marshal
Jan Fletcher, City Clerk

Mayor Cobb explained the guidelines issued by the New Mexico Attorney General's Office, Open Government Division (OGD), regarding the virtual public body meeting through video conferencing. He stated the following guidelines must be followed:

- At the start of the meeting, the Mayor should announce the names of those members of the public body participating remotely.
- All members of the public body participating remotely must identify themselves whenever they speak and must be clearly audible to the other members of the public body and to the public.
- Members of the public should be afforded remote access, via livestream.
- Mayor should suspend discussion if the audio or video is interrupted.
- All votes of the public body must be a roll call vote.
- The public body should produce and maintain a recording of the open session of the meeting.

For the record, it is noted that all of these guidelines were strictly followed during the entire City Commission meeting.

Invocation and Pledge of Allegiance

Commissioner Fields delivered the invocation and Commissioner Mills led the Pledge of Allegiance.

Closed Session

Mayor Cobb stated the City Commission convened in a virtual closed session on Tuesday, February 16, 2021, at 5:00 p.m., for the discussion of limited personnel matters, specifically the hiring of a City Manager. The matters discussed in the closed meeting were limited only to that specified above. No action was taken during the meeting.

Approval of Minutes

Commissioner Newman moved that the minutes of the regular meeting held on Monday, February 1, 2021, be approved as written. Commissioner Fields seconded the motion and roll call vote was recorded as follows: Newman yes, Mills yes, Fields yes, Gerth yes, Penick yes, Cobb yes. The motion carried.

Proclamations and Awards of Merit

Recognition of City Employees - Milestone Service Awards for the Month of February, 2021

Acting City Manager/Fire Chief Manny Gomez recognized the employees who have reached milestone service awards with the City of Hobbs for the month of February, 2021, which total 30 years of service worked. Acting City Manager/Fire Chief Gomez read their names, job titles and gave a brief summary of the job duties performed by each of the following employees:

- 5 years – Jennifer Maxwell, Hobbs Police Department
- 25 years – Ron Roberts, Information Technology Department

Acting City Manager/Fire Chief Gomez thanked the Commission for recognizing the employees and their service to the City. Acting City Manager/Fire Chief Gomez stated he has been the Acting City Manager for over three years and recognizing employees, who are the most important resource and asset within the organization, has been the most gratifying experience of all to him. He also expressed thanks and appreciation to the employees and their families.

Public Comments

The public was given the opportunity to submit public comments prior to the meeting in writing via email to the City Clerk at jfletcher@hobbsnm.org or via fax to (575) 397-9334 by 4:30 p.m., on February 16, 2021. There were no public comments submitted.

Consent Agenda

There were no Consent Agenda items presented to the Commission.

Discussion

Presentation of 2020 Annual Report – Recreation Department.

Mr. Doug McDaniel, Recreation Director, stated 2020 was a challenging year for the Recreation Department due to the COVID-19 health pandemic. As a result, some new and different programs were developed. Mr. McDaniel recapped and reviewed the annual department activities for the CORE, Senior Center, Teen Center and Rockwind.

Mayor Cobb agreed it has definitely been a challenging year for the Recreation Department. He praised the Recreation Department for doing an outstanding job. Mayor Cobb stated he looks forward to a better year in 2021, and he expressed appreciation to Mr. McDaniel for the presentation.

Action Items

FINAL ADOPTION: Ordinance No. 1130 – Amending Chapter 8.12 of the Hobbs Municipal Code Related to Fireworks.

Mr. Shawn Williams, Fire Marshal, stated the City Commission approved the proposed ordinance amending Chapter 8.12 of the Hobbs Municipal Code relating to Fireworks on January 19, 2021, for publication. The Hobbs Fire Department is seeking final adoption of the ordinance.

Commissioner Mills thanked the City employees for sharpening their pencils to a much-improved document related to fireworks. He stated this revised document is clearer and easier to understand.

Proper publication having been made, and there being no public comments or further discussion, Commissioner Newman moved to adopt Ordinance No. 1130 as presented. Commissioner Gerth seconded the motion and roll call vote was recorded as follows: Newman yes, Mills yes, Fields yes, Penick yes, Gerth yes, Cobb yes. The motion carried. A copy of the ordinance is attached and made a part of these minutes.

Resolution No. 7029 – Rescinding Condemnation on Certain Properties That Have Previously Been Determined to be Ruined, Damaged, Dilapidated and a Menace to Public Comfort, Health and Safety.

Ms. Valerie Chacon, Assistant City Attorney, stated the City of Hobbs is proposing a resolution to rescind the condemnation of certain properties. She stated these properties were previously condemned but are no longer ruined, damaged, dilapidated or a menace to public comfort, health and safety. Ms. Chacon stated the properties listed on Attachment "A" have all been demolished, removed or remodeled, rendering the properties in compliance with the Hobbs Municipal Code. She introduced Ms. Jessica Silva, Code Enforcement Officer, who will review the condemnations.

Ms. Silva provided a brief summary on the City's condemnation files dating back of 2010 and stated there are 89 structures still standing, 61 remodeled and 163 have been demolished. Ms. Silva reviewed the details of Attachment "A" which includes the address of all properties being removed from the condemnation list. She went to each location and took photographs. A copy of Attachment "A" is included with Resolution No. 7029 along with the photographs of the properties.

Ms. Chacon stated Attachment "A" is an extensive list. She stated all of these structures are now in good condition and none pose a threat to the community. Ms. Chacon gave kudos to Ms. Silva for her work in re-assessing all of the properties. She stated the renovated structures reflect citizen pride in the community.

Commissioner Penick stated that he and his wife own one of the properties on the list which they purchased after the initial condemnation to renovate. In response to Commissioner Penick's question, Mr. Efren Cortez, City Attorney, advised Commissioner Penick it would be appropriate to abstain from voting on this item.

There being no further comment or discussion, Commissioner Mills moved that Resolution No. 7029 be adopted as presented. Commissioner Newman seconded the motion and roll call vote was recorded as follows: Newman yes, Mills yes, Fields yes, Penick abstain, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mayor Cobb commended City staff for informing and educating the public with what they need to know to take care of their property and for working with these owners to bring the property into compliance with Municipal Code.

Commissioner Mills applauded the property owners for their efforts and work in bringing their properties into top notch shape.

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

Acting City Manager/Fire Chief Gomez stated the first two months of 2021 have been trying and it may be continue to be a trying year ahead. He stated City of Hobbs employees have been resilient in 2020 and entering 2021. Multiple safety news releases were announced over the weekend. He stated employees have pivoted to the needs of the community regarding frozen/busted pipes, fires and bad road conditions. Acting City Manager/Fire Chief Gomez stated too often, all you read on social media are negative comments about what the City does or does not do. He stated it was nice to see a positive comment online regarding an employee, Mr. Chris Owens of the Utilities Department. Acting City Manager/Fire Chief Gomez read the positive post detailing the efforts of Mr. Owens during the weather situation. He thanked Mr. Owens, Mr. Tim Woomer, Utilities Director, and all of the employees in the Utilities Department for what they do in the community.

Acting City Manager/Fire Chief Gomez offered his deepest condolences to the family of Mr. Bob Love who recently passed away. He stated Mr. Love served as a City of Hobbs Commissioner during 1990-1993 and served as Mayor during 1992-1993.

Commissioner Newman echoed Acting City Manager/Fire Chief Gomez' positive remarks regarding the Utilities Department.

Commissioner Mills addressed concerns regarding the oil and gas industry employees. He stated District 2 is made up of hardworking families and to them, jobs are equally about not only earning an income but also about respect and dignity. Commissioner Mills stated everyone is worried about the future of New Mexico. Commissioner Mills stated the City should support the working men and women in this community.

Commissioner Fields thanked the milestone employees, the Recreation Department, the Street Department for repairing potholes, and also Ms. Jessica Silva and Mr. Art De La Cruz, Code Enforcement Supervisor, for being very responsive and prompt in Code Enforcement. Commissioner Fields stated he is learning a great deal from riding along with City staff. He stated we should all work together to make Hobbs great. Commissioner Fields expressed appreciation to the Commission and Acting City Manager Gomez for all they do in the community.

Commissioner Penick thanked City staff for a great job. He also thanked Acting City Manager/Fire Chief Gomez for his quick response during the recent freeze.

Commissioner Penick stated he is excited for the new Veteran's Clinic being renovated in Hobbs. He stated this project has been in the works since 2018. He stated the Veteran's Clinic project was first scheduled to start in March, 2020, but was delayed due to COVID-19. Commissioner Penick stated representatives of the Veteran's Clinic are currently working on an agreement with Covenant Medical Center.

Commissioner Penick stated he has not seen a winter storm like the City is currently experiencing since 1986. He urged everyone to be careful.

Commissioner Gerth stated Acting City Manager/ Fire Chief Gomez, Department Heads and City employees make Hobbs a great place to live. He stated they also make the Commission's job easier.

Mayor Cobb stated he sent a letter to President Joe Biden and with copies to Governor Michelle Lujan Grisham and the Federal Delegation. He read the letter expressing concerns about the ban on new leases for oil and gas projects on Federal lands and waters. Mayor Cobb stated it his top priority to ensure the economic recovery of the community as a result of the economic catastrophe caused by the pandemic. He stated New Mexico relies on revenues from oil and natural gas production to pay for State priorities including education.

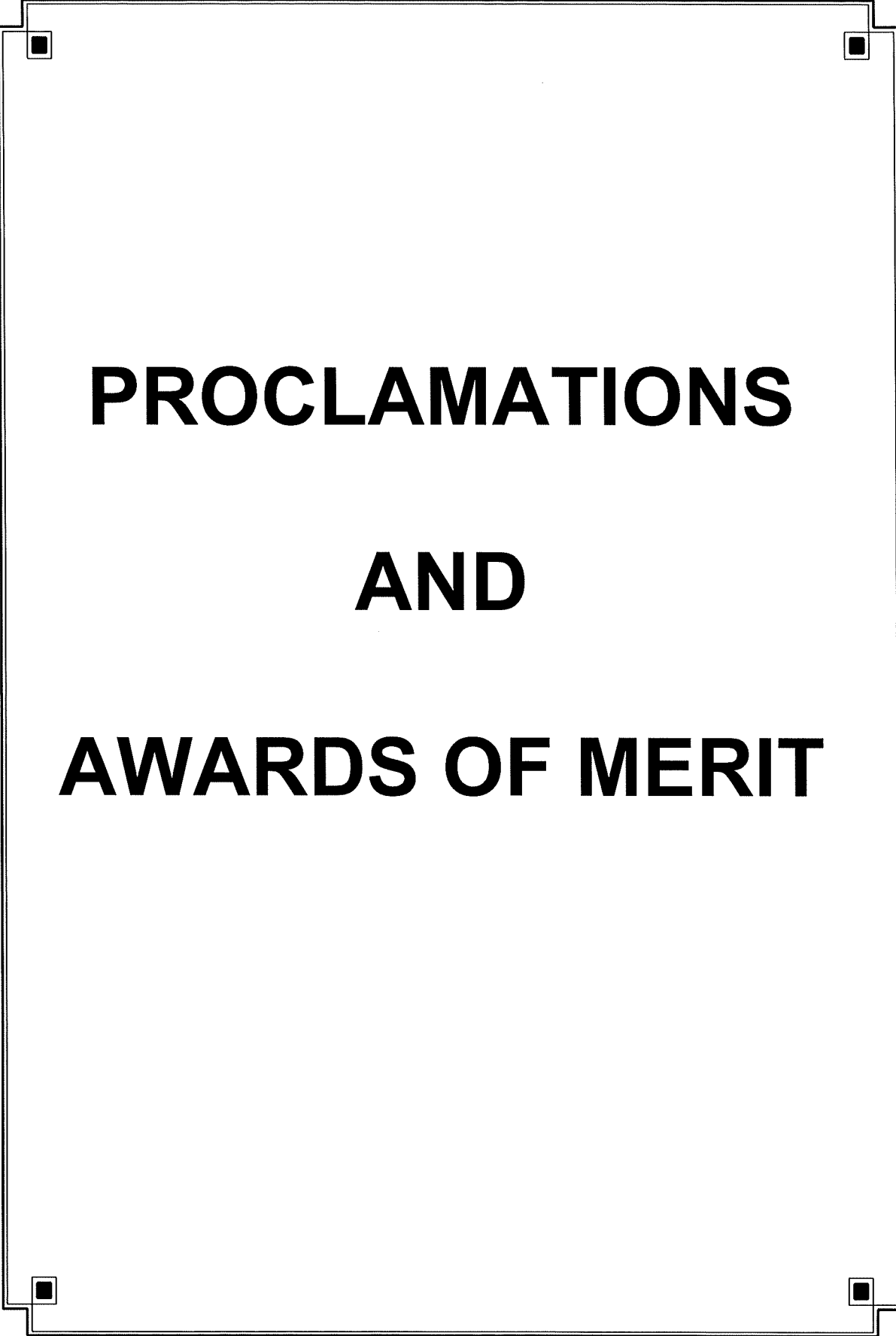
Adjournment

There being no further business or comments, Commissioner Newman moved that the meeting adjourn. Commissioner Penick seconded the motion and roll call vote was recorded as follows: Newman yes, Mills yes, Fields yes, Penick yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 6:58 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



**PROCLAMATIONS
AND
AWARDS OF MERIT**

Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, food is the substance by which life is sustained; and

WHEREAS, the type, quality, and amount of food that individuals consume each day plays a vital role in their overall health and physical fitness; and

WHEREAS, there is a need for continuing nutrition education and a wide-scale effort to enhance healthy eating practices.

NOW THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, do hereby proclaim March, 2021, as

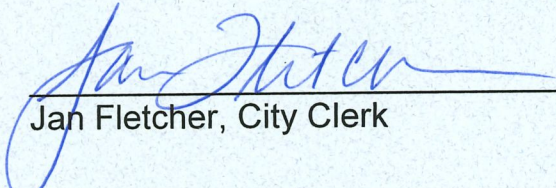
“NATIONAL NUTRITION MONTH”

in the City of Hobbs and encourage all citizens to join the campaign and become concerned about their nutrition and the nutrition of others in the hope of achieving optimum health for both today and tomorrow.

IN WITNESS, WHEREOF, I have hereunto set my hand this 1st day of March, 2021, and cause the seal of the City of Hobbs to be affixed hereto.

Sam D. Cobb, Mayor

ATTEST:



Jan Fletcher, City Clerk





ACTION ITEMS



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: March 1, 2021

SUBJECT: Staffing for Adequate Fire & Emergency Response Grants (SAFER)

DEPT. OF ORIGIN: Fire Department
DATE SUBMITTED: February 23, 2021
SUBMITTED BY: Barry Young, Deputy Fire Chief

Summary:

The Department of Homeland Security and the Federal Emergency Management Agency is responsible for the implementation and administration of the SAFER Grant. The Hobbs Fire Department is eligible for funding to increase the number of firefighters to help meet industry minimum standards, to attain staffing to provide adequate protection from fire and fire related hazards, and to fulfill the mission of the fire department. The SAFER grant provides three-year grants to assist fire departments by paying the salaries and benefits of the SAFER-funded positions. The Hobbs Fire Department wishes to apply for the funding of six (6) firefighter positions to be funded through the SAFER grant.

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

Grant will fund total salary and benefit costs for a three year period for SAFER-funded positions. The total amount of the grant if awarded would be \$1,681,697.88. After three years, the City will be responsible for all costs associated with the positions.

Attachments:

- 1. Resolution
2. Notice of Funding Opportunity

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Approval of resolution and to proceed with the application for the Staffing for Adequate Fire and Emergency Response (SAFER) Grant

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. 7030

A RESOLUTION AUTHORIZING THE APPROVAL OF A GRANT APPLICATION
WITH THE DEPARTMENT OF HOMELAND SECURITY AND
THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR THE
STAFFING FOR ADEQUATE FIRE & EMERGENCY RESPONSE GRANT

WHEREAS, the Department of Homeland Security and the Federal Emergency Management Agency is responsible for the implementation and administration of the Staffing for Adequate Fire & Emergency Response Grant ("SAFER"); and

WHEREAS, the Hobbs Fire Department is eligible for funding to increase the number of firefighters to help meet the industry minimum standards and to attain staffing to provide adequate protection from fire and fire related hazards, and to fulfill the mission of the fire department; and

WHEREAS, the SAFER grant provides three-year grants to assist fire departments by paying the salaries and benefits of the SAFER-funded positions; and

WHEREAS, the Hobbs Fire Department wishes to apply for the funding of six (6) firefighter positions to be funded through the SAFER grant;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby authorizes the submission of the SAFER grant application through the Department of Homeland Security and the Federal Emergency Management Agency.

PASSED, APPROVED AND ADOPTED this 1st day of March, 2021.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

**The Department of Homeland Security (DHS)
Notice of Funding Opportunity (NOFO)
Fiscal Year 2020 Staffing for Adequate Fire and Emergency Response
(SAFER) Grant Program**

NOTE: If you are going to apply for this funding opportunity and have not obtained a Data Universal Numbering System (DUNS) number and/or are not currently registered in the System for Award Management (SAM), please take immediate action to obtain a DUNS Number, if applicable, and then to register immediately in SAM. It may take four weeks or more after you submit your SAM registration before your registration is active in SAM, then an additional 24 hours for Grants.gov to recognize your information. Information on obtaining a DUNS number and registering in SAM is available from Grants.gov at: <http://www.grants.gov/web/grants/register.html>. Detailed information regarding DUNS and SAM is also provided in Section D – Application and Submission Information of this NOFO, subsection, Content and Form of Application Submission. An active registration is required in order to apply for funding.

A. Program Description

1. Issued By

Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), Grant Programs Directorate (GPD)

2. Assistance Listings (formerly Catalog of Federal Domestic Assistance Number)
97.083

3. Assistance Listings Title (formerly CFDA Title)

Staffing for Adequate Fire and Emergency Response (SAFER) Grant

4. Funding Opportunity Title

FY 2020 Staffing for Adequate Fire and Emergency Response (SAFER) Grant

5. Funding Opportunity Number

DHS-20-GPD-083-00-99

6. Authorizing Authority for Program

Section 34 of the *Federal Fire Prevention and Control Act of 1974*, Pub. L. No. 93-498, as amended (15 U.S.C § 2229a) <https://www.govinfo.gov/content/pkg/USCODE-2018-title15/pdf/USCODE-2018-title15-chap49-sec2229a.pdf>

7. Appropriation Authority for Program

Department of Homeland Security Appropriations Act, 2020 (Pub. L. No. 116-93) <https://www.govinfo.gov/content/pkg/PLAW-116publ93/pdf/PLAW-116publ93.pdf>

8. Announcement Type

Initial

9. Program Overview, Objectives, and Priorities

Overview

The Fiscal Year (FY) 2020 Staffing for Fire and Emergency Response (SAFER) Grant Program (hereafter referred to as the SAFER Program) is one of three grant programs that constitute the Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA) focus on enhancing the safety of the public and firefighters with respect to fire and fire-related hazards. The SAFER Program accomplishes this by providing funding directly to fire departments and volunteer firefighter interest organizations to assist in increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate fire protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments. The SAFER Program represents one part of a comprehensive set of measures authorized by Congress and implemented by DHS. Among the five basic homeland security missions noted in the DHS Strategic Plan, the SAFER Program supports the goal to Strengthen National Preparedness and Resilience. In awarding grants, the FEMA Administrator is required to consider:

- The findings and recommendations of the Technical Evaluation Panel;
- The degree to which an award will reduce deaths, injuries, and property damage by reducing the risks associated with fire-related and other hazards;
- The extent of an applicant's need for a SAFER Program grant and the need to protect the United States as a whole; and,
- The number of calls requesting or requiring a firefighting or emergency medical response received by an applicant.

The 2018-2022 FEMA Strategic Plan creates a shared vision for the field of emergency management and sets an ambitious, yet achievable, path forward to unify and further professionalize emergency management across the country. The SAFER Program supports the goal of Readyng the Nation for Catastrophic Disasters. We invite all of our stakeholders and partners to also adopt these priorities and join us in building a stronger Agency and a more prepared and resilient Nation.

Objectives

The objectives of the SAFER Program are to assist local fire departments with staffing and deployment capabilities to respond to emergencies and assure that communities have adequate protection from fire and fire-related hazards. Local fire departments accomplish this by improving staffing and deployment capabilities, so they may more effectively and safely respond to emergencies. With enhanced staffing levels, recipients should experience a reduction in response times and an increase in the number of trained personnel assembled at the incident scene.

Priorities

Information on program priorities and objectives for the FY 2020 SAFER Program can be found in Appendix B – Programmatic Information and Priorities.

10. Performance Metrics

The grant recipient is required to collect data to allow FEMA to measure performance of the awarded grant in support of the SAFER Program metrics, which are tied to the programmatic objectives and priorities. In order to measure performance, FEMA may request information throughout the period of performance. In its final performance report submitted at closeout, the recipient must submit sufficient information to demonstrate it has met the performance goal as stated in its award. FEMA will measure the recipient's performance of the grant by comparing the number of items, supplies, projects, and activities needed and requested in its application with the number of items, supplies, projects, and activities acquired and delivered by the end of the period of performance using the following programmatic metrics:

- Percent of “majority career” SAFER Program recipients structural fire responses that complied with National Fire Protection Association (NFPA) 1710 structural response standards.
- Percent of “majority volunteer” SAFER Program recipients structural fire responses that complied with NFPA 1720 structural response standards.
- Percent of SAFER Program recipients who reported and provided evidence that the grant funding increased compliance with NFPA 1710 or 1720 assembly and deployment standards.

B. Federal Award Information

- 1. Available Funding for the NOFO:** \$355 million
- 2. Projected number of Awards:** 300
- 3. Period of Performance:** 12 to 48 months from the date of award. Extensions to the period of performance are allowed. For additional information on period of performance extensions, refer to Section H – Additional Information - Extensions to the Grant Period of Performance.

FEMA awards under this program only include one budget period, so it will be same as the period of performance. *See* 2 C.F.R. § 200.1 for definitions of “budget period” and “period of performance.”

- **Hiring of Firefighters (Hiring) Activity:** The period of performance for applications funded under the Hiring Activity will be 36 months.
- **Recruitment and Retention (R&R) Activity:** The period of performance for applications funded under the R&R Activity is 12, 24, 36, or 48 months.

4. **Projected Period of Performance Start Date(s):** August 24, 2021 (will vary based on award date and activity type)
5. **Projected Period of Performance End Date(s):** August 24, 2022 - 2025 (will vary based on award date and activity type)
6. **Funding Instrument Type:** Grant

C. Eligibility Information

1. Eligible Applicants

a. Hiring Activity

Fire departments operating in any of the 50 states, as well as fire departments in the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico,¹ or any federally recognized Indian tribe or tribal organization. A fire department is an agency or organization having a formally recognized arrangement with a state, local, tribal, or territorial authority (city, county, parish, fire district, township, town, or other governing body) to provide fire suppression to a population within a geographically fixed primary first due response area. National, regional, state, local, tribal and nonprofit interest organizations representing the interests of volunteer firefighters are not eligible to receive a SAFER Program award under the Hiring Activity.

b. R&R Activity

Volunteer and combination fire departments operating in any of the 50 states, as well as fire departments in the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico,¹ or any federally recognized Indian tribe or tribal organization. A fire department is an agency or organization having a formally recognized arrangement with a state, local, tribal, or territorial authority (city, county, parish, fire district, township, town, or other governing body) to provide fire suppression to a population within a geographically fixed primary first due response area. National, regional, state, local, tribal and nonprofit interest organizations representing the interests of volunteer firefighters are eligible to receive a SAFER Program award under the R&R Activity. Career fire departments are not eligible to apply for funding under the R&R Activity.

Information on ineligible applications and/or organizations is in Appendix B – Programmatic Information and Priorities.

2. Eligible Activities

¹ The District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of Puerto Rico are all defined as “States” in the Federal Fire Prevention and Control Act of 1974. See 15 U.S.C. § 2203(10).

- **Hiring Activity:** The Hiring Activity offers grants to support applications to hire new, additional firefighters (or to change the status of part-time or paid-on-call firefighters to full-time firefighters), rehire laid off firefighters, or to retain firefighters facing layoff.
- **R&R Activity:** The R&R Activity offers grants to support applications to assist fire departments with the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response.

Each activity has its own application and eligibility requirements, as further outlined in Appendix B – Programmatic Information and Priorities.

3. Other Eligibility Criteria

a. National Incident Management System (NIMS) Implementation

SAFER Program applicants are not required to comply with NIMS to apply for SAFER Program funding or to receive a SAFER Program award. Any applicant who receives an FY 2020 SAFER Program award must achieve the level of NIMS compliance required by the Authority Having Jurisdiction (AHJ) over the applicant's emergency service operations (e.g., a local government), prior to the end of the grant's period of performance.

4. Maintenance of Effort (MOE)

There is no MOE or minimum budget requirement for the FY 2020 SAFER Program.

5. Cost Share or Match

There is no cost share or match or position cost limit for the FY 2020 SAFER Program.

6. Economic Hardship Waivers

Because there is no minimum budget requirement, no cost share requirement, and no position cost limit, an economic hardship waiver process is not necessary. Therefore, no economic hardship waiver process applies to the FY 2020 SAFER Program.

D. Application and Submission Information

1. Key Dates and Times – all times listed are Eastern Time (ET):

Date Posted to Grants.gov:	February 1, 2021
Application Start Date:	February 8, 2021 at 8 a.m.
Application Submission Deadline:	March 12, 2021 at 5 p.m.

All applications must be received by the established deadline.

FEMA's Grants Outcomes System (FEMA GO) automatically records proof of timely submission and the system generates an electronic date/time stamp when FEMA GO

successfully receives the application. The individual with the Authorized Organization Representative role that submitted the application will also receive the official date/time stamp and a FEMA GO tracking number in an email serving as proof of their timely submission. For additional information on how an applicant will be notified of application receipt, see the subsection titled “Timely Receipt Requirements and Proof of Timely Submission” in Section D of this NOFO.

FEMA will not review applications that are received after the deadline or consider these late applications for funding. FEMA may, however, extend the application deadline on request for any applicant who can demonstrate that good cause exists to justify extending the deadline. Good cause for an extension may include technical problems outside of the applicant’s control that prevent submission of the application by the deadline, other exigent or emergency circumstances, or statutory requirements for FEMA to make an award.

Applicants experiencing technical problems outside of their control must notify FEMA as soon as possible and before the application deadline. Failure to timely notify FEMA of the issue that prevented the timely filing of the application may preclude consideration of the award. “Timely notification” of FEMA means the following: prior to the application deadline and within 48 hours after the applicant became aware of the issue.

If applicants experience technical issues, they must notify the FEMA GO Helpdesk as soon as possible. The FEMA GO Helpdesk can be reached at (877) 585-3242 or by e-mail at femago@fema.dhs.gov. The FEMA GO Helpdesk is open Monday through Friday, 8 a.m. – 6 p.m. ET.

A list of FEMA contacts can be found in Section G of this NOFO, “DHS Awarding Agency Contact Information.” For programmatic or grants management questions, please contact your Program Analyst or Grants Management Specialist. If applicants do not know who to contact or if there are programmatic questions or concerns, please contact the SAFER Help Desk at (866) 274-0960 or by e-mail at firegrants@fema.dhs.gov. The SAFER Help Desk is open Monday through Friday, 8 a.m. – 4:30 p.m. ET.

Anticipated Funding Selection Date: **May 24, 2021**

Anticipated Award Date: Beginning on approximately **May 24, 2021** and continuing thereafter until all FY 2020 SAFER Program grant awards are issued (but no later than September 30, 2021).

Other Key Dates:

Event	Suggested Deadline for Completion
Obtaining DUNS Number	Four weeks before actual submission deadline
Obtaining a valid Employer Identification Number (EIN)	Eight weeks before actual submission deadline

Registering in or Updating SAM registration	Four weeks before actual submission deadline
Registering Organization in FEMA Grants Outcomes (FEMA GO) System	Prior to beginning application
Submitting complete application in FEMA GO	One week before actual submission deadline

2. Agreeing to Terms and Conditions of the Award

By submitting an application, the applicant agrees to comply with the requirements of this NOFO and the terms and conditions of its award, should the applicant receive an award.

3. Address to Request Application Package

The online FY 2020 SAFER Program application is only available via the SAFER Program’s FEMA GO application portal at <https://go.fema.gov>.

Note: Hard copies of the application are not available. However, the Telephone Device for the Deaf (TDD) and/or Federal Information Relay Service (FIRS) number available for this Notice is (800) 462-7585.

Content and Form of Application Submission

FEMA will process applications through FEMA GO. Application tutorials and Frequently Asked Questions (FAQs) explain the current SAFER Program, assist with the online grant application, and highlight lessons learned and changes for FY 2020. For more details, please visit the SAFER Program website at <https://www.fema.gov/grants/preparedness/firefighters/safer>.

DHS makes all funding opportunities available on the internet, accessible at <http://www.grants.gov>. If applicants experience difficulties accessing information or have any questions, please call the Grants.gov Contact Center at (800) 518-4726.

The Grants.gov website will direct applicants to FEMA GO, at <https://go.fema.gov>, which contains the online SAFER Program application. The online SAFER Program application incorporates all required forms.

FEMA GO will allow the applicant’s authorized representative(s) to log in and create their own account. This account is specific to the authorized user and must not be shared with other personnel. The FEMA GO account is separate from any previous accounts created in the eGrants system. Applicants can save, retrieve, update and revise their work through the end of the application period. The automated system does not allow applicants to submit incomplete applications. The system alerts applicants when required information has not been entered. Prior to final submission, an online application may be saved, retrieved, or edited up to the application deadline.

Note: FEMA GO will support only the most recent major release of the following browsers:

- Google Chrome
- Internet Explorer
- Mozilla Firefox
- Apple Safari
- Microsoft Edge

Users who attempt to use tablet type devices or other browsers may encounter issues with using FEMA GO.

**NO APPLICATIONS WILL BE RELEASED BACK TO THE
APPLICANT AFTER FINAL SUBMISSION**

After the application period has ended, no changes can be made. There is no appeal process for inaccurate or incomplete information.

a. Standard Required Application Forms and Information

The following forms or information are required to be submitted via FEMA GO. The Standard Forms (SF) are also available at <https://www.grants.gov/web/grants/forms/sf-424-family.html>.

- **SF-424, Application for Federal Assistance**
- **Grants.gov Lobbying Form, Certification Regarding Lobbying**
- **SF-424A, Budget Information (Non-Construction)**
- **SF-424B, Standard Assurances (Non-Construction)**
- **SF-LLL, Disclosure of Lobbying Activities**
- **Indirect Cost Agreement or Proposal** If the budget includes indirect costs, the applicant is required to have an indirect cost rate agreement or proposal. If the applicant does not have or is not required to have an indirect cost rate agreement or proposal, please see the “Funding Restrictions and Allowable Costs” section of this NOFO for further information regarding allowability of indirect costs and whether alternatives to an indirect cost rate agreement or proposal might be available, or contact the relevant FEMA staff identified in Section G of this NOFO, “DHS Awarding Agency Contact Information” for further instructions. However, indirect costs are not allowable under the Hiring Activity, so this only applies to the R&R Activity.

b. Program-Specific Required Forms and Information

For program-specific required and optional forms and information, please see the appendices to this NOFO.

4. Steps Required to Obtain a Unique Identifier, Register in the System for Award Management (SAM), and Submit an Application

Applying for an award under this program is a multi-step process and requires time to complete. Applicants are encouraged to register early as the registration process can take four weeks or more to complete. Therefore, registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines.

Please review the table above for estimated deadlines to complete each of the steps listed. Failure of an applicant to comply with any of the required steps before the deadline for submitting an application may disqualify that application from funding.

To apply for an award under this program, all applicants must:

- a. Apply for, update, or verify their Data Universal Numbering System (DUNS) number from Dun & Bradstreet and Employer Identification Number (EIN) from the Internal Revenue Service;
- b. In the application, provide a valid DUNS number, which is currently the unique entity identifier;
- c. Have an account with login.gov;
- d. Register for, update, or verify their SAM account and ensure the account is active before submitting the application;
- e. Register in FEMA GO, add the organization to the system, and establish the Authorized Organizational Representative (AOR). The organization's electronic business point of contact (EBiz POC) from the SAM registration may need to be involved in this step. For step-by-step instructions, *see* <https://www.fema.gov/media-library/assets/documents/181607>;
- f. Submit the complete application in FEMA GO; and
- g. Continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an application or plan under consideration by a federal awarding agency. As part of this, applicants must also provide information on an applicant's immediate and highest-level owner and subsidiaries, as well as on all predecessors that have been awarded federal contracts or federal financial assistance within the past three years, if applicable.

Applicants are advised that FEMA may not make a federal award until the applicant has complied with all applicable DUNS and SAM requirements. Therefore, an applicant's SAM registration must be active not only at the time of application, but also during the application review period and when FEMA is ready to make a federal award. Further, applicants must maintain an active SAM registration with current information at all times during which the applicant has an active federal award or an application or plan under consideration by any federal awarding agency. If an applicant's SAM registration is expired at the time of application, expires during application review, or expires any other time before award, FEMA may determine that the applicant is not qualified to receive a federal award and use that determination as a basis for making a federal award to another applicant.

Per 2 C.F.R. § 25.110(c)(2)(ii), if an applicant is experiencing exigent circumstances that prevents it from receiving a DUNS number and completing SAM registration prior to receiving a federal award, the applicant must notify FEMA as soon as possible by contacting askcsid@fema.dhs.gov and providing the details of the circumstances that prevent completion of these requirements. If FEMA determines that there are exigent circumstances and FEMA has decided to make an award, the applicant will be required to obtain a DUNS number and complete SAM registration within 30 days of the federal award date.

Electronic Delivery

DHS is participating in the Grants.gov initiative to provide the grant community with a single site to find and apply for grant funding opportunities. DHS encourages or requires applicants to submit their applications online through Grants.gov, depending on the funding opportunity. For this funding opportunity, FEMA requires applicants to submit applications through FEMA GO.

5. How to Register to Apply

a. General Instructions

Registering and applying for an award under this program is a multi-step process and requires time to complete. Read the instructions below about registering to apply for FEMA funds. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information.

The registration process can take up to four weeks to complete. To ensure an application meets the deadline, applicants are advised to start the required steps well in advance of their submission.

Organizations must have a DUNS Number, EIN, and an active SAM registration.

b. Obtain a DUNS Number

All entities applying for funding, including renewal funding, must have a DUNS number from Dun & Bradstreet (D&B). Applicants must enter the DUNS number in the data entry field labeled "Organizational DUNS" on the SF-424 form.

For more detailed instructions for obtaining a DUNS number, refer to <https://www.grants.gov/web/grants/applicants/organization-registration/step-1-obtain-duns-number.html>.

Note: At some point, the DUNS Number will be replaced by a “new, non-proprietary identifier” requested in, and assigned by, SAM.gov. This new identifier is being called the Unique Entity Identifier (UEI), or the Entity ID. Grants.gov has begun preparing for this transition by educating users about the upcoming changes and updating field labels and references to the DUNS Number (the current identifier) within the Grants.gov system. Users should continue using the DUNS Number in UEI fields until further notice. To learn more about SAM’s rollout of the UEI, please visit <https://gsa.gov/entityid>.

c. Obtain Employer Identification Number

In addition to having a DUNS number, all entities applying for funding must provide an EIN. The EIN can be obtained from the IRS at <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>.

d. Create a login.gov account

Applicants must have a login.gov account in order to register with SAM or update their SAM registration. Applicants can create a login.gov account here:

https://secure.login.gov/sign_up/enter_email?request_id=34f19fa8-14a2-438c-8323-a62b99571fd3.

Applicants only have to create a login.gov account once. For applicants that are existing SAM users, use the same email address for the login.gov account as with SAM.gov so that the two accounts can be linked.

For more information on the login.gov requirements for SAM registration, refer to <https://www.sam.gov/SAM/pages/public/loginFAQ.jsf>.

e. Register with SAM

In addition to having a DUNS number, all organizations applying online through Grants.gov must register with SAM. Failure to register with SAM will prevent your organization from applying through Grants.gov. SAM registration must be renewed annually.

For more detailed instructions for registering with SAM, refer to <https://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html>.

Note: As a new requirement per 2 C.F.R. § 25.200, applicants must also provide the applicant's immediate and highest-level owner, subsidiaries, and predecessors that have been awarded federal contracts or federal financial assistance within the last three years, if applicable.

f. Additional SAM Reminders

Existing SAM.gov account holders should check their account to make sure it is "ACTIVE." SAM registration should be completed at the very beginning of the application period and should be renewed annually to avoid being "INACTIVE." **Please allow plenty of time before the grant application submission deadline to obtain a DUNS number and then to register in SAM. It may be four weeks or more after an applicant submits the SAM registration before the registration is active in SAM, and then it may be an additional 24 hours before FEMA's system recognizes the information.**

It is imperative that the information applicants provide is correct and current. Please ensure that your organization's name, address, DUNS number, and EIN are up to date in SAM and that the DUNS number used in SAM is the same one used to apply for all other FEMA awards. Payment under any FEMA award is contingent on the recipient's having a current SAM registration.

Help with SAM

The SAM quick start guide for new recipient registration and SAM video tutorial for

new applicants are tools created by the General Services Administration (GSA) to assist those registering with SAM. If applicants have questions or concerns about a SAM registration, please contact the Federal Support Desk at <https://www.fsd.gov/fsd-gov/home.do>, or call toll free at (866) 606-8220, Monday through Friday, 8 a.m. – 8 p.m. ET.

g. Register in FEMA GO, Add the Organization to the System, and Establish the AOR

Applicants must register in FEMA GO and add their organization to the system. The organization's electronic business point of contact (EBiz POC) from the SAM registration may need to be involved in this step. For step-by-step instructions, see <https://www.fema.gov/media-library/assets/documents/181607>.

Note: FEMA GO will support only the most recent major release of the following browsers:

- Google Chrome
- Internet Explorer
- Mozilla Firefox
- Apple Safari
- Microsoft Edge

Users who attempt to use tablet type devices or other browsers may encounter issues with using FEMA GO.

6. Timely Receipt Requirements and Proof of Timely Submission

All applications must be completed in FEMA GO and received by **March 12, 2021** at 5 p.m. ET. FEMA GO automatically records proof of timely submission and the system generates an electronic date/time stamp when FEMA GO successfully receives the application. The individual with the Authorized Organization Representative role that submitted the application will also receive the official date/time stamp and a FEMA GO tracking number in an email serving as proof of their timely submission on the date and time that FEMA GO received the application. Applications received by FEMA GO after the established due date for applications will be considered late and will not be considered for funding.

Applicants who experience system-related issues will be addressed until 3 p.m. ET on the date applications are due. No new system-related issues will be addressed after this deadline.

Applicants using slow internet connections, such as dial-up connections, should be aware that transmission can take some time before FEMA GO receives your application. FEMA GO will provide either an error message or a successfully received transmission in the form of an email sent to the AOR that submitted the application. The FEMA GO Support Center reports that some applicants end the transmission because they think that nothing is occurring during the transmission process. Do not do this. It may cause your application to fail to be submitted and consequently not be considered for funding. Please

be patient and give the system time to process the application.

7. Intergovernmental Review

An intergovernmental review may be required. Applicants must contact their State's Single Point of Contact (SPOC) to comply with the State's process under Executive Order 12372 (<https://www.archives.gov/federal-register/codification/executive-order/12372.html>; ; https://www.whitehouse.gov/wp-content/uploads/2020/01/spoc_1_16_2020.pdf).

8. Funding Restrictions and Allowable Costs

All costs charged to awards covered by this NOFO must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200, unless otherwise indicated in the NOFO, or the terms and conditions of the award. This includes, among other requirements, that costs must be incurred, and products and services must be delivered, within the period of performance of the award. *See* 2 C.F.R. § 200.403(h) (referring to budget periods, which for FEMA awards under this program is the same as the period of performance).

In general, the Cost Principles establish standards for the allowability of costs, provide detailed guidance on the cost accounting treatment of costs as direct or administrative costs, and set forth allowability principles for selected items of cost. More specifically, except as otherwise stated in this NOFO, the terms and condition of an award, or other program materials, costs charged to awards covered by this NOFO must be consistent with the Cost Principles for Federal Awards located at 2 C.F.R. Part 200, Subpart E. In order to be allowable, all costs charged to a FEMA award or applied to the cost share must be reasonable in nature and amount and allocable to the particular FEMA award.

Additionally, all costs charged to awards must comply with the grant program's applicable statutes, policies, requirements in this NOFO as well as with the terms and conditions of the award. If FEMA staff identify costs that are inconsistent with any of these requirements, these costs may be disallowed, and FEMA may recover funds as appropriate, consistent with applicable laws, regulations, and policies.

As part of those requirements, grant recipients and subrecipients may only use federal funds or funds applied to a cost share for the purposes set forth in this NOFO and the terms and conditions of the award, and those costs must be consistent with the statutory authority for the award.

Grant funds may not be used for matching funds for other federal grants/cooperative agreements, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, federal funds may not be used to sue the federal government or any other government entity.

Additionally, federal employees are prohibited from serving in any capacity (paid or unpaid) on the development of any proposal submitted under this program.

In addition to the subsections below, please see Appendix B – Programmatic Information and Priorities, section E. Restrictions on Use of Award Funds for additional information on funding restrictions and allowable costs.

a. Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services

Recipients and subrecipients of FEMA federal financial assistance are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.326, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute – as it applies to FEMA recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Please refer to the Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim) for additional guidance.

Effective August 13, 2020, FEMA recipients and subrecipients **may not** use any FEMA funds under open or new awards to:

- (1) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (2) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or,
- (3) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

i. Replacement Equipment and Services

FEMA grant funding may be permitted to procure replacement equipment and services impacted by this prohibition, provided the costs are otherwise consistent with the requirements of the NOFO.

ii. Definitions

Per section 889(f)(2)-(3) of the FY 2019 NDAA and 2 C.F.R. § 200.216, covered telecommunications equipment or services means:

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

- ii. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or,
- iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

Examples of the types of products covered by this prohibition include phones, internet, video surveillance, and cloud servers when produced, provided, or used by the entities listed in the definition of "covered telecommunications equipment or services." See 2 C.F.R. § 200.471.

b. Construction

Construction costs are *not eligible* under the SAFER Program. Construction includes major alterations to a building that changes the profile or footprint of the structure. Modifications to facilities activities described in Appendix B – Programmatic Information and Priorities, section F. Funding Priorities are not considered construction costs for purposes of general award cost categorization and may be eligible. However, modifications to facilities activities might be considered "construction" for purposes of applicable procurement under grants requirements or environmental protection and historic preservation purposes.

c. Pre-award Costs

Only costs incurred during the period of performance are allowable. However, recipients of an R&R Activity award may be reimbursed for grant writer fees. See also Appendix C – Award Administration Information for further information regarding grant writer fees and the "Additional Information" section of this NOFO for general procurement under grants requirements.

d. Award Limits

There is no maximum award amount for awards made under the FY 2020 SAFER Program.

e. Management and Administration (M&A) Costs

M&A expenses should be based only on actual expenses or known contractual costs; requests that are simple percentages of the award, without supporting justification, will not be allowed or considered for reimbursement. Salaries and fringe benefits for personnel directly supporting the grant are not required to be included in the M&A budget line item. No more than 3 percent of the federal share of SAFER Program

funds awarded may be expended by the recipient for M&A for purposes associated with the SAFER Program award. M&A costs are not eligible under the Hiring Activity.

f. Indirect Facilities & Administrative (F&A) Costs

Indirect costs are allowable only under the R&R Activity under this program and as described in 2 C.F.R. Part 200, including 2 C.F.R. § 200.414. Applicants with a current negotiated indirect cost rate agreement that desire to charge indirect costs to an award must provide a copy of their negotiated indirect cost rate agreement at the time of application. Not all applicants are required to have a current negotiated indirect cost rate agreement. Applicants that are not required by 2 C.F.R. Part 200 to have a negotiated indirect cost rate agreement but are required by 2 C.F.R. Part 200 to develop an indirect cost rate proposal must provide a copy of their proposal at the time of application. Applicants who do not have a current negotiated indirect cost rate agreement (including a provisional rate) and wish to charge the de minimis rate must reach out to FireGrants@fema.dhs.gov for further instructions. Applicants who wish to use a cost allocation plan in lieu of an indirect cost rate must also reach out to FireGrants@fema.dhs.gov for further instructions. Post-award requests to charge indirect costs will be considered on a case-by-case basis and based upon the submission of an agreement or proposal as discussed above or based upon on the de minimis rate or cost allocation plan, as applicable. Indirect costs are not allowable under the Hiring Activity.

9. Environmental and Historical Preservation (EHP)

As a federal agency, DHS/FEMA is required to consider the effects of its actions on the environment and historic properties to ensure that all activities and programs funded by the agency, including grant-funded projects, comply with Federal EHP regulations, laws, Executive Orders, regulations, and policies, as applicable.

Recipients proposing projects that have the potential to impact the environment, including but not limited to modification or renovation of existing buildings, structures, and facilities, must participate in the DHS/FEMA EHP review process. The EHP review process involves the submission of a screening form that includes a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation, so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA may also be required to consult with other regulatory agencies and the public in order to complete the review process. Federal law requires EHP review to be completed before federal funds are released to carry out proposed projects. Grant recipients must receive confirmation of a completed EHP review prior to beginning project activities. FEMA may not be able to fund projects that are not in compliance with applicable EHP laws, Executive Orders, regulations, and policies.

Applicants may attach the optional EHP form during the application period for the project(s) they wish to pursue; however, it does not guarantee award. Once the awards are announced, it is the responsibility of the grant recipients to supply the required

EHP form at that time to DHS/FEMA, if they have not submitted already during the application period. Applicants can only proceed with their project(s) once the EHP review is completed and approved. DHS/FEMA may notify grant recipients via email if EHP review is required and will provide instructions on how to comply.

DHS and FEMA EHP policy is found in directives and instructions available on the FEMA.gov EHP page, the FEMA website page that includes documents regarding EHP responsibilities and program requirements, including implementation of the National Environmental Policy Act and other EHP regulations and Executive Orders.

Additionally, all SAFER Program recipients are required to comply with FEMA GPD EHP Policy Guidance. FEMA Policy # 108-023-1, Environmental Planning and Historic Preservation Policy Guidance.

SAFER Program applications that involve the installation of supplies/equipment not specifically excluded from a FEMA EHP Review, per the GPD Programmatic Environmental Assessment (PEA), such as ground-disturbing activities, or modification/renovation of existing buildings or structures, will require an EHP review. Some equipment activities will require an EHP review as well. Such activities include but are not limited to the installation of:

- Building renovations such as removal of wall or installation of electrical or water lines
- Training/exercises in natural settings such as rope or swift water
- LED Signs; and
- Any scope of work that involves ground disturbances

The following activities would not require the submission of the FEMA EHP Screening Form:

- Planning and development of policies or processes;
- Management, administrative or personnel actions;
- Classroom-based training;
- Acquisition of mobile and portable equipment (not involving installation) on or in a building and does not require a storage area to be constructed; and
- Purchase of Personal Protective Equipment (PPE) and/or SCBA.

E. Application Review Information

1. Application Evaluation Criteria

a. Programmatic Criteria

Funding priorities and programmatic criteria for evaluating SAFER Program applications are established by FEMA based on the recommendations from the Criteria Development Panel (CDP). Each year, FEMA convenes a panel of fire

service professionals to develop funding priorities for the SAFER Program. The panel makes recommendations about funding priorities as well as developing criteria for awarding grants.

The **nine major fire service organizations** represented on the panel are:

- International Association of Fire Chiefs
- International Association of Fire Fighters
- National Volunteer Fire Council
- National Fire Protection Association
- National Association of State Fire Marshals
- International Association of Arson Investigators
- International Society of Fire Service Instructors
- North American Fire Training Directors; and
- Congressional Fire Service Institute

The CDP is charged with making recommendations to FEMA regarding the creation or modification of previously established funding priorities as well as developing criteria for awarding grants. The content of this NOFO reflects implementation of the CDP's recommendations with respect to the priorities, direction, and criteria for awards.

FEMA will rank all complete and submitted applications based on how well they match the program priorities for the type of activity. Answers to the application's activity specific questions provide information used to determine each application's ranking.

b. Financial Integrity Criteria

Prior to making a federal award, FEMA is required by 31 U.S.C. § 3354, as amended by the Payment Integrity Information Act of 2019, Pub. L. No. 116-117 (2020); 41 U.S.C. § 2313; and 2 C.F.R. § 200.206 to review information available through any Office of Management and Budget (OMB)-designated repositories of government-wide eligibility qualification or financial integrity information, including whether the applicant is suspended or debarred. FEMA may also pose additional questions to the applicant to aid in conducting the pre-award risk review. Therefore, application evaluation criteria may include the following risk-based considerations of the applicant:

- i. Financial stability;
- ii. Quality of management systems and ability to meet management standards;
- iii. History of performance in managing federal award;
- iv. Reports and findings from audits; and
- v. Ability to effectively implement statutory, regulatory or other requirements.

c. Supplemental Financial Integrity Review

Prior to making a federal award where the anticipated federal share of a federal award will be greater than the simplified acquisition threshold (currently \$250,000):

- i. FEMA is required to review and consider any information about the applicant, including information on the applicant's immediate and highest-level owner, subsidiaries, and predecessors, if applicable, that is the designated integrity and performance system accessible through SAM, which is currently the Federal Awardee Performance and Integrity Information System (FAPIIS).
- ii. An applicant, at its option, may review information in FAPIIS and comment on any information about itself that a federal awarding agency previously entered.
- iii. FEMA will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants, as described in 2 C.F.R. § 200.206.

2. Review and Selection Process

SAFER Program applications are reviewed through a multi-phase process. All applications are electronically pre-scored and ranked based on how well they align with the funding priorities outlined in this NOFO. Applications are then scored competitively by no less than three members of a Peer Review Panel.

Applications with the highest score rankings per activity will also be evaluated through a series of internal FEMA review processes for completeness, adherence to programmatic guidelines, technical feasibility, costs/quantities, and anticipated effectiveness of the proposed project(s). Below is the process by which applications will be reviewed:

i. Pre-scoring Process

The application undergoes an electronic pre-scoring process based on established program priorities listed in Appendix B – Programmatic Information and Priorities and answers to activity-specific questions within the online application. Application Narratives are not reviewed during pre-score process. “Request Details” and “Budget” information should comply with program guidance and statutory funding limitations. The pre-score is 50 percent of the total application score under the Hiring Activity and 30 percent of the total application score under the R&R Activity.

ii. Peer Review Panel Process

All applications will be evaluated by the Peer Review Panel process. A panel of peer reviewers is comprised of fire service representatives recommended by the CDP. Peer reviewers will assess the merits of each application based on the narrative statement on the requested activity. The evaluation elements listed in the “Narrative Evaluation Criteria” below will be used to calculate the narrative's score for each activity requested. Panelists will independently score each

requested activity within the application, discuss the merits and/or shortcomings of the application with his or her peers, and document the findings. A consensus is not required. The panel score is 50 percent of the total application score under the Hiring Activity and 70 percent of the total application score under the R&R Activity.

iii. Technical Evaluation Process (TEP)

The highest ranked projects from both activities will be considered within the fundable range. Applications that are in the fundable range will undergo a Technical Review by the FEMA Program Office prior to being recommended for award. The FEMA Program Office will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending any application for award.

Once the TEP is complete, each application's cumulative score will be determined, and a final ranking of applications will be created. FEMA will award grants based on this final ranking and the ability to meet statutorily required funding limitations outlined in Appendix B - Programmatic Information and Priorities, section E. Restrictions on Use of Award Funds.

3. Narrative Evaluation Criteria

The Narrative Statement of the application must provide specific details about the activity for which applicants seek funding, including budget details. The weighted evaluation criteria used by the peer reviewers in the determination of the grant award, as described below, make up the elements of the Narrative Statement score. FEMA reviews and compares applications for duplication. Therefore, all elements of the Narrative Statements must be original.

The Narrative Statements blocks do not allow for formatting. Do not type the Narrative Statements using only capital letters. Additionally, do not include tables, special characters or fonts (e.g., quotation marks, bullets), or graphs. Space for the Narrative Statement is limited. While each element must have a minimum of 200 characters, the maximum amount of characters varies based on the questions being asked. Once the Narrative Statement is saved to the online application, log-out and then log back into the application to verify that the information was successfully saved.

Peer Review Panelists will evaluate and score each activity based on the following narrative elements within each activity.

I. Hiring Activity

The panel score is 50 percent of the total application score.

a. Project Description (30 percent):

- Why does the department need the positions requested in this application?

- How will the positions requested in this application be used within the department (e.g., fourth firefighter on engine, open a new station, eliminate browned out stations, reduce overtime)?
- What specific services will the requested positions provide to the fire department and community?
- How will funds awarded through this grant enhance the department's ability to protect critical infrastructure within the primary response area?

b. Impact on Daily Operations (30 percent):

- How are the community and the current firefighters employed by the department at risk without the positions requested in this application?
- How will that risk be reduced if awarded?

c. Financial Need (30 percent):

- Provide an income versus expenses breakdown of the current annual budget.
- Describe the department's budget shortfalls and inability to address financial needs without federal assistance.
- Describe what other actions the department has taken to obtain funding elsewhere (e.g. state assistance programs, other grant programs).
- Discuss how the critical functions of the department are affected without this funding.

- d. Cost Benefit (10 percent):** Describe the benefits (e.g., quantifying the anticipated savings and/or efficiencies) the department and community will realize if awarded the positions requested in this application.

II. R&R Activity (Fire Departments)

The panel score is 70 percent of the total application score.

a. Project Description (30 percent):

- Describe the problems and issues the department is experiencing in recruiting new volunteer firefighters.
- Describe the problems and issues the department is experiencing in retaining current members.
- Describe the implementation plan, including the goals, objectives, methods, specific steps, and timelines to directly address the identified problems or issues.
- Describe the current marketing plan already in place or the marketing program to be put in place with grant funds.
- Describe how the program will be evaluated for its impact on identified recruitment and retention problems and issues. How will the overall effectiveness of the grant will be measured?
- Describe the specific services the new volunteer firefighters and/or retention of current volunteer firefighters will provide for the fire department(s) and community.

- If the grant request will have a regional impact, discuss how the regional partners will benefit and which activities they will benefit from.

b. Impact on Daily Operations (30 percent):

- Describe how the community and current volunteer firefighters in the department are at risk without the items or activities requested in this application.
- Describe how that risk will be reduced if awarded funding.
- Explain the impact the recruitment of new volunteer firefighters and/or the retention of current volunteer firefighters will have on the department's NFPA compliance.

c. Financial Need (30 percent):

- Provide an income versus expenses breakdown of the department's current annual budget.
- Describe the department's budget shortfalls and its inability to address financial needs without federal assistance.
- Describe what other actions the department has taken to obtain funding elsewhere (e.g., state assistance programs, other grant programs), and how similar projects have been funded in the past.
- Discuss how the critical functions of the department are affected without this funding.

- d. Cost Benefit (10 percent):** Describe the benefits (e.g., quantifying the anticipated savings and/or efficiencies) the department and community will realize if awarded the items or activities requested in this application.

III. R&R Activity (National, state, local, or federally recognized tribal volunteer firefighters interest organizations)

The panel score is 70 percent of the total application score.

a. Project Description (30 percent):

- Describe the problems and issues the fire departments that the organization will be reaching with this grant are experiencing in recruiting new volunteer firefighters.
- Describe the problems and issues the same departments are experiencing in retaining current members.
- Describe the organization's implementation plan, including the goals, objectives, methods, specific steps, and timelines to directly address the problems or issues identified.
- Describe the current marketing plan already in place, or the marketing program to be put in place with grant funds.
- Describe how the program will be evaluated for its impact on the identified recruitment and retention problems and issues of the fire departments participating in this grant. Describe how the overall effectiveness of the grant will be measured.

- Describe the specific services the new volunteer firefighters and/or retention of current volunteer firefighters will provide for the fire departments participating in this application and their respective communities.
- Describe the organization's procurement practices and the timelines outlining the chronological steps to complete the activities requested in this application.

b. Impact on Daily Operations (30 percent):

- Describe how the fire departments participating in this application and their current volunteer firefighters and communities are at risk without the items or activities requested in this application.
- Explain how that risk will be reduced if awarded funding.
- Describe the impact that the recruitment of new volunteer firefighters and/or the retention of current volunteer firefighters will have on the NFPA compliance of the fire departments participating in this application.

c. Financial Need (30 percent):

- Provide an income versus expenses breakdown of the current annual budget.
- Describe the organization's budget shortfalls and the inability to address the financial needs without federal assistance.
- Describe the other actions the organization has taken to obtain funding elsewhere (e.g. state assistance programs, other grant programs), and how similar projects have been funded in the past.
- Discuss how the critical functions of the organization are affected without this funding.

d. Cost Benefit (10 percent):

- Describe the benefits (e.g., quantifying the anticipated savings and/or efficiencies) the fire departments participating in this application and their communities will realize if awarded the items or activities requested in this application.

F. Federal Award Administration Information

In addition to the language here, please see [Appendix C – Award Administration Information](#) to this NOFO for additional award administration information.

1. Notice of Award

Before accepting the award, the recipient should carefully read the award package. The award package includes instructions on administering the grant award and the terms and conditions associated with responsibilities under federal awards. Recipients must accept all conditions in this NOFO as well as any specific terms and conditions in the Notice of Award to receive an award under this program.

FEMA will provide the federal award package to the applicant electronically via FEMA GO. Award packages include an Award Letter, Summary Award Memo, Agreement

Articles, and Obligating Document. An email notification of the award package will be sent through FEMA's grant application system to the AOR that submitted the application. Recipients must accept their awards no later than 30 days from the award date. The recipient shall notify FEMA of its intent to accept and proceed with work under the award through the FEMA GO system.

Funds will remain on hold until the recipient accepts the award through the FEMA GO system and all other conditions of the award have been satisfied or until the award is otherwise rescinded. Failure to accept a grant award within the specified timeframe may result in a loss of funds. Recipients may request additional time to accept the award if needed.

2. Period of Performance Guidance

a. Hiring Activity

- The period of performance is 36 months for all grants awarded under this activity.
- A default 180-day recruitment period begins when FEMA approves an application for an award under this activity.
- The 36-month period of performance automatically starts after the 180-day recruitment period, regardless of whether the recipient has successfully hired the requested firefighters. The period of performance cannot start later than 180 days after the award date.
- If a recipient is able to hire all SAFER Program-funded firefighters during the 180-day recruitment period, the period of performance may begin at that time. However, in these instances, recipients must submit an amendment requesting that the period of performance start before the end of the 180-day recruitment period if they wish to begin the period early.

b. R&R Activity

- The period of performance is 12, 24, 36, or 48 months for all grants awarded under this activity.
- A default 90-day recruitment period begins when FEMA approves the application for award. This period allows each recipient time to gather resources, initiate processes, and finalize contracts needed to implement SAFER Program activities before the start of the period of performance in order to maximize the funding's availability. However, the recipient can only expend funds within the period of performance.
- If a recipient is able to begin its recruitment or retention activities during the 90-day recruitment period, the period of performance may begin at that time. However, in these instances, recipients must submit an amendment requesting that the period of performance start before the end of the 90-day recruitment period if they wish to begin the period early.
- The period of performance automatically starts after the 90-day recruitment period ends, regardless of whether the recipient has begun implementing its grant award. The period of performance cannot start later than 90 days after the award date.

3. Differences Between Application Request and Award

During the review process for a SAFER Program award, FEMA may have modified the application request(s). These modifications will be identified in the award package provided upon the offer of an award. If the awarded activities, scope of work, or requested dollar amount(s) do not match the application as submitted, the recipient shall only be responsible for completing the activities actually funded by FEMA. The recipient is under no obligation to start, modify, or complete any activities requested but not funded by the award. The award package will identify any differences under the approved scope of work section.

4. Turndown Notifications

FEMA GO will provide all applicants who do not receive an FY 2020 SAFER Program award with a turndown notification.

5. Administrative and National Policy Requirements

In addition to the requirements of in this section and in this NOFO, FEMA may place specific terms and conditions on individual awards in accordance with 2 C.F.R. Part 200.

DHS Standard Terms and Conditions

All successful applicants for all DHS grant and cooperative agreements are required to comply with DHS Standard Terms and Conditions, which are available online at: [DHS Standard Terms and Conditions](#). The applicable DHS Standard Terms and Conditions will be those in effect at the time in which the award was made.

Before accepting the award, the AOR should carefully read the award package for instructions on administering the grant award and the terms and conditions associated with responsibilities under Federal Awards. Recipients must accept all conditions in this NOFO as well as any special terms and conditions in the Notice of Award to receive an award under this program. By submitting an application, applicants are deemed to have accepted all of the conditions in this NOFO as well.

6. Reporting

Recipients are required to submit various financial and programmatic reports as a condition of their award acceptance. Future awards and funds drawdown may be withheld if these reports are delinquent. Recipients should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of purchasing documentation along with copies of cancelled checks or other proof of payment documentation for verification.

7. Federal Financial Reporting Requirements

The Federal Financial Report Form (SF-425) and instructions are available at the following site: [SF-425 OMB #4040-0014](#).

a. Federal Financial Reports (FFR)

Recipients of SAFER Program grants are required to submit an FFR (SF-425) on a semi-annual basis. The FFR is to be submitted using the online FEMA GO based on

the calendar year beginning with the period after the start of the period of performance. Grant recipients are required to submit an FFR throughout the entire period of performance of the grant.

Reports are due:

1. No later than July 30 (for the period January 1 – June 30)
2. No later than January 30 (for the period July 1 – December 31)
3. Within 120 days after the end of the period of performance

b. Program Performance Reporting Requirements

The recipient is responsible for completing and submitting a Programmatic Performance Report (PPR) using FEMA GO. The PPR is due every three months after the start of the grant's period of performance, and thereafter until the period of performance ends.

The PPR should include the following:

1. A brief narrative of overall project(s) status;
2. A summary of project expenditures;
3. A description of any potential issues that may affect project completion; and
4. Other information specific to the Activities awarded.

c. Closeout Reporting Requirements

Within 120 days after the end of the period of performance, recipients must liquidate all financial obligations and submit a final FFR (SF-425) and a final PPR (within the closeout module in FEMA GO) detailing all accomplishments and a qualitative summary of the impact of those accomplishments throughout the period of performance. The closeout tutorial may be found at <https://www.fema.gov/grants/preparedness/firefighters/closeout-report-tutorial>.

In addition, any recipient that issues subawards to any subrecipient is responsible for closing out those subawards as described in 2 C.F.R. § 200.344; subrecipients are still required to submit closeout materials within 90 days of the period of performance end date. Recipients must ensure that they complete the closeout of their subawards in time to submit all necessary documentation and information to DHS/FEMA during the closeout of their prime grant award.

After the final SF-425 and final performance reports have been reviewed and approved by FEMA, a Closeout Notice will be completed to close out the grant. The notice will indicate the period of performance as closed, list any remaining funds that will be deobligated, and address the requirement of maintaining the grant records for a minimum of three years from the date of the final FFR (SF- 425). The record retention period may be longer, such as due to an audit or litigation, for equipment or real property used beyond the period of performance, or due to other circumstances outlined in 2 C.F.R. § 200.334.

The recipient is responsible for returning any federal funds that they have liquidated

but remain unobligated by the recipient. Information on how to return funds to FEMA is available at <https://www.fema.gov/about/payment>.

d. Administrative Closeout

Administrative closeout is a mechanism for FEMA to unilaterally move forward with closeout of a grant award using available grant award information in lieu of final reports from the recipient per 2 C.F.R. § 200.344(h)-(i). It is a last resort available to FEMA, and if FEMA needs to administratively close an award, this may negatively impact a recipient's ability to obtain future funding. This mechanism can also require FEMA to make cash or cost adjustments and ineligible cost determinations based on the information it has, which may result in identifying a debt owed to FEMA by the recipient.

When a recipient is not responsive to FEMA's reasonable efforts to collect required reports needed to complete the standard closeout process, FEMA is required under 2 C.F.R. § 200.344(h) to start the administrative closeout process within the regulatory timeframe. FEMA will make at least three written attempts to collect required reports before initiating administrative closeout. If the recipient does not submit all required reports in accordance with 2 C.F.R. § 200.344, this NOFO, and the terms and conditions of the award, FEMA must proceed to administratively close the award with the information available within one year of the period of performance end date. Additionally, if the recipient does not submit all required reports within one year of the period of performance end date, per 2 C.F.R. § 200.344(i), FEMA must report in FAPIIS the recipient's material failure to comply with the terms and conditions of the award.

If FEMA administratively closes an award where no final FFR has been submitted, FEMA uses that administrative closeout date in lieu of the final FFR submission date as the start of the record retention period under 2 C.F.R. § 200.334.

In addition, if an award is administratively closed, FEMA may decide to impose remedies for noncompliance per 2 C.F.R. § 200.339, consider this information in reviewing future award applications, or apply special conditions to existing or future awards.

e. Additional Reporting Requirements

i. Disclosing Information per 2 C.F.R. § 180.335

This reporting requirement pertains to disclosing information related to government-wide suspension and debarment requirements. Before a recipient enters into a grant award with FEMA, the recipient must notify FEMA if it knows if it or any of the recipient's principals under the award fall under one or more of the four criteria listed at 2 C.F.R. § 180.335:

- Are presently excluded or disqualified;
- Have been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. § 180.800(a) or had a civil judgment rendered against it or

any of the recipient's principals for one of those offenses within that time period;

- Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses listed in 2 C.F.R. § 180.800(a); or,
- Have had one or more public transactions (federal, state, or local) terminated within the preceding three years for cause or default.

At any time after accepting the award, if the recipient learns that it or any of its principals falls under one or more of the criteria listed at 2 C.F.R. § 180.335, the recipient must provide immediate written notice to FEMA in accordance with 2 C.F.R. § 180.350.

ii. Reporting of Matters Related to Recipient Integrity and Performance

Per 2 C.F.R. Part 200, and Appendix B – Programmatic Information and Priorities, the additional post-award reporting requirements in 2 C.F.R. Part 200, Appendix XII may apply to applicants who, if upon becoming recipients, have a total value of currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies that exceeds \$10 million for any period of time during the period of performance of an award under this funding opportunity.

Recipients that meet these criteria must maintain current information reported in FAPIIS about civil, criminal, or administrative proceedings described in paragraph 2 of Appendix XII at the reporting frequency described in paragraph 4 of Appendix XII.

iii. Single Audit Report

For audits of fiscal years beginning on or after December 26, 2014, recipients that expend \$750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report, also known as the single audit report.

The audit must be performed in accordance with the requirements of U.S. Government Accountability Office's (GAO) Government Auditing Standards, located at <https://www.gao.gov/yellowbook/overview>, and the requirements of Subpart F of 2 C.F.R. Part 200, located at <http://www.ecfr.gov/cgi-bin/text-idx?node=sp2.1.200.f>.

7. Monitoring and Oversight

Per 2 C.F.R. § 200.337, FEMA, through its authorized representatives, has the right, at all reasonable times, to make site visits or conduct desk reviews to review project accomplishments and management control systems to review award progress and to provide any required technical assistance. During site visits or desk reviews, FEMA will review recipients' files related to the award. As part of any monitoring and program evaluation activities, recipients must permit FEMA, upon reasonable notice, to review

grant-related records and to interview the organization's staff and contractors regarding the program. Recipients must respond in a timely and accurate manner to FEMA requests for information relating to the award.

Grant recipients will be monitored periodically by FEMA staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestones, budgets, and other related program criteria are being met. Monitoring may be accomplished through either a desk-based review or on-site monitoring visits, or both. Monitoring will involve the review and analysis of the financial, programmatic, performance, compliance, and administrative processes and policies, activities, and other attributes of each federal assistance award and will identify areas where technical assistance, corrective actions, and other support may be needed.

The recipient is responsible for monitoring all subaward activities to ensure compliance with federal and state laws, regulations, and guidance. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining of adequate financial records, reporting and refunding expenditures disallowed by audits, monitoring, or other assessments and reviews.

Recipients should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of purchasing documentation along with copies of cancelled checks or other adequate payment documentation for verification.

G. DHS Awarding Agency Contact and Resource Information

1. SAFER Application Guidance Documents

Guidance documents such as application tutorials, Self-Evaluation Guides, and FAQs are provided to further explain the current SAFER Program, assist with the online grant application, and highlight lessons learned and changes for FY 2020. For more details, please visit the SAFER Program website at <https://www.fema.gov/grants/preparedness/firefighters/safer>.

2. SAFER Help Desk

The SAFER Help Desk provides technical assistance to applicants for the online completion and submission of applications into FEMA GO, answers questions concerning applicant eligibility and recipient responsibilities, and helps in the programmatic administration of awards. The SAFER Help Desk can be contacted at (866) 274-0960 or by email at FireGrants@fema.dhs.gov. Normal hours of operation are Monday through Friday, 8 a.m. to 4:30 p.m. ET.

3. Environmental Planning and Historic Preservation

GPD's EHP Team provides guidance and information about the EHP review process to recipients and subrecipients. All inquiries and communications about GPD projects under this NOFO or the EHP review process, including the submittal of EHP review materials, should be sent to gpdehpinfo@fema.dhs.gov.

4. FEMA GO System Information

For technical assistance with the FEMA GO system, please contact the FEMA GO Help Desk at (877) 585-3242, Monday through Friday, 8 a.m. to 6 p.m. ET.

H. Additional Information

1. Termination Provisions

FEMA may terminate a federal award in whole or in part for one of the following reasons. FEMA and the recipient must still comply with closeout requirements at 2 C.F.R. §§ 200.344-200.345 even if an award is terminated in whole or in part. To the extent that subawards are permitted under this NOFO, pass-through entities should refer to 2 C.F.R. § 200.340 for additional information on termination regarding subawards.

a. Noncompliance

If a recipient fails to comply with the terms and conditions of a federal award, FEMA may terminate the award in whole or in part. If the noncompliance can be corrected, FEMA may first attempt to direct the recipient to correct the noncompliance. This may take the form of a Compliance Notification. If the noncompliance cannot be corrected or the recipient is non-responsive, FEMA may proceed with a Remedy Notification, which could impose a remedy for noncompliance per 2 C.F.R. § 200.339, including termination. Any action to terminate based on noncompliance will follow the requirements of 2 C.F.R. §§ 200.341-200.342 as well as the requirement of 2 C.F.R. § 200.340(c) to report in FAPIIS the recipient's material failure to comply with the award terms and conditions. See also the section on Actions to Address Noncompliance in this NOFO.

b. With the Consent of the Recipient

FEMA may also terminate an award in whole or in part with the consent of the recipient, in which case the parties must agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated.

c. Notification by the Recipient

The recipient may terminate the award, in whole or in part, by sending written notification to FEMA setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of partial termination, FEMA may determine that a partially terminated award will not accomplish the purpose of the federal award, so FEMA may terminate the award in its entirety. If that occurs, FEMA will follow the requirements of 2 C.F.R. §§ 200.341-200.342 in deciding to fully terminate the award.

2. Extensions to the Grant Period of Performance

Extensions to the period of performance under this grant program are allowed. An award's period of performance must be active for a recipient to submit a proposed extension request to FEMA. Recipients should request extensions sparingly and only under exceptional circumstances. *Approval is not guaranteed.*

Extensions to the initial period of performance identified in the award will only be considered through formal amendment requests, via FEMA GO, and must contain specific and compelling justifications as to why an extension is required.

All extension requests must contain:

- Grant Program, fiscal year, and award number;
- Reason for delay—this must include details of the legal, policy, or operational challenges being experienced that prevent the final outlay of awarded funds by the applicable deadline;
- Current status of the activity/activities;
- Approved period of performance termination date and new project completion date;
- Amount of funds drawn down to date;
- Remaining available funds, both federal and non-federal;
- Budget outlining how remaining federal and non-federal funds will be expended;
- Plan for completion, including milestones and timeframes for achieving each milestone and the position/person responsible for implementing the plan for completion; and
- Certification that the activity/activities will be completed within the extended period of performance without any modification to the original Statement of Work approved by FEMA.

3. Requirements for Period of Performance Extension Consideration

To be eligible for consideration, recipients must submit extension requests via FEMA GO. Recipients generally can submit requests at least 60 days prior to the end of the award's period of performance. In accordance with FEMA policy, FEMA reviews extensions on a case-by-case basis and typically grants them for no more than a six-month period. FEMA will grant extension requests only due to compelling legal, policy, or operational challenges. The review process can take up to 30 days or longer. Applicants should factor this review period into the timing of when to submit a request for an extension.

Example: Recipients may request an extension when an equipment order was placed during the period of performance but factors beyond the recipients' control have resulted in a delay in the expected delivery and receipt of the equipment outside of the existing period of performance; where a specific statute or regulation mandates an environmental review that cannot be completed within this timeframe; or where other extenuating circumstances warrant a brief extension.

4. Conflicts of Interest in the Administration of Federal Awards or Subawards

For conflicts of interest under grant-funded procurements and contracts, refer to the section on Procurement Integrity in this NOFO and 2 C.F.R. §§ 200.317 – 200.327.

To eliminate and reduce the impact of conflicts of interest in the subaward process, recipients and pass-through entities must follow their own policies and procedures regarding the elimination or reduction of conflicts of interest when making subawards.

Recipients and pass-through entities are also required to follow any applicable federal and state, local, tribal, or territorial (SLTT) statutes or regulations governing conflicts of interest in the making of subawards.

The recipient or pass-through entity must disclose to the respective Program Analyst or Program Manager, in writing, any real or potential conflict of interest that may arise during the administration of the federal award, as defined by the federal or SLTT statutes or regulations or their own existing policies, within five days of learning of the conflict of interest. Similarly, subrecipients, whether acting as subrecipients or as pass-through entities, must disclose any real or potential conflict of interest to the recipient or next-level pass-through entity as required by the recipient or pass-through entity's conflict of interest policies, or any applicable federal or SLTT statutes or regulations.

Conflicts of interest may arise during the process of FEMA making a federal award in situations where an employee, officer, or agent, any members of his or her immediate family, his or her partner has a close personal relationship, a business relationship, or a professional relationship, with an applicant, subapplicant, recipient, subrecipient, or FEMA employees.

5. Procurement Integrity

Through audits conducted by the DHS Office of Inspector General (OIG) and FEMA grant monitoring, findings have shown that some FEMA recipients have not fully adhered to the proper procurement requirements when spending grant funds. Anything less than full compliance with federal procurement requirements jeopardizes the integrity of the grant as well as the grant program. To assist with determining whether an action is a procurement or instead a subaward, please consult 2 C.F.R. § 200.331.

The below highlights the federal procurement requirements for FEMA recipients when procuring goods and services with federal grant funds. FEMA will include a review of recipients' procurement practices as part of the normal monitoring activities. **All procurement activity must be conducted in accordance with federal procurement standards at 2 C.F.R. §§ 200.317 – 200.327.** Select requirements under these standards are listed below. The recipient and any of its subrecipients must comply with all requirements, even if they are not listed below.

Under 2 C.F.R. § 200.317, when procuring property and services under a federal award, states (including territories) must follow the same policies and procedures they use for procurements from their non-federal funds; additionally, states must now follow 2 C.F.R. § 200.321 regarding socioeconomic steps, § 200.322 regarding domestic preferences for procurements, § 200.323 regarding procurement of recovered materials, and § 200.327 regarding required contract provisions.

All other non-federal entities, such as tribes (collectively, non-state entities), must have and use their own documented procurement procedures that reflect applicable SLTT laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in 2 C.F.R. Part 200. These standards include, but are not

limited to, providing for full and open competition consistent with the standards of 2 C.F.R. § 200.319 and § 200.320.

a. Important Changes to Procurement Standards in 2 C.F.R. Part 200

OMB recently updated various parts of Title 2 of the Code of Federal Regulations, among them, the procurement standards. States are now required to follow the socioeconomic steps in soliciting small and minority businesses, women's business enterprises, and labor surplus area firms per 2 C.F.R. § 200.321. All non-federal entities should also, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States per 2 C.F.R. § 200.322.

The recognized procurement methods in 2 C.F.R. § 200.320 have been reorganized into informal procurement methods, which include micro-purchases and small purchases; formal procurement methods, which include sealed bidding and competitive proposals; and noncompetitive procurements. The federal micro-purchase threshold is currently \$10,000, and non-state entities may use a lower threshold when using micro-purchase procedures under a FEMA award. If a non-state entity wants to use a micro-purchase threshold higher than the federal threshold, it must follow the requirements of 2 C.F.R. § 200.320(a)(1)(iii)-(iv). The federal simplified acquisition threshold is currently \$250,000, and a non-state entity may use a lower threshold but may not exceed the federal threshold when using small purchase procedures under a FEMA award.

See 2 C.F.R. §§ 200.216, 200.471, and Appendix II as well as section D.13.a of the NOFO regarding prohibitions on covered telecommunications equipment or services.

b. Competition and Conflicts of Interest

Among the requirements of 2 C.F.R. § 200.319(b) applicable to all non-federal entities other than states, in order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. FEMA considers these actions to be an organizational conflict of interest and interprets this restriction as applying to contractors that help a non-federal entity develop its grant application, project plans, or project budget. This prohibition also applies to the use of former employees to manage the grant or carry out a contract when those former employees worked on such activities while they were employees of the non-federal entity.

Under this prohibition, unless the non-federal entity solicits for and awards a contract covering both development and execution of specifications (or similar elements as described above), and this contract was procured in compliance with 2 C.F.R. §§ 200.317 – 200.327, federal funds cannot be used to pay a contractor to carry out the work if that contractor also worked on the development of those specifications. This rule applies to all contracts funded with federal grant funds, including pre-award costs, such as grant writer fees, as well as post-award costs, such as grant

management fees.

Additionally, some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable requirements on firms for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and,
- Any arbitrary action in the procurement process.

Per 2 C.F.R. § 200.319(c), non-federal entities other than states must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed SLTT geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Under 2 C.F.R. § 200.318(c)(1), non-federal entities other than states are required to maintain written standards of conduct covering conflicts of interest and governing the actions of their employees engaged in the selection, award, and administration of contracts. **No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.** Such conflicts of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-federal entity. If the recipient or subrecipient (other than states) has a parent, affiliate, or subsidiary organization that is not a state, local, tribal, or territorial government, the non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. In this context, organizational conflict of interest means that because of a relationship with a parent company, affiliate, or subsidiary

organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. The non-federal entity must disclose in writing any potential conflicts of interest to FEMA or the pass-through entity in accordance with applicable FEMA policy.

c. Supply Schedules and Purchasing Programs

Generally, a non-federal entity may seek to procure goods or services from a federal supply schedule, state supply schedule, or group purchasing agreement.

i. General Services Administration Schedules

States, tribes, and local governments, and any instrumentality thereof (such as local education agencies or institutions of higher education) may procure goods and services from a General Services Administration (GSA) schedule. GSA offers multiple efficient and effective procurement programs for state, tribal, and local governments, and instrumentalities thereof, to purchase products and services directly from pre-vetted contractors. The GSA Schedules (also referred to as the Multiple Award Schedules and the Federal Supply Schedules) are long-term government-wide contracts with commercial firms that provide access to millions of commercial products and services at volume discount pricing.

Information about GSA programs for states, tribes, and local governments, and instrumentalities thereof, can be found at <https://www.gsa.gov/resources-for/programs-for-State-and-local-governments> and <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules/schedule-buyers/state-and-local-governments>.

For tribes, local governments, and their instrumentalities that purchase off of a GSA schedule, this will satisfy the federal requirements for full and open competition provided that the recipient follows the GSA ordering procedures; however, tribes, local governments, and their instrumentalities will still need to follow the other rules under 2 C.F.R. §§ 200.317 – 200.327, such as solicitation of minority businesses, women’s business enterprises, small businesses, or labor surplus area firms (§ 200.321), domestic preferences (§ 200.322), contract cost and price (§ 200.324), and required contract provisions (§ 200.327 and Appendix II).

ii. Other Supply Schedules and Programs

For non-federal entities other than states, such as tribes, local governments, and nonprofits, that want to procure goods or services from a state supply schedule, cooperative purchasing program, or other similar program, in order for such procurements to be permissible under federal requirements, the following must be true:

- The procurement of the original contract or purchasing schedule and its use by the non-federal entity complies with state and local law, regulations, and written procurement procedures;

- The state or other entity that originally procured the original contract or purchasing schedule entered into the contract or schedule with the express purpose of making it available to the non-federal entity and other similar types of entities;
- The contract or purchasing schedule specifically allows for such use, and the work to be performed for the non-federal entity falls within the scope of work under the contract as to type, amount, and geography;
- The procurement of the original contract or purchasing schedule complied with all the procurement standards applicable to a non-federal entity other than states under at 2 C.F.R. §§ 200.317 – 200.327; and,
- With respect to the use of a purchasing schedule, the non-federal entity must follow ordering procedures that adhere to applicable state, tribal, and local laws and regulations and the minimum requirements of full and open competition under 2 C.F.R. Part 200.

If a non-federal entity other than a state seeks to use a state supply schedule, cooperative purchasing program, or other similar type of arrangement, FEMA recommends the recipient discuss the procurement plans with its FEMA Program Analyst.

d. Procurement Documentation

Per 2 C.F.R. § 200.318(i), non-federal entities other than states and territories are required to maintain and retain records sufficient to detail the history of procurement covering at least the rationale for the procurement method, contract type, contractor selection or rejection, and the basis for the contract price. States and territories are encouraged to maintain and retain this information as well and are reminded that in order for any cost to be allowable, it must be adequately documented per 2 C.F.R. § 200.403(g).

Examples of the types of documents that would cover this information include but are not limited to:

- Solicitation documentation, such as requests for quotes, invitations for bids, or requests for proposals;
- Responses to solicitations, such as quotes, bids, or proposals;
- Pre-solicitation independent cost estimates and post-solicitation cost/price analyses on file for review by federal personnel, if applicable;
- Contract documents and amendments, including required contract provisions; and,
- Other documents required by federal regulations applicable at the time a grant is awarded to a recipient.

6. Record Retention

a. Record Retention Period

Financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award generally must be maintained for at least

three years from the date the final FFR is submitted. *See* 2 C.F.R. § 200.334. Further, if the recipient does not submit a final FFR and the award is administratively closed, FEMA uses the date of administrative closeout as the start of the general record retention period.

The record retention period **may be longer than three years or have a different start date** in certain cases. These include:

- Records for real property and equipment acquired with federal funds must be retained for **three years after final disposition of the property**. *See* 2 C.F.R. § 200.334(c);
- If any litigation, claim, or audit is started before the expiration of the three-year period, the records **must be retained until** all litigation, claims, or audit findings involving the records **have been resolved and final action taken**. *See* 2 C.F.R. § 200.334(a);
- The **record retention period will be extended if the recipient is notified in writing** of the extension by FEMA, the cognizant or oversight agency for audit, or the cognizant agency for indirect costs. *See* 2 C.F.R. § 200.334(b);
- Where FEMA requires recipients to report program income after the period of performance ends, the **program income record retention period begins at the end of the recipient's fiscal year in which program income is earned**. *See* 2 C.F.R. § 200.334(e); and
- For indirect cost rate proposals, cost allocation plans, or other rate computations records, the start of the record retention period depends on whether the indirect cost rate documents were submitted for negotiation. If the **indirect cost rate documents were submitted for negotiation, the record retention period begins from the date those documents were submitted** for negotiation. If indirect cost rate documents were **not submitted for negotiation, the record retention period begins at the end of the recipient's fiscal year or other accounting period covered by that indirect cost rate**. *See* 2 C.F.R. § 200.334(f).

b. Types of Records to Retain

FEMA requires that non-federal entities maintain the following documentation for federally funded purchases:

- Specifications;
- Solicitations;
- Competitive quotes or proposals;
- Basis for selection decisions;
- Purchase orders;
- Contracts;
- Invoices; and
- Canceled checks.

Non-federal entities should keep detailed records of all transactions involving the

grant. FEMA may at any time request copies of any relevant documentation and records, including purchasing documentation along with copies of cancelled checks for verification. *See, e.g.*, 2 C.F.R. §§ 200.318(i), 200.334, 200.337.

In order for any cost to be allowable, it must be adequately documented per 2 C.F.R. § 200.403(g). Non-federal entities who fail to fully document all purchases may find their expenditures questioned and subsequently disallowed.

7. Actions to Address Noncompliance

Non-federal entities receiving financial assistance funding from FEMA are required to comply with requirements in the terms and conditions of their awards or subawards, including the terms set forth in applicable federal statutes, regulations, NOFOs, and policies. Throughout the award lifecycle or even after an award has been closed, FEMA or the pass-through entity may discover potential or actual noncompliance on the part of a recipient or subrecipient. This potential or actual noncompliance may be discovered through routine monitoring, audits, closeout, or reporting from various sources.

In the case of any potential or actual noncompliance, FEMA may place special conditions on an award per 2 C.F.R. §§ 200.208 and 200.339, FEMA may place a hold on funds until the matter is corrected, or additional information is provided per 2 C.F.R. § 200.339, or it may do both. Similar remedies for noncompliance with certain federal civil rights laws are authorized pursuant to 44 C.F.R. Parts 7 and 19.

In the event the noncompliance is not able to be corrected by imposing additional conditions or the recipient or subrecipient refuses to correct the matter, FEMA might take other remedies allowed under 2 C.F.R. § 200.339. These remedies include actions to disallow costs, recover funds, wholly or partly suspend or terminate the award, initiate suspension and debarment proceedings, withhold further federal awards, or take other remedies that may be legally available. For further information on termination due to noncompliance, see the section on Termination Provisions in the NOFO.

FEMA may discover and take action on noncompliance even after an award has been closed. The closeout of an award does not affect FEMA's right to disallow costs and recover funds as long the action to disallow costs takes place during the record retention period. *See* 2 C.F.R. §§ 200.334, 200.345(a). Closeout also does not affect the obligation of the non-federal entity to return any funds due as a result of later refunds, corrections, or other transactions. *See* 2 C.F.R. § 200.345(a)(2).

The types of funds FEMA might attempt to recover include, but are not limited to, improper payments, cost share reimbursements, program income, interest earned on advance payments, or equipment disposition amounts.

FEMA may seek to recover disallowed costs through a Notice of Potential Debt Letter, a Remedy Notification, or other letter. The document will describe the potential amount owed, the reason why FEMA is recovering the funds, the recipient's appeal rights, how the amount can be paid, and the consequences for not appealing or paying the amount by

the deadline.

If the recipient neither appeals nor pays the amount by the deadline, the amount owed will become final. Potential consequences if the debt is not paid in full or otherwise resolved by the deadline include the assessment of interest, administrative fees, and penalty charges; administratively offsetting the debt against other payable federal funds; and transferring the debt to the U.S. Department of the Treasury for collection.

FEMA notes the following common areas of noncompliance for FEMA's grant programs:

- Insufficient documentation and lack of record retention;
- Failure to follow the procurement under grants requirements;
- Failure to submit closeout documents in a timely manner;
- Failure to follow EHP requirements;
- Failure to comply with the POP deadline.

8. Audits

FEMA grant recipients are subject to audit oversight from multiple entities including the DHS OIG, the GAO, the pass-through entity, or independent auditing firms for single audits, and may cover activities and costs incurred under the award. Auditing agencies such as the DHS OIG, the GAO, and the pass-through entity (if applicable), and FEMA in its oversight capacity, must have access to records pertaining to the FEMA award. Recipients and subrecipients must retain award documents for at least three years from the date the final FFR is submitted, and even longer in many cases subject to the requirements of 2 C.F.R. § 200.334. In the case of administrative closeout, documents must be retained for at least three years from the date of closeout, or longer subject to the requirements of 2 C.F.R. § 200.334. If documents are retained longer than the required retention period, the DHS OIG, the GAO, and the pass-through entity, as well as FEMA in its oversight capacity, have the right to access these records as well. *See* 2 C.F.R. §§ 200.334, 200.337.

Additionally, non-federal entities must comply with the single audit requirements at 2 C.F.R. Part 200, Subpart F. Specifically, non-federal entities, other than for-profit subrecipients, that expend \$750,000 or more in federal awards during their fiscal year must have a single or program-specific audit conducted for that year in accordance with Subpart F. 2 C.F.R. § 200.501. A single audit covers all federal funds expended during a fiscal year, not just FEMA funds. The cost of audit services may be allowable per 2 C.F.R. § 200.425, but non-federal entities must select auditors in accordance with 2 C.F.R. § 200.509, including following the proper procurement procedures. For additional information on single audit reporting requirements, see section F of this NOFO under the header "Single Audit Report" within the subsection "Additional Reporting Requirements."

The objectives of single audits are to:

- Determine whether financial statements conform to generally accepted accounting principles (GAAP);
- Determine whether the schedule of expenditures of federal awards is presented fairly;
- Understand, assess, and test the adequacy of internal controls for compliance with major programs; and,
- Determine whether the entity complied with applicable laws, regulations, and contracts or grants.

For single audits, the auditee is required to prepare financial statements reflecting its financial position, a schedule of federal award expenditures, and a summary of the status of prior audit findings and questioned costs. The auditee also is required to follow up and take appropriate corrective actions on new and previously issued but not yet addressed audit findings. The auditee must prepare a corrective action plan to address the new audit findings. See 2 C.F.R. §§ 200.508, 200.510, 200.511.

Non-federal entities must have an audit conducted, either single or program-specific, of their financial statements and federal expenditures annually or biennially pursuant to 2 C.F.R. § 200.504. Non-federal entities must also follow the information submission requirements of 2 C.F.R. § 200.512, including submitting the audit information to the Federal Audit Clearinghouse within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The audit information to be submitted include the data collection form described at 2 C.F.R. § 200.512(c) and Appendix X to 2 C.F.R. Part 200 as well as the reporting package described at 2 C.F.R. § 200.512(b).

The non-federal entity must retain one copy of the data collection form and one copy of the reporting package for three years from the date of submission to the Federal Audit Clearinghouse. See 2 C.F.R. § 200.512; *see also* 2 C.F.R. § 200.517 (setting requirements for retention of documents by the auditor and access to audit records in the auditor's possession).

FEMA, the DHS OIG, the GAO, and the pass-through entity (if applicable), as part of monitoring or as part of an audit, may review a non-federal entity's compliance with the single audit requirements. In cases of continued inability or unwillingness to have an audit conducted in compliance with 2 C.F.R. Part 200, Subpart F, FEMA and the pass-through entity, if applicable, are required to take appropriate remedial action under 2 C.F.R. § 200.339 for noncompliance, pursuant to 2 C.F.R. § 200.505.

Appendix A – FY 2020 SAFER Program Updates

Appendix A contains a brief list of changes between FY 2019 and FY 2020 to the SAFER Program

New for FY 2020

The FY 2020 SAFER Program NOFO contains some changes to definitions, descriptions, and priority categories. Changes to the FY 2020 SAFER Program NOFO include:

- Under authorities provided under Department of Homeland Security Appropriations Act, 2020 (Pub. L. No. 116-93), the following requirements are being waived for the FY 2020 SAFER Program:
 - **Position Cost Limits:** There are no annual salary limits under the Hiring of Firefighters Activity.
 - **Cost-share:** There is no prescribed cost-share under the Hiring of Firefighters Activity.
 - **New Additional Firefighters Requirement:** Grant funds can now be used to rehire laid off firefighters and retain firefighters facing layoff under the Hiring of Firefighters Activity.
 - **Period of Performance:** Extensions to the period of performance under the Hiring of Firefighters Activity are now allowable.
 - **Supplanting Requirement:** There is no supplanting requirement under the Hiring of Firefighters Activity.
 - **Minimum Budget Requirement:** There is no minimum budget requirement.
- Under sections D – Application and Submission Information, E – Application Review Information, F – Federal Award Administration Information, G – DHS Awarding Agency Contact and Resource Information, and H – Additional Information:
 - Various grants management changes due to recent OMB revisions to 2 C.F.R., particularly regarding SAM registration, performance measures, procurement, closeout, and termination
- Under Supporting Definitions:
 - Definition added for Primary First Due

Appendix B – Programmatic Information and Priorities

*Appendix B contains details on SAFER Program information and priorities.
Reviewing this information may help applicants make their application(s)
more competitive*

A. Ineligible Applications and/or Organizations

Volunteer and combination fire departments may apply for funding under both the Hiring Activity and the R&R Activity; however, departments must complete separate applications for each activity. Applicants are limited to one application per activity, per application period. If an applicant submits two applications for the same activity during a single application period, FEMA will disqualify both applications.

If two or more of the following entities have different funding streams, personnel rosters, and EINs but share the same facilities, FEMA considers them as being separate organizations for the purposes of FY 2020 SAFER Program eligibility:

- Fire departments
- National, state, local, federally recognized tribal, and non-profit interest organizations

If two or more organizations share facilities and each submits an application in the same activity (i.e., Hiring of Firefighters), FEMA reserves the right to review all of those program area applications for eligibility. This determination is designed to avoid the duplication of benefits.

Examples of ineligible applications and/or organizations include:

- For-profit organizations, federal agencies, and individuals are not eligible to receive a SAFER Program award
- Fire departments that are a Federal Government entity, or contracted by the Federal Government, and are solely responsible under a formally recognized agreement for suppression of fires on federal installations or land
- Fire departments that are not independent entities but are part of, controlled by, or under the day-to-day operational command and control of a larger department, agency or AHJ
 - However, if a fire department is considered to be the same legal entity as a municipality or other governmental organization, and otherwise meets the eligibility criteria, that municipality or other governmental organization may apply on behalf of that fire department as long as the application clearly states that the fire department is considered part of the same legal entity
- State or local agencies, or subsets of any governmental entities, or any authorities that do not meet the requirements as defined by 15 U.S.C. § 2229a(a)(1)(A) and (a)(2)
- Ambulance services, emergency medical service organizations, rescue squads, auxiliaries, dive teams, and urban search and rescue teams

- Non-federal airport or port authority fire departments whose sole responsibility is the suppression of fires on the airport grounds or port facilities, unless the airport/port fire department has a formally recognized arrangement with the local jurisdiction to provide fire suppression on a first-due basis outside the confines of the airport or port facilities
- Eligible applicants may submit only one application for each eligible activity (Hiring Activity and R&R Activity); all submissions of duplicate applications may be disqualified
- If an applicant submits two or more applications for the same activity, both applications may be disqualified
 - This is different from when where an entity is applying on behalf of other organizations that are agencies or instrumentalities of the applicant (e.g., multiple fire departments under the same county, city, borough, parish, or other municipality). In that situation, the applicant may request similar or the same costs as long as the application clearly states which costs (including quantities) are for which agency/instrumentality. This is permissible even if that entity submits multiple applications across regional versus direct applications.

B. Supporting Definitions for this NOFO

Attrition is a gradual reduction in work force without laying off personnel, e.g., when workers resign or retire and are not replaced.

Authority Having Jurisdiction (AHJ) is that person or office charged with enforcing the NFPA codes (Per NFPA101-2015 Edition: Life Safety Code).

Automatic Aid is a plan developed between two or more fire departments for immediate joint response on first alarms (Per NFPA 1710 – 2016 edition and NFPA 1720 – 2014).

Benefits, as defined in 2 C.F.R. § 200.431, means the regular compensation paid to employees during periods of authorized absences from the job, e.g., vacation leave, sick leave, military leave. Benefits may include employer contributions or expenses for social security, employee insurance, workmen’s compensation, and pension plan costs, and the like, whether treated as indirect costs or as direct costs, and are also eligible and shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable. Please see Compensation—fringe benefits for more information.

Career Fire Department, as defined in 15 U.S.C. § 2229, means a fire department that has an all-paid force of firefighting personnel other than paid-on-call firefighters.

Combination Fire Department, as defined in 15 U.S.C. § 2229, means a fire department that has paid firefighting personnel and volunteer firefighting personnel. FEMA considers a fire department with firefighting personnel paid a stipend on a per-event basis, or paid on-call, to be a combination fire department.

Emergency Medical Services Organization is a public or private organization that provides direct emergency medical services, including medical transport.

Fire Department is an agency or organization that has a formally recognized arrangement with a state, territory, local government, or tribal authority (city, county, parish, fire district, township, town, village or other governing body) to provide fire suppression on a first-due basis to a fixed geographical area. Fire departments may be comprised of members who are volunteer, career or a combination of volunteer and career.

Firefighter is an individual having the legal authority and responsibility to engage in fire suppression; employed by a fire department of a municipality, county, fire district or state, engaged in the prevention, control and extinguishing of fires; and/or responding to emergency situations in which life, property or the environment is at risk. This individual must be trained in fire suppression, but may also be trained in emergency medical care, hazardous materials awareness, rescue techniques and any other related duties provided by the fire department.

Formal Layoff Notice: Any layoff notice should align with the local rules and regulations that govern civil service employment in the jurisdiction. In order to be reasonable to employees, and to provide employees facing layoff actions a clear understanding of the impending action, any notice of layoff should be in writing and delivered to a specific employee affected by the action. The notice should identify a specific date employment will cease or specific event that would trigger the termination of employment. The notice should be delivered or otherwise presented directly to the affected employee in advance of the layoff action in accordance with the civil service provisions or union agreement in force in the jurisdiction taking action, e.g., 60 days prior to the effective date of the layoff action. The notice should specify whether the action is permanent or temporary, as well as provide the anticipated schedule of layoffs.

Initial Full Alarm Assignment is the personnel, equipment, and resources ordinarily dispatched upon notification of a structural fire.

Majority Career departments are considered majority career if more than 50 percent of the active firefighting membership is salaried staff.

Majority Volunteer departments are considered majority volunteer if more than 50 percent of the active firefighting membership is NOT compensated for service other than a nominal stipend and/or insurance.

Mutual Aid is a written intergovernmental agreement between agencies and/or jurisdictions stating that they will assist one another on request by furnishing personnel, equipment, and/or expertise in a specified manner (NFPA 1710 Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to

the Public by Career Fire Departments, 2016 edition and NFPA 1720 Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Volunteer Fire Departments, 2014 Edition).

National, State, Local, or Federally Recognized Tribal Organizations that Represent the Interests of Volunteer Firefighters are organizations that support or represent the interests of firefighters in front of legislative bodies at the local, state, tribal and federal level. Such organizations include, but are not limited to, state or local firefighter and/or fire chiefs' associations, volunteer firefighter relief organizations, and associations. FEMA shall make the final determination as to whether an applicant is an appropriate volunteer firefighter interest group.

New Recruit is a volunteer that joins the department with the intent to serve as a firefighter, after the recipient is notified of the grant award (the date of the award notification email in the FEMA GO mail center).

Nominal Stipend is a stipend that does not exceed 20 percent of what the fire department would otherwise pay to hire a full-time firefighter to perform the services for which the stipend is provided. Whether a stipend falls above or below the 20 percent threshold may be determined in one of two ways. Departments that maintain paid full-time firefighters on their payrolls may compare the stipend to the salary they pay a full-time firefighter who performs similar services to determine whether the stipend is more or less than 20 percent of that salary. Departments that do not maintain full time firefighters on their payrolls may make the determination based on a comparison to the salary paid to a full-time firefighter in a neighboring jurisdiction, elsewhere in the state or ultimately the nation, and may also utilize data from the United States Department of Labor's Bureau of Labor Statistics. A nominal stipend may also include reimbursements to volunteer firefighters for approximate out-of-pocket expenses they incur.

If a stipend paid exceeds 20 percent of the prevailing wage calculated as described above, then the firefighter receiving compensation would not qualify as a volunteer and is considered an employee who may be covered by the Fair Labor Standards Act (FLSA) minimum wage and overtime provisions.

Operational Budget is the funding supporting fire-related programs and/or emergency response activities (e.g., salaries, maintenance, equipment, apparatus).

Operational Position is a position with a primary assignment (more than 50 percent of time) on a fire suppression vehicle, regardless of collateral duties, in support of the department's NFPA 1710 or NFPA 1720 compliance.

Paid-on-Call is defined as firefighters who are paid a stipend for each event to which they respond. Paid-on-call firefighters may be considered paid firefighters or volunteer

firefighters, depending on whether the stipend they receive is a nominal stipend. For the purposes of this SAFER Program, a department whose membership is comprised of all volunteer firefighters, including any paid-on-call firefighters who receive only a nominal stipend, will be considered a volunteer fire department. Also, for the purposes of this SAFER Program, a department whose membership is composed of any paid-on-call firefighters who receive more than a nominal stipend will be considered a combination fire department. Also refer to the definition of a nominal stipend.

Part-Time Firefighter is a firefighter who works less than 40 hours per week. When more than one part-time firefighter shares a position that results in work in excess of 40 hours per week, FEMA considers that shared assignment to be a Full-Time Equivalent (FTE) position that must be accounted for in the staffing information provided in the application.

Primary First Due is a geographic area surrounding a fire station in which a company from that station is projected to be first to arrive on the scene of an incident (NFPA 1710; 3.3.28). Please visit <http://www.nfpa.org/freeaccess>.

Salary is a fixed payment made by an employer to an employee to compensate for a regular work schedule. Typically, the payment is made on a monthly, biweekly, or weekly basis but often expressed as an annual sum. The salary structure should be documented in writing by the employer. Note: Only costs for overtime that an employer routinely pays as a part of a firefighter's regularly scheduled and contracted shift hours to comply with FLSA are eligible salary costs under the Hiring Activity.

State is defined as any of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

Staffing and Deployment is the minimum staffing requirements to ensure a sufficient number of members are available to operate safely and effectively as defined in NFPA 1710 and 1720.

Supplanting is to replace or take place of funds that would otherwise be available from state or local sources, or the Bureau of Indian Affairs.

Volunteer Fire Department, as defined in 15 U.S.C. § 2229, means a fire department that has an all-volunteer force of firefighting personnel.

C. **Application Tips**

Once the application has been submitted, it cannot be changed. There is no appeal process for inaccurate or incomplete information retained by the system due to improper or multiple browser usage by the applicant.

The AOR that submitted the application will receive an automatic FEMA GO notification email once the system receives the application.

Application Notes

- NFPA – “FREE ACCESS” - As part of its commitment to enhancing public safety and supporting the emergency responder, the NFPA makes its codes and standards available online for free. Please visit: <http://www.nfpa.org/freeaccess>.
- For the most competitive applications, select those local need(s) that most closely align with one or more SAFER Program funding priorities.
- Applications differ based on the applicant type. For example, the Hiring Activity application will be different from the fire department application for the R&R Activity; the R&R application will be different for a fire department than an interest organization. Be sure to select the appropriate applicant type when applying.
- When filling out the online application, applicants are required to provide basic demographic information regarding their organization and the community served and must provide detailed information regarding the items or activities for which they are seeking funding.
- If awarded, the application request(s) may be modified during the award review process; if the awarded activities, Scope of Work, or amount(s) do not match the application as submitted, the grant recipient shall only be responsible for completing the activities actually funded. The grant recipient is under no obligation to start, modify, or complete any activities requested, but not funded by this award. Please review the Award Package.

D. Funding Limitations

Specific funding parameters are either required by law or are the outcome of recommendations from the CDP. Each requirement is identified below, followed by the source of the requirement noted in parentheses:

- Ten percent of the funding appropriated for FY 2020 SAFER Program awards is set aside for the recruitment and retention of volunteer firefighters. (15 U.S.C. § 2229a(a)(2))
 - No more than 33 percent of the total amount allocated for the recruitment and retention of volunteers can be awarded to national, state, local, territorial, or federally recognized tribal organizations that represent the interests of volunteer firefighters (CDP)
- Ten percent of the funding appropriated for FY 2020 SAFER Program awards is set aside for grants awarded to all volunteer or majority volunteer departments for hiring of firefighters. (15 U.S.C. § 2229a(a)(1)(H))
 - A majority volunteer fire department is made up of more than 50 percent of personnel who do not receive financial compensation for their services, other than life, health, and worker’s compensation insurance, or a nominal stipend payment, including certain paid-on-call personnel. Although applications are normally awarded based on total score (high to low), in order to meet this ten percent statutory set aside the SAFER Program Office may be required to fund an application that meets the criteria for the set aside instead of a higher-scoring

- application that does not meet the set aside criteria (15 U.S.C. § 2229a(a)(1)(H))
- If FEMA awards less than ten percent of the funds available for the hiring of firefighters to volunteer and majority volunteer fire departments, it must transfer the remaining funds to provide grants for the recruitment and retention of volunteer firefighters. (15 U.S.C. § 2229a(a)(1)(H))

E. Restrictions on Use of Award Funds

- Under the R&R Activity, applications that request a Staffing Needs Assessment and/or Risk Assessment project are precluded from applying for additional R&R-related activities.
- Applicants may not use award funds for matching funds for any other federal grants/cooperative agreements, lobbying, or intervention in federal regulatory or adjudicatory proceedings.
- Applicants may not use federal funds to sue the Federal Government or any other government entity.

F. Funding Priorities

Meeting the National Standards

FEMA prioritizes bringing non-compliant (NFPA 1710 or 1720) departments into compliance in the most cost-effective manner.

FEMA will ask applicants general questions about the NFPA standard they are attempting to meet as well as their current ability to meet that standard (without the use of overtime). FEMA will also ask applicants to indicate what their ability will be to meet that same standard if awarded grant funds.

Having additional firefighters on staff should improve a local fire department's ability to comply with the staffing, response, and operational standards that enhance community and firefighter safety.

Applications resulting in the largest percentage increases in compliance with the relevant section of NFPA 1710 (for career departments) or 1720 (for volunteer departments) receive higher pre-scores than applications resulting in smaller percentage increases in compliance.

Note: SAFER Program grants focus only on the Deployment or Staffing and Deployment sections of these two standards, respectively.

- NFPA 1710 Assembly Requirements – Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Department (Section 5.2.4.1 – Single-Family Dwelling Initial Full Alarm Assignment Capability): This standard applies primarily to career fire departments and combination departments if the combination department chooses it.

- NFPA 1720 Assembly Requirements – Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Volunteer Fire Departments (Section 4.3 – Staffing and Deployment): This standard applies primarily to all-volunteer fire departments, but it may also apply to combination departments if the combination department does not choose to comply with the NFPA 1710 standard.
- National Fire Protection Association (NFPA) – “FREE ACCESS”: As part of its commitment to enhancing public safety and supporting the emergency responder, the NFPA makes its codes and standards available online for free at <http://www.nfpa.org/freeaccess>.

G. Hiring Activity Overview

Grants awarded under the Hiring Activity enable volunteer, combination, and career fire departments to improve or restore staffing levels to attain a more effective level of response and a safer incident scene. FEMA awards Hiring Activity grants directly to volunteer, combination, and career fire departments to help fire departments increase their cadre of frontline firefighters by providing financial assistance in three categories:

- Rehire: Rehiring firefighters who were laid-off within the two years prior to the start of the application period;
- Retention: Retaining firefighters facing imminent layoff – within 120 days of the close of the application period; or,
- New Hire: Hire new, additional firefighters.

All of the following are considerations in pre-scoring and peer review determinations. Program priorities are listed as High (H), Medium (M), or Low (L).

1. Compliance with NFPA Standards

The tables below identify the priority levels for current and new compliance with the NFPA 1710/1720 standard (for details, see Section F. Funding Priorities - Meeting the National Standards).

Current (Pre-Award) 1710/1720 Compliance Priorities	
<input type="checkbox"/> Never or 0 percent	<input type="checkbox"/> Half of the time or 40-59 percent
<input type="checkbox"/> Rarely or 1-19 percent	<input type="checkbox"/> Very often or 60-79 percent
<input type="checkbox"/> Sometimes or 20-39 percent	<input type="checkbox"/> Most of the time or 80-99 percent

New (Post-Award) 1710/1720 Compliance Priorities	
<input type="checkbox"/> Always or 100 percent	<input type="checkbox"/> Half of the time or 40-59 percent
<input type="checkbox"/> Most of the time or 80-90 percent	<input type="checkbox"/> Sometimes or 20-39 percent
<input type="checkbox"/> Very often or 60-79 percent	<input type="checkbox"/> Rarely or 0-19 percent

2. Call Volume and Population Served

Department call volume and population served are both factors in the initial application evaluation. Departments responding to a higher number of incidents and departments that protect a larger jurisdiction will receive higher consideration than those departments responding to fewer incidents and protecting smaller jurisdictions.

3. Firefighter Health Measures

The health and well-being of firefighters is of paramount importance. Therefore, applicants who indicate newly recruited firefighters will undergo an entry-level physical and receive immunizations and who indicate they will provide annual medical exams receive higher consideration than applicants who do not specify that these benefits will be provided. To qualify for this higher consideration, the physicals must be consistent with those required under NFPA 1582 Chapter 6, Medical Evaluations of Candidates 6.1 and Chapter 9, Essential Job Tasks — Specific Evaluation of Medical Conditions in Members.

Applicants should note that FEMA is working with the NFPA Technical Committee on Fire Service Occupational Safety and Health to evaluate whether the NFPA 1582 standard complies with applicable federal civil rights laws. No decisions have been made and FEMA will issue additional guidance if and when more information becomes available.

4. Training Requirements

Applicants will receive higher pre-scores if the personnel funded under the grant will meet the minimum EMS training and certification requirements prescribed by the AHJ.

H. R&R Activity – Fire Departments Overview

Grants awarded under the R&R Activity - Fire Departments assist fire departments with the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response. The grants are intended to create a net increase in the number of trained, certified, and competent firefighters capable of safely responding to emergencies within the recipient's response area.

All of the following are considerations in pre-scoring and peer review determinations. Program priorities are listed as High (H), Medium (M), or Low (L).

1. Compliance with NFPA Standards

The highest priority is to assist departments experiencing a high rate of turnover and that have staffing levels significantly below the ideal staffing level required to comply with NFPA standards 1710 or 1720 (for details, see Section F. Funding Priorities - Meeting the National Standards).

2. Volunteer Membership

Departments or organizations with the highest percentage of volunteers should benefit

the most from the recruitment and retention of volunteer firefighters. Therefore, applicants whose membership is comprised of mostly volunteer members, or have a significant number of volunteer firefighters, receive higher consideration.

Percentage of Volunteer Firefighters	
<input type="checkbox"/> 91-100 percent	<input type="checkbox"/> 41-50 percent
<input type="checkbox"/> 81-91 percent	<input type="checkbox"/> 31-40 percent
<input type="checkbox"/> 71-80 percent	<input type="checkbox"/> 21-30 percent
<input type="checkbox"/> 61-70 percent	<input type="checkbox"/> 11-20 percent
<input type="checkbox"/> 51-60 percent	<input type="checkbox"/> 1-10 percent

3. Call Volume

Department call volume is a factor in the initial evaluation. Departments responding to a higher number of incidents receive higher consideration.

4. Firefighter Health Measures

Applicants who indicate the newly recruited firefighters will undergo an entry-level physical and receive immunizations and who indicate they will provide annual medical exams receive higher consideration. To qualify for this higher consideration, the physicals must be consistent with those required under NFPA 1582 Chapter 6, Medical Evaluations of Candidates and Chapter 9, Essential Job Tasks — Specific Evaluation of Medical Conditions in Members. Applicants who provide worker’s compensation/Accidental Death & Dismemberment (AD&D) benefits to their members receive higher consideration than applicants who do not specify these benefits will be provided.

Applicants should note that FEMA is working with the NFPA Technical Committee on Fire Service Occupational Safety and Health to evaluate whether the NFPA 1582 standard complies with applicable federal civil rights laws. No decisions have been made and FEMA will issue additional guidance if and when more information becomes available.

Entry-Level Medical Exams	
<input type="checkbox"/> NFPA 1582-compliant physicals	<input type="checkbox"/> Non-NFPA 1582-compliant physicals

Annual Medical Exams	
<input type="checkbox"/> NFPA 1582-compliant physicals	<input type="checkbox"/> Non-NFPA 1582-compliant physicals

5. Firefighter Training and Certification Requirements

Firefighter	
<input type="checkbox"/> Both FF II/EMT	<input type="checkbox"/> FF I

<input checked="" type="checkbox"/> FF II	<input checked="" type="checkbox"/> First Responder
<input checked="" type="checkbox"/> Both FF I/EMT	

6. R&R Coordinator/Program Manager

R&R Coordinator	
<input checked="" type="checkbox"/> Applicants who currently have a coordinator or program manager in place	<input checked="" type="checkbox"/> Applicants who do not have, or are not requesting, a coordinator or program manager
<input checked="" type="checkbox"/> Applicants who will request grant funding for a coordinator or program manager's position	

7. Regional Requests

Applications that will have a direct or local regional benefit beyond the immediate boundaries of the applicant's first-due area will receive higher consideration.

A regional request is an opportunity for an eligible R&R Activity organization to act as a host and apply for funding on behalf of itself and any number of other participating R&R Activity eligible organizations. Regional activities should achieve cost effectiveness, support regional efficiency and resilience, and have a direct regional or local benefit to more than one local jurisdiction (county, parish, town, township, city, or village). Direct or local regional benefit means that other eligible organizations will receive a portion of the grant-awarded funds, will receive items purchased with the grant funds, or share an item purchased with grant funds.

The community identification characteristic, the organizational status of the applicant, and the permanent resident population should be entered for the host entity, regardless of the composition of the participating partners.

Regional populations served are the aggregate of the geographically fixed areas of the host and participating partner organizations.

Neither the regional host nor any participating partner is prevented from also applying on behalf of their own organization for any SAFER Program Activity. However, it cannot be for the same item.

In completing the application, the host applicant must include a list of all participating organizations, including a point of contact and phone number for each organization that will directly benefit from the regional project if they receive the grant. The organizations that will benefit from the R&R Activity may also apply for funding under the SAFER Program as long as the organizations do not apply for a project or activity that could conflict with or duplicate the host applicant's project. Applicants must also certify that they will ensure the organizations participating in this application have not received grants for similar items/activities.

In order to apply for a regional project, the host organization must agree, if awarded, to be responsible for all aspects of the grant. This includes, but is not limited to, cost share, accountability for the assets, and all reporting requirements in the regional application.

All participants of a Regional applicant must be compliant with SAFER Program requirements, including being current with past grants, closeouts, and other reporting requirements. Upon notification by the SAFER Program Office, the host agency shall not distribute grant-funded assets or provide grant-funded contractual services to non-compliant partner organizations. The host and the delinquent partners will be notified by the SAFER Program Office of their specific deficiency.

Regional host applicants and participating partner agencies must execute a Memorandum of Understanding (MOU) or equivalent document signed by the host and all participating organizations participating in the award prior to submitting an application for a Regional Project. The MOU must specify the individual and mutual responsibilities of the host and participating partners, the host's and participants' level of involvement in the project(s), the participating partners' EIN numbers, and the proposed distribution of all grant-funded assets or contracted services. Any entity named in the application as benefiting from the award must be an eligible SAFER Program organization and must be a party to the MOU or equivalent document.

I. R&R Activity – National, State, Local, Territorial, or Federally Recognized Tribal Volunteer Firefighter Interest Organizations (Interest Organizations) Overview

Grants awarded under the R&R Activity – Interest Organizations allows applicants who identify as an Interest Organization to apply for R&R Activity funding. The grants are intended to create an aggregate increase in the number of trained, certified, and competent firefighters capable of safely responding to emergencies on behalf of the fire departments being represented. For this reason, projects that are comprehensive in nature and based on a clear needs assessment, implementation plan, evaluation plan, and have, or will establish, fire service partnerships will receive higher consideration.

In completing the application, the applicant must include data that approximates the characteristics of the entire region and/or all fire departments affected by the grant. If awarded, recipients may be required to provide documentation of each fire department's consent to participate in the application. Applicants must also certify that they will ensure the fire departments participating in this application have not received grants for similar items/activities. The following identifies the elements that the applications will be evaluated on during the pre-scoring process. Automated (pre-score) evaluation scores represent 30 percent of the total application score.

All of the following are considerations in pre-scoring and peer review determinations. Program priorities are listed as High (H), Medium (M), or Low (L).

1. Compliance with NFPA Standards

The highest priority is to assist departments experiencing a high rate of turnover that have staffing levels significantly below the ideal staffing level required to comply with NFPA standards 1710 or 1720 (for details, see Section F. Funding Priorities - Meeting the National Standards). Interest Organizations that currently have the lowest recruitment and retention rates among the entire region and/or all fire departments benefitting from the grant funds receive higher consideration for funding.

2. Recruitment and Retention (R&R) Coordinator/Program Manager

R&R Coordinator	
<input checked="" type="checkbox"/> Applicants who currently have a coordinator or program manager in place	<input type="checkbox"/> Applicants who do not have, or are not requesting, a coordinator or program manager
<input checked="" type="checkbox"/> Applicants who will request grant funding for a coordinator or program manager's position	

3. Needs Assessment

Needs Assessment	
<input checked="" type="checkbox"/> Applicants with projects based on a needs assessment	<input type="checkbox"/> Applicants with projects that are not based on a needs assessment

4. Fire Service Partnerships

Fire Service Partnerships	
<input checked="" type="checkbox"/> Applicants who have, or will establish, fire service partnerships as part of this project	<input type="checkbox"/> Applicants who will not have, nor establish, fire service partnerships as part of this project

J. Eligible and Ineligible Costs and Requirements

Regardless of the eligibility of any costs requested or the results of the review of the application conducted in accordance with Section E – Application Review Information of this NOFO, FEMA reserves the right to approve the activities requested in an application in whole or in part.

Hiring Activity - Eligible Costs and Requirements
<p>Eligible Costs:</p> <ul style="list-style-type: none"> Salary and associated benefits (actual payroll expenses) for the positions funded under the SAFER Program grant are eligible. Costs are reimbursable if they are included as part of the standard package, available to all operational firefighter positions, and contractually obligated. Refer also to the definitions in <u>Appendix B – Programmatic Information and</u>

Priorities, section B. Supporting Definitions in this NOFO.

- Compensation for a firefighter's normal, contracted work schedule is reimbursable, but overtime costs are not eligible for reimbursement by the SAFER Program grant award (including overtime for holdovers, extra shifts, to attend training, etc.). Only costs for overtime that the fire department routinely pays as a part of the base salary or a firefighter's regularly scheduled and contracted shift hours, in order to comply with FLSA, are eligible.
- Salaries and benefits of firefighters hired with SAFER Program funding while they are engaged in initial recruit training are eligible.

Eligibility Requirements:

- Only firefighters hired (New Hire category) or rehired (Rehire category) after the SAFER Program grant offer of award (except if awarded under the Retention category) are eligible for grant funding.
- Only full-time positions are eligible for funding in all three categories. A full-time position is one position that is funded for at least 2,080 hours per year, e.g., 40 hours per week, 52 weeks per year.
- SAFER Program grant funds will only pay for operational positions, in all three categories, whose primary assignment (more than 50 percent of time) is on a fire suppression vehicle, regardless of collateral duties.
- Volunteer and mostly volunteer fire departments may also hire individuals to fill officer-level positions (e.g., chief, fire inspector, training officer, safety officer) in addition to their primary operational assignment.
- Eligible positions for funding under the Rehire category must have been laid off in the two years prior to the start of the application period (**February 8, 2021**). Copies of the official, signed, and issued layoff notices will be required at the time of application.
- Firefighters who have been issued a formal layoff notice, which includes a specific date for the layoff action, prior to the start of the application period, and those who face imminent layoff – within 120 days of the close of the application period – are eligible for SAFER Program funding under the Retention category. As the application period closes on (**March 12, 2021**), the layoffs must become effective on or before (**July 10, 2021**). Copies of the official, signed, and issued layoff notices will be required at the time of application.
- Eligible positions under the Retention category must be employees of the department at the time the application is submitted. **Note:** if a retention position becomes vacant after the application is submitted, departments must fill the vacancy with a new hire in order to maintain the operational staffing level.
- A layoff notice that is not executed within the specified terms will be considered void unless an additional notice is provided within 14 days of the original action date will not qualify for funding in the Rehire or Retention categories. Applicants who do not meet these parameters must apply under the New Hire category.
- Any layoff action not executed in accordance with the terms of the official layoff notice or which does not meet the above requirements will not qualify for funding in the Rehire or Retention categories. Applicants who do not meet these parameters must apply under the New Hire category.

Hiring Activity - Ineligible Costs

- The salaries and benefits of full-time firefighters who are employees at the time of grant award (except under the Retention category) are ineligible to be funded under this grant.
- Job-sharing positions (i.e., utilizing more than one person to fill a full-time SAFER Program-funded position) is ineligible.
- The SAFER Program may not be used to fund promotions (e.g., to pay a current member a higher salary by placing him/her in a new SAFER Program-funded position).
- Pre-application costs, such as grant writer fees, administrative costs (e.g., physicals/medical exams, background checks, etc.), and indirect costs associated with hiring firefighters are ineligible.
- Costs to train and equip firefighters (e.g., PPE/Turnout Gear) are ineligible (this does not include the salaries and benefits of firefighters hired under the SAFER Program while they are engaged in training).
- Costs for uniform allowances that are not contractually obligated, included as part of the standard benefits package for all employees, or reimbursed via payroll are ineligible.
- Costs of annual physicals/medical exams are ineligible.
- Overtime costs (including overtime for holdovers, extra shifts, to attend training, etc.) are ineligible (except as noted in “eligible costs” above).
- M&A costs.
- Indirect costs.

R&R Activity – Eligible Costs and Requirements

Eligibility Requirements:

Applicants must correlate the activities for which funding is requested and the identified recruitment or retention problems or issues to be addressed. FEMA will not fund a budget line item if an applicant does not provide sufficient information detailing how it will enhance recruitment and retention. Allowable costs may be limited to reasonable amounts, as determined by FEMA.

Applicants who propose to focus on retention of volunteers will receive equal consideration as applicants focusing on recruitment of volunteers. A focus on retention may include providing incentives for volunteer firefighter members to continue service in a fire department. SAFER Program grant funds may only be used for volunteer firefighters who are involved with, or trained in, the operations of firefighting and emergency response.

FEMA recommends that departments consult their AHJ or the department’s legal counsel to understand the full legal and financial implications involved with implementing or sustaining programs that offer benefits or financial awards to firefighters (e.g., stipends, Length of Service Award Program [LOSAP]).

All grant-related purchases and activities must be incurred, received, and completed within the period of performance. The period of coverage and/or service delivery on all contracts and agreements may not begin prior to or extend beyond the period of performance of the grant. FEMA may permit pro-rated costs to be charged to the grant for training courses that begin during the

period of performance but end after the period of performance ends.

All funded activities under the R&R Activity must be governed by formally adopted Standard Operating Procedures (SOPs). Minimally, these SOPs should specify who qualifies for each of the incentives, specific requirements for earning the incentives, and the disposition of the awarded incentives if an individual fails to fulfill the stipulations. FEMA may ask for copies of SOPs prior to, or after being awarded.

R&R Activity – Eligible Costs and Requirements

High Priority:

- Costs to support a staffing needs assessment identifying the operational staff are required to carry out fire department responsibilities safely and effectively (e.g., supplies for data collection, contractors or personnel to collect and analyze data, software programs, etc.).
 - **Note:** If a staffing needs assessment is requested and the application is selected for funding, the staffing needs assessment will be the only activity that will be funded.
- Costs to support a Recruitment and/or Retention Coordinator, a Program Manager, and/or a Grant Administrator (including reasonable salary, fringe benefits, contract support, supplies, travel, etc.). **Note:** computers for these positions are low priority items.
- Marketing Program to recruit new volunteer firefighters, such as:
 - Media advertising (e.g., television, radio, social media);
 - Print advertising (e.g., newspapers, billboards, signs, banners, brochures, flyers); and,
 - LED/electronic sign (**Note:** this is a high priority item only when included as part of a comprehensive marketing program. Only one LED/electronic sign is allowed per applicant and 75 percent of usage must be dedicated to R&R activities – additional restrictions apply (for details see Section D: Application and Submission Information – Environmental Planning and Historic Preservation [EHP]).
 - **Note:** If requesting funds to recruit new members, a marketing plan must be in place or the application must show a marketing plan will be implemented either with grant funds (requested as a line item) or that the applicant will implement a marketing plan using existing department resources.
- New Member Costs - only one entry-level physical per new recruit. Physicals for existing members are not eligible. All grant-funded physicals (except those for explorers) must meet NFPA 1582 standards (Chapter 6, Medical Evaluations of Candidates 6.1 and Chapter 9, Essential Job Tasks — Specific Evaluation of Medical Conditions in Members). The cost of physicals should be based on local physician or health center prices. Detailed information on implementing NFPA 1582 physicals can be found at <https://www.fstaresearch.org/roadmap>.
 - **Note:** annual physicals are only eligible if the applicant is also requesting grant funds for NFPA 1582 entry-level physicals for new recruits. Annual Physicals are only eligible for the same new recruits; physicals or annual exams for any other member are not eligible.

- New recruit basic training that is not covered under a department’s normal operating budget and as required by the AHJ to meet minimum firefighter certification (e.g., CPR, First Responder, EMT, Firefighter 1, Firefighter 2).
 - Reimbursement to members for lost wages, mileage/transportation, lodging, and/or per diem while attending required basic training is also eligible.
 - **Note:** costs for mileage/transportation, lodging, and per diem must comply with the department’s written travel policies and procedures. If policies are not established, costs will only be reimbursed at the Federal government rate.
- Leadership/career development training when used as a retention incentive that is not covered under a department’s normal operating budget.
 - Reimbursement to members for lost wages, mileage/transportation, lodging and/or meals while attending leadership/career development training or conferences are also eligible.
 - **Note:** costs for mileage/transportation, lodging and meals must comply with the department’s written travel policies and procedures. If policies are not established, costs will only be reimbursed at the Federal government rate.
 - Courses must provide Continuing Education Units or certificates of completion to be eligible.
- Instructor/train-the-trainer training that is not covered under a department’s normal operating budget.
 - Reimbursement to members for lost wages, mileage/transportation, lodging, and/or per diem while attending instructor/train-the-trainer training are also eligible.
 - **Note:** costs for mileage/transportation, lodging, and per diem must comply with the department’s written travel policies and procedures. If policies are not established, costs will only be reimbursed at the Federal government rate.
- Tuition assistance for higher education (including books, lab fees and student fees).
 - Coursework or certifications in this category should be more advanced than what departments typically fund for required minimum-staffing requirements.
 - Courses are not limited to firefighter training or education.
 - Computers for individual students are not eligible for funding.
 - Payments for student loans are not eligible for funding.
 - Only tuition payments for classes offered and taken during the period of performance are allowable.
- PPE/Turnout Gear.
 - PPE may only be funded for new firefighters that are recruited after the date of grant award, that successfully pass an NFPA 1582-compliant physical, and that are certified as “fit for duty.” PPE purchased with SAFER Program funding must be utilized by adequately trained staff.
 - Funds are available to acquire Occupational Safety and Health Administration-required and NFPA-compliant PPE for firefighting personnel. In addition, PPE must meet any national or state standards and increase firefighter safety. Failure to meet these requirements may result in ineligibility for PPE funding. Copies of NFPA standards may be reviewed at <http://www.nfpa.org/freeaccess>.

- Only actual costs for PPE are allowed and will be paid on a reimbursable basis. Allowable costs may be limited to reasonable amounts, as determined by FEMA.
- To receive reimbursement, recipients must provide the following documentation to support the purchase of PPE:
 - Invoices/proof of payment for PPE.
 - Proof that the firefighter(s) have passed an NFPA 1582-compliant physical and are certified as “fit for duty.”
- Eligible PPE Expenditures:
 - One set of PPE for structural or wildland firefighting per new recruit.
 - The SAFER Program considers a complete set of structural PPE to be comprised of one SCBA mask/face piece, one pair of pants, one coat, one helmet, two hoods, one pair of boots, two pairs of gloves, one pair of suspenders, and one pair of goggles. In those jurisdictions where additional PPE, like Personal Safety/Rescue Bailout Systems are statutorily required, the SAFER Program will consider all statutorily required items to be part of a complete PPE set.
 - The SAFER Program considers a complete set of wildland PPE to be comprised of one pair of pants, one coat, one jumpsuit, one helmet, one pair of boots, one pair of gloves, one pair of suspenders, one pair of goggles, one fire shelter, one web gear, one backpack, and one canteen/hydration system.
 - American National Standards Institute-approved retro-reflective highway apparel.

R&R Activity – Eligible Costs and Requirements

Medium Priority:

- Nominal stipends for volunteer firefighters who are involved with, or trained in, the operations of firefighting and emergency response (e.g., Pay-per-Call, Points Based System, etc.). Stipends may only be provided for participation in operational (firefighting) activities, such as duty shifts, operational training and/or responding to incidents.
 - Food vouchers may be used for nominal stipends if the Narrative supports their use as an effective recruitment and retention tool for the department. However, food vouchers must be issued through formally adopted standard operating procedures.
 - Award recipients must maintain records of all food vouchers including firefighter name, amount, date received, and signature of the receiving firefighter.
 - Gift cards may not be used for nominal stipends. For information on gift cards, see Low Priority – Awards/Incentives below.
- Costs to support explorer/cadet, and mentoring programs, such as:
 - One set of station duty uniforms (the SAFER Program considers one set of station duty uniform as one pair of pants, one shirt, one hat, and one pair of boots) for newly recruited cadets/explorers.
 - Training (Non-Immediate Danger to Life and Health (IDLH)).
 - One set of structural or wildland PPE for newly recruited cadets/explorers as defined above, with the following two exceptions: 1) SCBA mask/face pieces are not eligible because PPE for explorers/cadets may not be used in an IDLH atmosphere, and 2)

- physicals for explorers/cadets are not required to meet NFPA 1582.
- One introductory physical exam per newly recruited explorer/cadet.
- LOSAP or Retirement Program:
 - New LOSAP or Retirement Programs (meaning the department has never had a LOSAP or Retirement Program).
 - Increasing existing LOSAP or Retirement Program coverage to include newly recruited members (FEMA will only fund the increase portion of the program).
 - **Note:** FEMA will not fund LOSAP or Retirement Programs that were previously funded by a SAFER Program grant and were subsequently stopped.
- Insurance packages (e.g., AD&D, workers compensation, disability, health, dental, life).
- Exercise equipment and gym memberships are limited to no more than \$10,000 total per grant award.

R&R Activity – Eligible Costs and Requirements

Low Priority:

- New Member Costs - one set of station duty uniforms for each new recruit only (the SAFER Program considers one set of station duty uniform as one pair of pants, one shirt, one hat, and one pair of boots) per the department's uniform policy.
 - **Note:** Class A (i.e., Dress Uniforms) are not an allowable cost under the SAFER Program.
- Costs for advanced training not currently covered under the department's operating budget (e.g., extrication training, specialized equipment training, swift water rescue, etc.). Advanced training requests are only eligible for members who have already met the minimum firefighter certifications required by the AHJ and must closely correlate to the applicant's recruitment and/or retention goals.
 - Reimbursement to members for lost wages, mileage/transportation, lodging, and/or per diem while attending advanced training are also eligible.
 - **Note:** costs for mileage/transportation, lodging, and per diem must comply with the department's written travel policies and procedures. If policies are not established, costs will only be reimbursed at the Federal government rate.
- Single computer or printer for Recruitment and/or Retention Coordinator, Program Manager, and/or Grant Administrator.
- Awards/Incentive program for participation in operational (firefighting) activities, such as operational training and/or responding to incidents (e.g., length of service plaques, gift cards for top responders, non-uniform clothing).
 - Non-uniform clothing (limited to shirts, jackets, or pullovers) as part of an award program only.
 - **Gift Cards:** a log book for the purchase and issuance of gift cards is required. The log book should include name of recipient, date, amount of card, reason for issuance and signature of recipient. Gift cards should be issued to operational firefighters who have completed the minimum firefighter training required by the AHJ.
- LED/electronic sign when it is not included as part of a comprehensive marketing program.
- Fire service association membership fees.

- Projector and/or screen to support classroom training.
- Payments for housing or rent for volunteers at or near the fire station.
- Other costs associated with new recruits (background checks, aptitude tests, etc.).
- Station Modifications/Remodeling/Renovation of Existing Facilities.
 - Remodeling/renovations to an existing facility are allowable (e.g., converting space into bunkroom). The renovations must be minor interior alterations not to exceed \$10,000 total per grant award.
 - Remodeling/renovations may not change the footprint or profile of the building.
 - Any request for modifications to facilities may require EHP review (for details see Section D: Application and Submission Information – Environmental Planning and Historic Preservation [EHP]). Recipients are encouraged to have completed as many steps as possible for a successful EHP Review in support of their proposal for funding (the steps include: coordination with their State Historic Preservation Office to identify potential historic preservation issues and to discuss the potential for project effects; compliance with all state and EHP laws and requirements).
 - Written approval must be provided by FEMA prior to the use of any SAFER Program funds for remodeling or renovation. If awarded funds for remodeling or renovation, recipients may be required to submit evidence of approved zoning ordinances, architectural plans, any other locally required planning permits and a notice of interest.

R&R Activity – Eligible Costs and Requirements

Non-prioritized Costs:

- M&A costs up to three percent of the total awarded amount in accordance with 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. M&A costs must be identifiable and directly related to the implementation and management of the SAFER Program grant. Salaries and fringe benefits for personnel directly supporting the grant are not required to be included in the M&A budget line item.
- Indirect costs for national, state, local, or federally recognized tribal volunteer firefighter interest organizations that are expended pursuant to Section D: Application and Submission Information.
- Up to \$1,500 in grant writer fees for application preparation, but not grant administration. The fee must have been paid within 30 days of the end of the application period and prior to any contact with SAFER Program Office staff or an Offer of Award. For details see Appendix C - Award Administration Information, Section I. Grant Writer/Preparation Fees.
- Audit costs proportional to the total SAFER Program award. Recipients of multiple federal funding sources can only charge a pro rata share of the audit cost(s) to the SAFER Program award, and they must be incurred during the period of performance.

R&R Activity – Ineligible Costs

Ineligible Costs (this list is not exhaustive):

- Salary and benefits for firefighters.
- Retroactive payments or recognition for operational services rendered prior to the grant

award.

- Costs incurred (including the delivery of goods or services) outside of the period of performance except for grant writer fees; see Appendix - C: Award Administration Information, Section I. Grant Writer/Preparation Fees.
- Fire suppression equipment.
- Vehicles.
- Fire simulators, fire evolution, or fire training props (e.g., burn trailers, forcible entry, rescue/smoke maze, flashover simulators).
- Supplies, expendables, or “onetime” use items such as foam, fuel/propane, breaching materials (e.g., wood or sheetrock).
- Sirens, warning lights for fire department or private vehicles, or other outdoor warning devices.
- Communication equipment including cell phones, pagers, portable radios or Computer-Aided Dispatch systems.
- Video cameras/recording equipment.
- Intruder alerting systems and deployment notification systems.
- Retroactive payments or recognition for non-operational activities (including payments, gift cards, recruitment bonuses or stipends for recruiting firefighters).
- Payments for travel to, or participation in leisure or social activities such as theater tickets, entertainment tickets, and trips (e.g., professional sporting events).
- Costs associated with award banquets, such as food, photographers, refreshments, entertainment, or rental facilities. Reimbursement for actual awards (e.g., plaques and trophies) is eligible.
- Costs for food or refreshments that are not part of a conference or training hosted by the grant recipient (food vouchers can be requested as a nominal stipend but must be provided only under formally adopted SOPs).
- Costs for training currently covered under the department’s operating budget (e.g., tuition or instructor fees for department-mandated, basic-level training).
- Services at a member’s personal residence (e.g., internet access, plowing of driveways).
- Furniture (except for newly converted bunkrooms), televisions, fixtures, appliances (e.g., refrigerators) and entertainment equipment.
- “Giveaways” for recruitment events, such as pencils, pens, t-shirts, cups, mugs or balloons.
- Fees for courses and training that are available free of charge on the internet or at state/local training facilities (e.g., NIMS 100, 700, 800).
- Costs for fuel. Costs for travel to training or other eligible activities are reimbursed through mileage rates.
- Annual medical exams for existing members.
- Payments for student loans.
- Mileage reimbursement for responding to incidents or periodic operational training at the fire house (mileage reimbursement is allowed for other types of training as explained under eligible costs).
- Station internet access/user fees and equipment to install internet (such as routers).
- Continued funding of an existing (or previously funded through the SAFER Program)

LOSAP or Retirement Program.

- Computers in common areas or individual computers for training/education.
- Copiers/printers.
- Incentives for career firefighters within the recipient's fire department.
- Ineligible Explorer/Cadet/Mentoring Programs expenditures:
 - Self-Contained Breathing Apparatus (SCBA), including mask/face piece
 - Anything involving the IDLH atmosphere
 - Any activities precluded by the AHJ.
- Ineligible PPE expenditures:
 - Three-quarter length rubber boots.
 - SCBAs (not including SCBA masks/face pieces).
 - PASS Devices.
 - Spare cylinders.
 - Bomb disposal suits.
 - PPE for hazardous materials and other specialized incidents.
 - More than one set of PPE per newly recruited member (within the period of performance).
 - PPE for existing members.

Appendix C - Award Administration Information

Appendix C contains detailed information on SAFER Program Award Administration. Reviewing this information may help recipients in the programmatic and financial administration of their award(s)

Help FEMA Prevent Fraud, Waste, and Abuse

If applicants or recipients have information about instances of fraud, waste, abuse, or mismanagement involving FEMA programs or operations, they should contact the DHS Office of Inspector General (OIG) Hotline at (800) 323-8603, by fax at (202) 254-4297, or email DHSOIGHOTLINE@dhs.gov.

I. Grant Writer/Preparation Fees

Fees for grant writers may be included as a pre-award expenditure. Fees payable on a contingency basis are not an eligible expense. For grant writer fees to be eligible as a pre-award expenditure, the fees must be specifically identified and listed within the “Request Details” section of the application. FEMA will only consider reimbursements for application preparation, not administration, up to, but not more than \$1,500.

Pursuant to 2 C.F.R. Part 180, recipients may not use federal grant funds to reimburse any entity, including a grant writer or preparer, if that entity is presently suspended or debarred by the Federal Government from receiving funding under federally-funded grants or contracts. Recipients must verify that the contractor is not suspended or debarred from participating in specified federal procurement or nonprocurement transactions pursuant to 2 C.F.R. § 180.300.

By submitting the application, applicants are certifying all of the information contained therein is true and an accurate reflection of the organization, and that regardless of the applicant’s intent, the submission of information that is false or misleading may result in actions by FEMA. These actions include but are not limited to the submitted application not being considered for award, temporary withholding of funding under the existing award pending investigation, or referral to the DHS OIG.

Prior to submission of the application, please review all work produced by grant writers or other third parties for accuracy. In addition, in order to charge grant writer fees to the grant award, the fees must have been paid no later than 30 days after the end of the application period. The following documentation shall be provided to FEMA upon request:

- i. A copy of the grant writer’s contract for services;
- ii. A copy of the invoice or purchase order; and
- iii. A copy of the canceled check (front and back).

Failure to provide the requested documentation may result in the grant writer fee being deemed ineligible and the grant reduced accordingly.

Note: FEMA requires that all applicants identify any individual or organization that assisted

with the development, preparation, or review of the application to include drafting or writing the narrative and budget, whether that person, entity, or agent is compensated or not and whether the assistance took place prior to submitting the application.

II. Maintenance and Sustainment for SAFER Programs

The use of FEMA preparedness grant funds for the costs of repairs or replacement, as well as maintenance contracts, warranties, and user fees may be allowable.

The intent of eligible Maintenance and Sustainment activities is to provide direct support to the critical capabilities developed using FEMA and other DHS grants and support activities. Routine upkeep and the supplies, expendables, or one-time use items that support routine upkeep (e.g., gasoline, tire replacement, routine oil changes, monthly inspections or grounds and facility maintenance) are the responsibility of the recipient and may not be funded with SAFER Program funding.

Generally, when purchasing a maintenance agreement, service contract, or extended warranty for systems or equipment, the period of coverage provided under such a plan may not extend beyond the period of performance of the grant with which the agreement, warranty or contract is purchased.

The duration of an extended warranty purchased incidental to the original purchase of the equipment may exceed the period of performance as long as the coverage purchased is consistent with that which is typically provided for, or available through, these types of agreements, warranties, or contracts. When purchasing a stand-alone warranty or extending an existing maintenance contract on an already-owned piece of equipment or system, coverage purchased may not exceed the period of performance of the award used to purchase the maintenance agreement or warranty. As with warranties and maintenance agreements, this policy extends to licenses and user fees as well.

Even if purchased incidental to the original purchase of the equipment, the duration of an extended maintenance agreement or warranty must also be reasonable for the type of equipment or system being purchased. For example, if a vendor offers a 10-year extended warranty incidental to the purchase of a piece of equipment, but the useful life of that equipment being purchased is five years, the purchase of a 10-year extended warranty would not be a reasonable cost and may not be charged to the grant.

III. Taxes, Fees, Levies, and Assessments

Taxes, fees, levies, or assessments that the recipient is legally required to pay and are directly related to any eligible SAFER Program acquisition activity may be charged to a SAFER Program award pursuant to 2 C.F.R. § 200.470. These charges shall be identified and enumerated in the SAFER Program application narrative, as well as the “Request Details” section of the acquisition activity.

Any avoidable and unreasonable costs that result from the action or inaction of a recipient (or recipient’s agent) or that prevent that recipient from enjoying any lawful exemption, waiver, or reduction of any tax, fee, levy, or assessment directly related to any eligible SAFER

Program acquisition activity, are not chargeable to any SAFER Program award.

Example: Governmental entities and Public Safety Agencies are exempt from some Federal Communications Commission (FCC) fees*, but only if the eligible organization submits an exemption or waiver request to the FCC.

**Government entities are not required to pay FCC regulatory fees. Non-profit entities (exempt under Section 501 of the Internal Revenue Code) may also be exempt. The FCC requires that any entity claiming exempt status submit, or have on file with the FCC, a valid Internal Revenue Service Determination Letter documenting its nonprofit status or certification from a governmental authority attesting to its exempt status. For more information, please visit <http://www.fcc.gov>.*

IV. Excess Funds

After completing the initial projects proposed in the recipient's application, some recipients may have unexpended funds remaining in their budget. These excess funds may result from any combination of under-budget acquisition activities or competitive procurement processes.

These excess funds may be utilized to address an organization's local needs or to mitigate identified capability gaps. FEMA expects excess funds to be obligated concurrent with an award's period of performance to address a known or critical need. An amendment request must be submitted to document the expenditure of excess funds. As a reminder, all costs must be incurred and all goods and services must be delivered or completed within the period of performance in order to be allowable.

V. Payments and Amendments

FEMA uses the Direct Deposit/Electronic Funds Transfer method of payment to recipients.

SAFER Program payment/drawdown requests are generated using FEMA GO. SAFER Program payment/drawdown requests from state or local government entities will be governed by applicable federal regulations in effect at the time a grant is awarded to the recipient and may be either advances or reimbursements. Recipients should not expend funds until all special conditions listed on the grant award document have been met, including completion of EHP review, and the request for payment in FEMA GO has been approved. Recipients should draw down funds based upon immediate disbursement requirements; however, FEMA strongly encourages recipients to draw down funds as close to disbursement or expenditure as possible to avoid accruing interest.

Non-federal entities should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of any relevant documentation and records, including purchasing documentation along with copies of cancelled checks for verification. See, *e.g.*, 2 C.F.R. §§ 200.318(i), 200.334, 200.337.

Advances

Recipients shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of

funds and its disbursement by the recipient (not to exceed 30 days), and the financial management systems that meet the standards for fund control and accountability as established in 2 C.F.R. Part 200. The recipient shall include invoice(s) and/or purchase orders for advance SAFER Program payment/drawdown requests. EHP review requirement must be met prior to advanced payments.

Although advance drawdown requests are permissible, recipients remain subject to applicable federal laws in effect at the time a grant is awarded to the recipient.

Governing interest requirements include the *Uniform Administrative Requirements Cost Principles, and Audit Requirements for Federal Awards* at 2 C.F.R. Part 200 and the *Cash Management Improvement Act* (CMIA) and its implementing regulations at 31 C.F.R. Part 205. Interest under CMIA will accrue from the time federal funds are credited to a recipient's account until the time the recipient pays out the funds for program purposes. For the rate to use in calculating interest, please visit Treasury Current Value rate at https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm.

Reimbursement

Payment by reimbursement is the preferred method when the requirements to be paid in advance, pursuant to 2 C.F.R. § 200.305, cannot be met. In accordance with US Department of Treasury regulations at 31 C.F.R. Part 205, if applicable, the recipient shall maintain procedures to minimize the time elapsing between the transfer of funds and the disbursement of said funds.

Rebates

Recipients shall disburse program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments, in accordance with 2 C.F.R. § 200.305. The reduction of federal financial participation via rebates/refunds *may* generate excess funds for the recipient if the recipient previously obligated their Cost Share match based upon the original award figures. If the recipient previously obligated their original Cost Share *prior* to the rebate, then the recipient *may* have minimum excess funds equal to the difference between the original Cost Share less the rebate-adjusted Cost Share.

Payment Requests During Closeout

A recipient may only submit reimbursement payment requests up to 120 days after the expiration of the period of performance, during an award's closeout reconciliation per 2 C.F.R. § 200.344. Reimbursement payments are the only eligible type of requests to be submitted after a grant's period of performance has expired. The expenditure must have been obligated and received during the period of performance of the award. The recipient's request should contain clear and specific information certifying that the liquidation of federal funds is reimbursement for an obligation properly incurred during the active period of performance. FEMA may request documentation supporting the reimbursement for review at any time.

Amendments

FEMA may approve SAFER Program award amendments on a case-by-case

basis, for the following reasons:

- Extension of the period of performance in order to complete the scope of work;
- Changes to the activity, mission, retroactive approval (pre-award), closeout issues, and some excess funds requests;
- Budget changes (adding funds to award/non-closeout deobligation of funds).

FEMA will only consider amendments submitted via FEMA GO. These requests must contain specific and compelling justifications for the requested change. Amendments or changes to the scope of work may require additional EHP review. FEMA strongly encourages recipients to expend grant funds in a timely manner, to be consistent with SAFER Program goals and objectives.

Note: A recipient may deobligate (i.e., return) unused funds (i.e., those remaining funds previously drawn down via payment request and/or remaining award funding that was never requested) to DHS/FEMA prior to the end of an award's period of performance. To exercise this option, a recipient must submit an amendment via FEMA GO and state in the amendment that the unliquidated funds (i.e., the funds to be returned) are not necessary for the fulfillment or success of the grant's obligations or mission. The recipient must also indicate in the amendment that it understands that the returned funds will be deobligated and unavailable for any future award expenses. Deobligation of funds will decrease the federal portion of the grant and the amount of the recipient's Cost Share obligation. FEMA will confirm deobligation amendments with all points of contact; after confirmation of the recipient's intent to deobligate, FEMA will hold the approved deobligation request for 14 calendar days as a period for recipient reconsideration before FEMA processes the deobligation request.

VI. Disposition of Grant Funded Equipment

A recipient must use, manage, and dispose of SAFER Program-funded equipment in accordance with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 C.F.R. § 200.313. With the exception of state governments, when original or replacement equipment acquired under a SAFER Program award is no longer needed for the original project, program, or other activities currently or previously supported by a federal awarding agency, the recipient must request disposition instructions from FEMA. FEMA strongly recommends contacting the SAFER Help Desk prior to the disposition of SAFER Program-funded equipment.

VII. Post-Award Recipient Responsibilities

Once awarded, recipients under the Hiring Activity must submit a pre-SAFER Program roster listing paid operational/firefighting personnel, in support of NFPA 1710 or NFPA 1720, who are employees at time of award. FEMA compares the pre-SAFER Program roster to names submitted for SAFER Program-funded positions, to ensure that the SAFER Program-funded firefighters are new employees (except under the retention category).

The SAFER Program Office will work with recipients to establish the correct staffing maintenance numbers, which combine the number of pre-SAFER Program and SAFER

Program-funded operational positions. Once this is established, recipients must agree to maintain this number throughout the period of performance by taking active and timely steps to fill any vacancies.

Recipients under the Hiring Activity who lay off any operational personnel during the period of performance will be considered in default of their grant and the award will be terminated. In those situations, recipients may be required to return the federal funds disbursed under the grant award.

Recipients who are unable, due to documentable economic hardship, to backfill non-SAFER Program operational positions vacated through attrition (e.g., resignation, retirement) after receiving an award may petition FEMA to waive the staffing maintenance requirements. Approved waivers allow recipients to decrease and reestablish the staffing maintenance numbers agreed to at the time of award by the number of positions that recipients are unable to fill. To qualify for this waiver, the economic hardship must affect the entire public safety sector in a recipient's jurisdiction, not just the fire department. FEMA will not grant waivers for SAFER Program-funded positions. Recipients who fail to maintain the required level of staffing risk losing federal funds awarded under this grant.

Recipients must agree that, notwithstanding any provision of other laws, firefighters hired under these grants will not be discriminated against or be prohibited from engaging in volunteer firefighting activities in another jurisdiction during off-duty hours.

FEMA strongly encourages applicants, to the extent practicable, to seek, recruit and hire military veterans to increase their ranks within their departments.

Appendix D

In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the DHS will review and consider applications for funding pursuant to this notice of funding opportunity in accordance with the:

- President's September 2, 2020 memorandum, entitled Memorandum on Reviewing Funding to State and Local Government Recipients of Federal Funds that Are Permitting Anarchy, Violence, and Destruction in American Cities;
- Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence (E.O. 13933); and
- Guidance for Grants and Agreements in Title 2, Code of Federal Regulations (2 CFR), as updated in the Federal Register's 85 FR 49506 on August 13, 2020, particularly on:
 - Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR part 200.205),
 - Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. No. 115—232) (2 CFR part 200.216),
 - Promoting the freedom of speech and religious liberty in alignment with Promoting Free Speech and Religious Liberty (E.O. 13798) and Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities (E.O. 13864) (§§ 200.300, 200.303, 200.339, and 200.341),
 - Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR part 200.322), and
 - Terminating agreements in whole or in part to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities (2 CFR part 200.340).



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: March 1, 2021

SUBJECT: RESOLUTION APPROVING THE VACATION OF A PORTION OF MAIN STREET AND JEFFERSON STREET ADJACENT TO LOTS 21-24, BLOCK 24 OF THE ORIGINAL NEW HOBBS ADDITION.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: February 22, 2021
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: The Property Owner is requesting the vacation of a portion of Main Street and Jefferson Street adjacent to Lots 21-24, Block 24, of the Original New Hobbs Addition and comprising +/- 4,360 square feet. This vacation, if approved, will allow the transfer fee simple ownership to the vacated property to the adjacent property owner. The staff has placed a value on the vacated property of \$6,540.00 to be paid by the property owner prior to recordation. The Planning Board reviewed this issue on January 19, 2021 and voted 6 to 0 to recommend approval.

Fiscal Impact: Reviewed By: Finance Department

The municipality will be compensated \$6,675.00; the value of the vacated property, prior to recordation and conveyance of the Vacated Property.

Attachments: Resolution, Vacation Plat and Planning Board Minutes.

Legal Review: Approved As To Form: Efren A. Cortez City Attorney

Recommendation: Consideration of Approval of the Resolution to approve the Vacation Plat, as recommended by the Planning Board.

Table with 2 columns: Department Director/City Manager and CITY CLERK'S USE ONLY COMMISSION ACTION TAKEN. Includes fields for Resolution No., Ordinance No., Approved, Other, Continued To, Referred To, Denied, and File No.

CITY OF HOBBS

RESOLUTION NO. 7031

A RESOLUTION APPROVING THE VACATION OF A PORTION OF MAIN STREET AND JEFFERSON STREET ADJACENT TO LOTS 21-24, BLOCK 24 OF THE ORIGINAL NEW HOBBS ADDITION.

WHEREAS, The adjacent property owner is requesting the vacation of a portion of Main Street and Jefferson Street adjacent to Lots 21-24, Block 24, Original New Hobbs Addition; and

WHEREAS, the Vacation Plat was then reviewed and recommended for approval by the City of Hobbs Planning Board at the January 19, 2021 meeting; and

WHEREAS, the City Commission has determined that the vacation of a portion of the street right-of-way will not adversely affect the interests or rights of persons in contiguous territory or within the subdivision and the title of those lands in the vacated area may be transferred in fee simple to the owner of the adjacent lots thereto upon remuneration.

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

1. The City of Hobbs hereby approves the Vacation Plat as attached hereto and made a part of this Resolution.

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

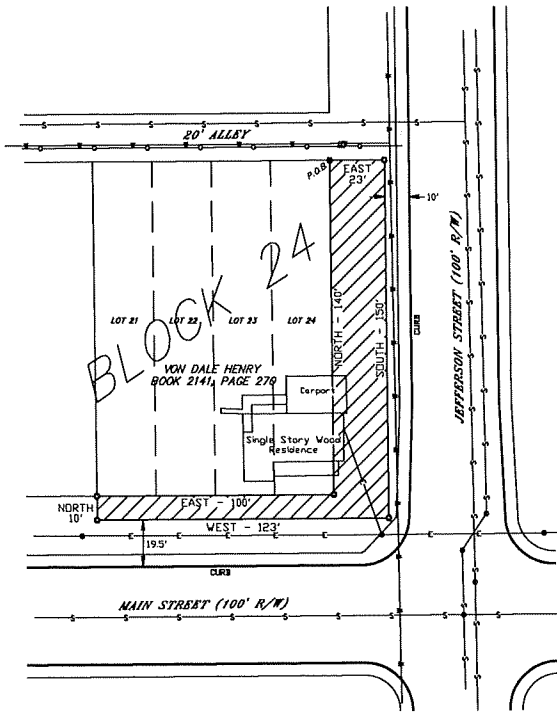
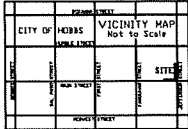
PASSED, ADOPTED AND APPROVED this 1st day of March, 2021.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

VACATION PLAT OF A PORTION OF MAIN STREET AND A PORTION OF JEFFERSON STREET ADJACENT TO BLOCK 24 OF THE ORIGINAL NEW HOBBS ADDITION TO THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO.



CERTIFICATE OF APPROVAL BY THE CITY PLANNING BOARD:
THIS PLAT IS APPROVED AND ACCEPTED BY THE CITY PLANNING BOARD OF HOBBS, NEW MEXICO AND SIGNED ON ITS BEHALF BY ITS CHAIRMAN ON THE _____ DAY OF _____, 2020 A.D.

WILLIAM HICKS -- CHAIRMAN

ACKNOWLEDGMENT:
STATE OF NEW MEXICO
COUNTY OF LEA

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2020 A.D. BY WILLIAM HICKS.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

CERTIFICATE OF MUNICIPAL APPROVAL:
STATE OF NEW MEXICO
COUNTY OF LEA

I, JAN FLETCHER, THE DULY APPOINTED AND ACTING CITY CLERK OF THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO, DO HEREBY CERTIFY THAT THE FOREGOING PLAT WAS APPROVED BY THE COMMISSION OF THE CITY OF HOBBS BY RESOLUTION NO. _____ ON THE _____ OF _____, 2020 A.D.

JAN FLETCHER, CITY CLERK

ACKNOWLEDGMENT:
STATE OF NEW MEXICO
COUNTY OF LEA

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2020 A.D. BY JAN FLETCHER.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

LEGAL DESCRIPTION

SURVEY TO VACATE THE NORTHERLY 10' OF MAIN STREET ON THE SOUTH SIDE OF LOTS 21, 22, 23 & 24, BLOCK 24 AND THE WESTERLY 23' OF JEFFERSON STREET ON THE EAST SIDE OF LOT 24, BLOCK 24 OF THE ORIGINAL NEW HOBBS ADDITION TO THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF LOT 24, BLOCK 24; THENCE EAST - 23.00 FEET; THENCE SOUTH - 130.00 FEET; THENCE WEST - 123.00 FEET; THENCE NORTH - 10.00 FEET; THENCE EAST - 100.00 FEET; THENCE NORTH - 140.00 FEET TO THE POINT OF BEGINNING.

NOTES:

PURSUANT TO SECTION 47-6-7 (D) NMSA 1978 COMP., AND SECTION 7.3.6 OF THE LEA COUNTY SUBDIVISION ORDINANCE #35, THE RIGHTS OF ANY UTILITY IN THE AREA BEING VACATED EXISTING BEFORE THE DATE THIS VACATION PLAT IS FILED OF RECORD ARE NOT AFFECTED BY THIS PARTIAL VACATION.

BASIS OF BEARINGS: RECORDED PLAT OF THE ORIGINAL NEW HOBBS ADDITION TO THE CITY OF HOBBS ON FILE IN THE OFFICIAL PLAT RECORDS OF LEA COUNTY, NEW MEXICO.

LEGEND

- ⊙ --- DENOTES FOUND MONUMENT AS NOTED
- ⊙ --- DENOTES SET 1/2" REBAR W/PVC CAP MARKED "M1 15079 TX 6204"
- DENOTES OVERHEAD ELECTRIC LINE
- DENOTES GAS LINE
- DENOTES GAS METER
- DENOTES WATER LINE
- DENOTES WATER METER
- DENOTES SEWER LINE
- DENOTES SEWER MANHOLE
- DENOTES STREET R.O.W. TO BE VACATED

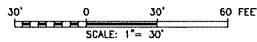
SURVEYORS CERTIFICATE

I, TERRY J. ASEL, NEW MEXICO REGISTERED PROFESSIONAL LAND SURVEYOR NO. 15079, DO HEREBY CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.

Terry J. Asel N.M. R.P.L.S. No. 15079

DATE _____

DRAFT



Asel Surveying

P.O. BOX 393 - 310 W. TAYLOR
HOBBS, NEW MEXICO - 575-393-9148



County Clerk Recording Information

VON DALE HENRY	Work Order #201207PS
Date Surveyed: 12/10/2020	Surveyed by: BHC
DWG #201207PS.dwg	Drafted By: KA
Scale: 1" = 30'	Sheet 1 of 1

November 17, 2020 – Regular Meeting

Mr. Hicks asked if everyone has had a chance to read the Regular Meeting Minutes from November 17, 2020? Mr. Kesner made a motion, seconded by Mr. Ingram to approve the Regular Meeting Minutes as presented. Mr. Hicks did a roll call for the vote, Mr. Ramirez-yes, Mr. Drennan-yes, Mr. Kesner-yes, Mr. Ingram-yes, Mr. Donahue-yes, Mr. Hicks-yes and the motion was 6-0 and the motion carried as presented.

4) Communications from Citizens.

Due to the current COVID-19 State of Emergency and the orders of the New Mexico Department of Health, public comment should be submitted in writing via email to the City of Hobbs Planning Department at krobinson@hobbsnm.org or via fax at (575)-397-9227 no later than 8:30 a.m. on January 19, 2021.

Mr. Hicks asked if there were any communications from citizens. Mr. Robinson said Mr. Dave Teske called in and he is representing the owners for item number 6. He said he would like to have the Board look at a setback variance. Mr. Robinson said it would be discussed during item 6.

5) Review and Consider the vacation of a portion of Main Street, a Major Collector at this location, and a portion of Jefferson Street, a Minor Residential at this location, adjacent to Block 24 of the Original New Hobbs Addition.

Mr. Robinson said this is a vacation of a portion of Jefferson and Main Street. He said the property owner is wanting to vacate a portion of public property. He said Main Street will remain a Collector Street so the only portion that can be vacated is 10 feet and on Jefferson will be 20 feet on Jefferson. He said there will be approximately 3600 sq. feet of public property that will be converted over to private property which he will have to purchase at \$1 a square foot.

Mr. Kesner said obviously there is an encroachment on Jefferson. Mr. Robinson said yes and even with the vacation the structure is not going to be able to get in setback compliance but it will not be encroaching on public property. He said this will need both Planning Department and Commissions approval.

Mr. Kesner asked how far back of curb will it need to be. Mr. Robinson said it will need to be 20 feet back of curb. Mr. Ramirez asked why they were doing this? Mr. Robinson said the structure is located outside the property owner's property on the east side. Mr. Kesner said he is guessing until this is done they cannot sale or get a mortgage on the residence. Mr. Hicks said he doesn't have a problem with the vacation request but he thinks they should stipulate that they should remain 20 feet from back of curb. He asked if their house was addressed off Main or Jefferson. Mr. Robinson said Main.

Mr. Hicks said from a title and sale perspective encroachments to setbacks wouldn't be as detrimental as encroachments off the property as a whole. He said approving the vacation should make it more easily financed or sold and they are still accomplishing their goals with the setbacks because the driveways are off of Jefferson. He asked if they could restrict that no

driveways be off of Main Street in the vacation? Mr. Robinson said yes they could place restrictions on that. Mr. Hicks said they could sale lots 21 and 22 if they wanted to and a have driveway off Main with 35 foot setbacks. He said that he recommends that they approve the vacation with the conditions that lots 23 and 24 have no driveway off Main Street. Mr. Ramirez made a motion, seconded by Mr. Drennan to approve the vacation with the condition that there be no driveways off of Main Street unless setback requirements are met or existing structure is removed. Mr. Hicks did a roll call for the vote, Mr. Ramirez-yes, Mr. Drennan-yes, Mr. Kesner-yes, Mr. Ingram-yes, Mr. Donahue-yes, Mr. Hicks-yes and the motion was 6-0 and the motion carried as presented.

6) Review and Consider proposed variance of Resolution #5482 (City of Hobbs Buffering Standards) allowing the proposed Commercial Development to utilize the Alley for Parking Lot Access.

Mr. Robinson said this is a variance of Resolution #5482 for Buffering Standards. He said they reviewed the plan set as submitted and if you look at the Parking that is required what is assumed the net area of the business there is a lot of area that can be subtracted. He said without that the number of spaces shown are compliant with our code. He said they also made a comment that the two way traffic requires a 26 foot minimum. He said they made a comment that the 0 foot setback requires a compliant fire rated wall system. He said that is what Mr. Teske was asking about if the structure can be located 5 feet north and do without the Fire rated wall. He said yes you can.

Mr. Hicks asked if they slide their building 5 foot north and not need the firewall. Mr. Robinson said all in all it is 3 inches? Mr. Hicks said he would rather is the building be move 3 inches. He said if they have access to Park and Turner why do they need access to the alley also. Mr. Robinson said for enough parking spaces. Mr. Kesner asked about the alley between Shipp and Turner. He said the delivery areas in the back will be getting freight from the rear of the structure. He asked who will maintain the alleyway? Mr. Robinson said it will be the property owner's responsibility. Mr. Hicks asked if they allow them access through the alley and off Park Street could they close off the access to Turner. Mr. Randall said ideally that would be the best just to eliminate access points.

Mr. Ingram made a motion, seconded by Mr. Drennan to approve the variance with the following conditions: 1) parking variance for 27 spaces with on street parking on Park Street allowed and usage of the north south alley. 2) No access to Turner Street. Mr. Hicks did a roll call for the vote, Mr. Ramirez-yes, Mr. Drennan-yes, Mr. Kesner-yes, Mr. Ingram-yes, Mr. Donahue-yes, Mr. Hicks-yes and the motion was 6-0 and the motion carried as presented.

7) Review Sketch Plan for property located southeast of the intersection of Joe Harvey & Central, as presented by property owner, Horizon Partners, LLC.

Mr. Robinson said this is a Sketch Plan review. He said every lot created has to be accessed from a public dedicated developed roadway. He said also any dead end street designed to be so permanently shall not be longer than five hundred feet. Mr. Kesner asked if all the tracts are going to be commercial? Mr. Robinson said it could be multifamily housing. He said the higher the density is the more protected the structures need to be. Mr. Hicks asked if the 500



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: March 1, 2021

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: February 22, 2021
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 \$200,000.00.

Fiscal Impact:

Budget Available \$520,000.00
Single Family Housing #010100-44901-170

Reviewed By: Finance Department

Attachments: Resolution and Development Agreement.

Legal Review:

Approved As To Form: Efrén A. Cortez, City Attorney

Recommendation:

Commission considers approval / denial of the attached Development Agreement.

Approved For Submittal By:

Kevin Robinson, 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. 7032

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 1st day of March, 2021.

SAM D. COBB, Mayor

ATTEST:

Jan Fletcher, City Clerk

MARKET RATE SINGLE FAMILY DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into on this 1st day of March, 2021 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 Two Hundred Thousand Dollars (\$200,000.00), 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:

ATTEST:

APPROVED AS TO FORM:

JAN FLETCHER, City Clerk

Efren Cortez, City Attorney



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: March 1, 2021

SUBJECT: CONSIDERATION TO APPROVE A DEVELOPMENT AGREEMENT WITH STUARD HOMES LLC CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY HOUSING.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: February 22, 2021
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: Stuard Homes LLC 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 \$200,000.00.

Fiscal Impact:

Reviewed By: Finance Department

Budget Available \$520,000.00
Single Family Housing #010100-44901-170

Attachments: Developers Request and Development Agreement.

Legal Review:

Approved As To Form: Efrén A. Cortez, City Attorney

Recommendation:

Commission considers approval / denial of the attached Development Agreement.

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. 7033

A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT WITH STUARD HOMES LLC CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY.

WHEREAS, the City of Hobbs is proposing to enter into a Development Agreement with Stuard Homes LLC 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 1st day of March, 2021.

Sam D. Cobb, Mayor

ATTEST:

Jan Fletcher, City Clerk

MARKET RATE SINGLE FAMILY DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into on this 1st day of March 2021 by and between the City Of Hobbs, New Mexico, a municipal corporation (hereinafter "City"); and **Stuard Homes LLC, 4915 W. Steel Driver Rd., 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 ratification 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 ratification 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 Two Hundred Thousand Dollars (\$200,000.00), 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 ratification 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 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 **Stuard Homes LLC, 4915 W. Steel Driver Rd., 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:

ATTEST:

APPROVED AS TO FORM:

JAN FLETCHER, City Clerk

Efren Cortez, City Attorney