

Commission Meeting Agenda



Mayor

Samuel D. Cobb

City Commission

R. Finn Smith – District 1

Christopher R. Mills – District 2

Larron B. Fields – District 3

Joseph D. Calderón – District 4

Dwayne Penick – District 5

Don R. Gerth – District 6

City Manager

Manny Gomez

November 6, 2023



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

Monday, November 6, 2023 - 6:00 p.m.

Sam D. Cobb, Mayor

R. Finn Smith
Commissioner – District 1

Christopher R. Mills
Commissioner – District 2

Larron B. Fields
Commissioner – District 3

Joseph D. Calderón
Commissioner – District 4

Dwayne Penick
Commissioner – District 5

Don R. Gerth
Commissioner – District 6

A G E N D A

City Commission Meetings are
Broadcast Live on KHBX FM 99.3 Radio 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 October 16, 2023, Regular Commission Meeting (*Jan Fletcher, City Clerk*)

PROCLAMATIONS AND AWARDS OF MERIT

2. Proclamation Proclaiming the Week of November 12-18, 2023, as “*National Nurse Practitioner Week*” (*Shawna Read, CNP, Lea County Nurse Practitioner Group*)
3. Recognition of Mr. Jake Stine, Winner of the 2023 Lapua Monarch Cup and Crowned as the North American Silhouette Champion (*Mayor Sam Cobb*)

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

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

4. Resolution No. 7416 – Authorizing the Appointment of Hector Baeza to the Labor Management Relations Board *(Mayor Sam Cobb)*
5. Resolution No. 7417 – Authorizing the Appointment of Board Members to Various City of Hobbs Advisory Boards *(Mayor Sam Cobb)*
6. Resolution No. 7418 – Approving the FY 2024 Department of Finance and Administration (DFA) 1st Quarter Financial Report *(Deb Corral, Assistant Finance Director)*
7. Resolution No. 7419 - Approving the FY 2024 Department of Finance and Administration (DFA) 1st Quarter Financial Report for Lodgers' Tax *(Toby Spears, Finance Director)*
8. Resolution No. 7420 – Approving a One-Year Extension of the Professional Services Agreement with Luke Otero, for Lobbying Services *(Valerie Chacon, Acting City Attorney)*
9. Resolution No. 7421 – Approving a Professional Services Agreement with Cambiar Consulting, LLC, for Lobbying Services *(Valerie Chacon, Acting City Attorney)*

DISCUSSION

10. Presentation by Alianza of New Mexico Regarding Short-Term Housing Assistance and Homeless Resources *(Jennifer Reyes, Alianza of New Mexico, Non-Medical Case Manager)*

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

11. **FINAL ADOPTION:** Ordinance No. 1156 - Amending Section 2.12 of the Hobbs Municipal Code Specific to the Municipal Judge's Salary, Duties, Administration and Training *(Valerie Chacon, Acting City Attorney)*
12. Resolution No. 7422 – Authorizing a Memorandum of Agreement with Lea County for Detainee Housing *(Valerie Chacon, Acting City Attorney)*

13. Consideration of Approval to Purchase One New Armored SWAT Vehicle for the Hobbs Police Department Utilizing a GSA Contract from International Armored Group in the Amount of \$281,596.25 Utilizing Grant Funding (*August Fons, Police Chief*)
14. Resolution No. 7423 – Authorizing a Memorandum of Agreement with the New Mexico Department of Transportation for Public Transportation for Federal FY 23-24 (*Jan Fletcher, City Clerk*)

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

15. Next Meeting Date:

- City Commission Regular Meeting:
 - **Monday, November 20, 2023, at 6:00 p.m.**

ADJOURNMENT

If you are an individual with a disability who needs 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: November 6, 2023

SUBJECT: City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: October 19, 2023
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The following minutes are submitted for approval:

- Regular City Commission meeting held on October 16, 2023

Fiscal Impact:

Reviewed By: _____
Finance Department

N/A

Attachments:

Minutes as referenced under "Summary".

Legal Review:

Approved As To Form: _____
City Attorney

Recommendation:

Motion to approve the minutes as presented.

Approved For Submittal By:



Department Director

City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

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

Minutes of the regular meeting of the Hobbs City Commission held on Monday, October 16, 2023, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico. This meeting was also broadcast via Livestream on the City's website at www.hobbsnm.org.

Call to Order and Roll Call

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

Mayor Sam D. Cobb
Commissioner R. Finn Smith
Commissioner Christopher Mills
Commissioner Larron B. Fields
Commissioner Joseph D. Calderón
Commissioner Dwayne Penick
Commissioner Don Gerth

Also present:

Manny Gomez, City Manager
Valerie Chacon, Acting City Attorney
Bobby Arther, Municipal Court Judge
Mark Doporto, Acting Fire Chief
Kevin Shearer, Battalion Chief
Shane Blevins, Deputy Police Chief
Danny Garrett, Police Captain
Jessica Silva, Code Enforcement Superintendent
Toby Spears, Finance Director
Deborah Corral, Assistant Finance Director
Bryan Wagner, Parks and Open Spaces Director
Doug McDaniel, Recreation Director
Matt Hughes, Rockwind Golf Course Superintendent
Tim Woomer, Utilities Director
Nicholas Goulet, Human Resources Director
Tracy South, Assistant Human Resources Director
Christa Belyeu, I.T. Director
Todd Randall, City Engineer
Nichole Lawless, Library Director
Shelia Baker, General Services Director
Meghan Mooney, Communications Director
Lou Maldonado, Parks Superintendent
Julie Nymeyer, Executive Assistant
Jan Fletcher, City Clerk
Rose Galavez, Assistant Deputy City Clerk
24 citizens

Invocation and Pledge of Allegiance

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

Approval of Minutes

Commissioner Calderón moved the minutes of the regular meeting of October 2, 2023, be approved as written. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried.

Proclamations and Awards of Merit

Mayor Cobb proclaimed November 1, 2023, as "*Extra Mile Day*". He stated Hobbs, New Mexico, is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively "go the extra mile" in personal effort, volunteerism, and service.

Mr. Manny Gomez, City Manager, recognized the following Milestone Service Awards for the Month of October, 2023:

- 5 years – Sandra Regalado Flores, CORE
- 10 years – Roger Kibad, Utilities Department
- 10 years – Jessica Silva, Code Enforcement
- 20 years – Kevin Shearer, Hobbs Fire Department

Mr. Gomez reviewed highlights about the work of each employee. He expressed gratitude to each and every employee for their hard work and also thanked the employees' families for their contributions to the organization.

Public Comments

Mr. Michael Emery spoke to the Commission about the homeless population in Hobbs and his desire to open a non-profit organization and a rehabilitation center to help them. He stated he has been homeless for a number of months.

Ms. Nylene Hafer also addressed several comments to the Commission about helping the homeless and not having any resources for them. She requested the Commission delegate a spokesperson who could inform the public about any resources for the homeless as she feels no one knows about them.

Mr. Stephen Helmreich, Pastor at Trinity Lutheran Church, also spoke about his concern for the homeless. He stated there should be more programs and help for the homeless, including mental health assistance.

Consent Agenda

Mayor Cobb explained the process for the consent agenda which is reserved for items which are routine when the agenda is lengthy. He stated any member of the Commission may request an item to be transferred to the regular agenda from the consent agenda without discussion or vote.

Commissioner Calderón moved for approval of the following Consent Agenda item(s):

Resolution No. 7411 – Authorizing the Appointment of Scotty Holloman and Brian Belyeu to the City of Hobbs' Labor Management Relations Board

Resolution No. 7412 – Authorizing the Appointment of Robert Guthrie to the Cemetery Board

Resolution No. 7413 – Authorizing the Opening of One New Special Revenue Fund in Accordance with State Audit Rule

Commissioner Penick seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolutions and supporting documentation are attached and made a part of these minutes.

Discussion

Mr. Gene Strickland, Superintendent of the Hobbs Municipal Schools, explained the upcoming 2023 General Obligation Bond (GO Bond) Election. Mr. Strickland spoke in detail about the proposed new fourth middle school for the Hobbs School District with the projected cost of new construction at \$50.8 million. He stated the new middle school would alleviate overcrowding at the current three middle schools. He also spoke about the replacement of Heizer Middle School, originally built in 1952, with the cost of replacement projected at \$52.8 million which includes demolition of the existing building once the new one is finished. The replacement of Heizer Middle School will better meet the needs of future enrollment. Mr. Strickland stated the GO Bond would not result in any increase in taxes.

Mr. Strickland advised election day is Tuesday, November 7, 2023, and any registered voter living in the Hobbs Municipal School District is eligible to vote on the GO Bond.

Action Items

PUBLICATION: Proposed Ordinance Amending Section 2.12 of the Hobbs Municipal Code Specific to the Municipal Judge's Salary, Duties, Administration and Training

Ms. Valerie Chacon, Acting City Attorney, explained the publication of an ordinance amending Section 2.12 of the Hobbs Municipal Code specific to Municipal Judge's salary, duties, administration and training. Ms. Chacon stated the additional duties are those duties "not contemplated when the office was created and the salary was specified." Pursuant to these proposed changes, the Municipal Court Judge will conduct all pretrial release matters and arraignments on weekend, holidays, and before and after the regular operating hours of the Hobbs Municipal Court to accommodate the closure of the City Jail. Furthermore, the Municipal Court Judge added an additional one to two dockets to his weekly court schedule to provide citizens an additional opportunity to be heard on the terms of their Judgment and Sentence as it relates to fines and fees.

Ms. Chacon stated the Municipal Court Judge's salary shall be increased by \$38,453.25 due to his additional duties. The Municipal Court Judge's salary shall be \$111,175.25, he will be working 104 hours every two weeks, an additional 30 hours bi-weekly.

In response to Mayor Cobb's question, Mr. Gomez explained the changes that would affect the Municipal Court Judge due to the contractual changes made with the Lea County Commission regarding the transition of the jail facility.

Following a short discussion, Commissioner Calderón moved that the Commission publish notice of intent to adopt the proposed Ordinance. Commissioner Penick seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills yes, Gerth yes, Cobb yes. The motion carried. Copies of the supporting documentation are attached and made a part of these minutes.

Consideration of Approval of a CES Contract with Lee Engineering for the Professional Engineering of Hobbs Fiber Design, Change Order No. 1

Mr. Todd Randall, City Engineer explained the consideration and approval of the contract with Lee Engineering for the professional engineering of Hobbs fiber design, Change Order No. 1. Mr. Randall stated Lee Engineering provided feasibility and design for the citywide fiber network project, but additional design is being requested by the City of Hobbs for additional fiber to Lea County facilities inside city limits and additional fiber network design for the Hobbs Police Department.

Mr. Randall stated in addition, the City of Hobbs is under discussion with Lea County staff for a future agreement and capital participation in the project. Lea County facilities would include the Event Center, Lea County Annex, Road Department, North Convenience Center and the LCCA.

Mr. Randall stated Change Order No. 1 is in the amount of \$23,783.00 (not including tax or CES fees) which is a 19% increase for the additional scope of work.

There being no discussion, Commissioner Smith moved the Change Order No. 1 with Lee Engineering be approved as presented. Commissioner Penick seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills yes, Gerth yes, Cobb yes. The motion carried. Copies of the supporting documentation and agreement are attached and made a part of these minutes.

Resolution No. 7414 – Authorizing Budgetary Adjustment #1 for Fiscal Year 2023-2024

Ms. Deborah Corral, Assistant Finance Director, explained Budgetary Adjustment #1 for Fiscal Year 2023-2024. Ms. Corral stated the budget is prepared prior to the beginning of the fiscal year and as such, from time to time, it becomes necessary to adjust the budget for items not contemplated at the time of its preparation or for issues that arise during the fiscal year. Ms. Corral stated the total revenue of the budget increased by \$1,029,046.77 and total expenses increased by \$4,370,316.40 providing a budgeted ending cash balance of \$100,934,277.42 for all funds.

There being no discussion, Commissioner Fields moved that Resolution No. 7414 be adopted as presented. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Resolution No. 7415 – Authorizing an Allocation of Lodgers' Tax Funds for Various Events

Mr. Toby Spears, Finance Director explained the resolution authorizing an allocation of Lodgers' Tax funds for various events. He stated the Lodgers' Tax Board met October 11, 2023, and recommended awarding to the Commission the following entities requesting funds:

Tuff Hedeman Bull Riding Tuff Hedeman Bull Riding Tour	\$20,000.00
Cycle City Promotions Kicker Monster Truck Show	\$25,000.00
Hobbs Hispano Chamber of Commerce Mariachi Christmas	\$22,750.00
City of Hobbs – CORE Annual Advertising and Promotion	\$99,650.00
Hobbs Airfield Speedway Flashlight Cash Days No Prep Race	\$3,145.00

Hobbs Chamber of Commerce Hobbs Holiday Tournament (\$29,021.14) FeBREWARY Fest (\$15,320.60)	\$25,000.00 \$15,320.60
Permian Basin USSSA See What You Got	\$24,874.80
United Way of Lea County MLK Day of Service	\$7,675.00

There being no discussion, Commissioner Penick moved that Resolution No. 7415 be adopted in the funding amounts as recommended. Commissioner Smith seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Comments by City Commissioners, City Manager

Mr. Gomez announced Coffee with Cops initially scheduled on October 16, 2023, has been cancelled to a later date.

Mr. Gomez invited the public to the Veterans Appreciation Pickleball Tournament on Saturday, November 4, 2023. He stated check-in time is at 8:00 a.m. with the first game to begin at 9:00 a.m. He stated pickleball is the fastest growing sport around.

Mr. Gomez announced the CORE will be holding its Halloween Spooktacular Event on October 31, 2023, from 3:00 p.m. to 6:00 p.m. Admission is free and there will be several activities, treats and music.

Ms. Meghan Mooney announced the City of Hobbs, TextMyGov will be launched on Wednesday, October 18, 2023. The number to text is 91896 to receive updates, whether it's emergency notification, an upcoming event or reminders. The public can also save 575-552-7552 as a contact on their phone to text the City of Hobbs for information or to report anything. They would simply text a phrase to the number and the issue will be reported or an automated response may request further information.

Commissioner Gerth announced the funeral service for Mr. Michael Clampitt, Program Director for the Boys and Girls Club of Hobbs, will be held at the Christian Center Church at 10:00 a.m. on Friday, October 20, 2023.

Commissioner Mills stated he heard a presentation from an organization named Alianza of Roswell, New Mexico, who offers resources and assistance to homeless individuals. Mr. Gomez stated the organization will be making a similar presentation at the next regular City Commission meeting on November 6, 2023.

Mayor Cobb commented that the loss of Mr. Mike Clampitt is a great loss to the community. He stated he has been friends with Mr. Clampitt for many years dating back to their youth. Mayor Cobb asked the public for any help they can give to support the Boys and Girls Club of Hobbs to honor Mr. Clampitt's work in the community and the Club.

There being no further business or comments, Commissioner Calderón moved that the meeting adjourn. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 7:20 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



PROCLAMATIONS

AND

**AWARDS OF
MERIT**

Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, nurse practitioners (NPs) play a critical role as trusted providers of health care for patients in our state; and

WHEREAS, NP's work to expand health care access in underserved communities, promote health equity in care; and

WHEREAS, patients depend on the more than 355,000 licensed NP's in the United States, and 5146 in New Mexico to diagnose manage, and treat patients with acute health care conditions; and

WHEREAS, NPs provide high-quality primary, acute and specialty health care services while emphasizing health promotion, disease prevention, health education and counseling, guiding patients to make smarter health and lifestyle choices every day; and

WHEREAS, the confidence that patients have in NP-delivered health care is evidenced by the more than one billion visits made annually to NPs across the country; and

WHEREAS, more than five decades of research demonstrates the high quality of care provided by NPs; and.

WHEREAS, better utilization of NPs through modernized state laws and improved policies creates better health through a more accessible, efficient, cost-effective and higher quality health care system; and

WHEREAS, more than half the nation – including 27 states, the District of Columbia, Guam and the Northern Mariana Islands – has adopted Full Practice Authority legislation, offering patients full and direct access to the outstanding care provided by NPs; and

WHEREAS, leading governmental and policy entities including the National Academy of Medicine, National Council of State Boards of Nursing, National Governors Association and Federal Trade Commission have taken notice of the benefits of providing patients full and direct access to NP-delivered care; and

WHEREAS, NPs serve as the provider of choice for many New Mexico residents and play a pivotal role in the health and welfare of our communities; and

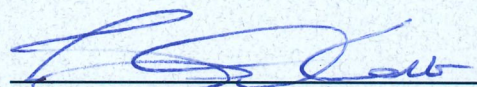
WHEREAS, the City of Hobbs is proud to recognize and honor the service of NPs to our state.

NOW, THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim the week of November 12th-18th, 2023, as

"NATIONAL NURSE PRACTITIONER WEEK"

In recognition of the countless contributions NPs have made over the past half century and will continue to make on behalf of the health and well-being of citizens in our state.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of November, 2023, and cause the seal of the City of Hobbs to be affixed hereto.


SAM D. COBB, MAYOR

ATTEST:


JAN FLETCHER, CITY CLERK

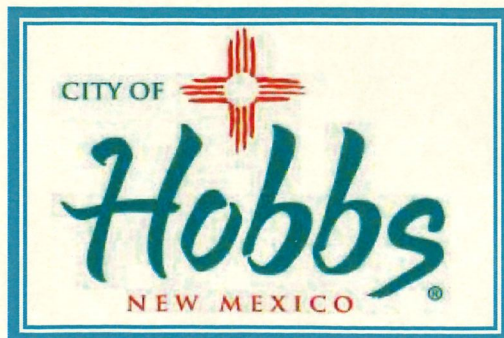


City of Hobbs Award of Merit

Presented to:

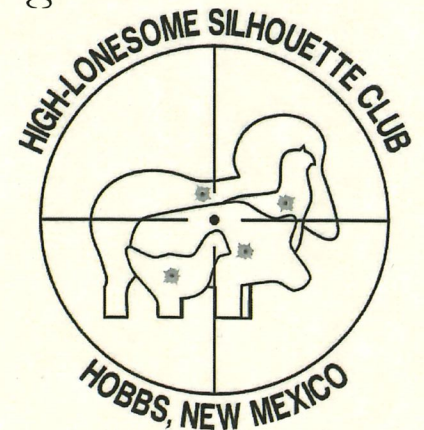
Jake Stine

In recognition of your achievements as winner of the 2023 Lapua Monarch Cup and Crowned North American Silhouette Champion. Thank you for your competitive spirit and willingness to inspire others to be the best they can be!



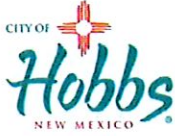
A blue ink signature of Sam D. Cobb, Mayor of Hobbs, New Mexico.

Sam D. Cobb, Mayor





CONSENT AGENDA



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: Resolution Authorizing the Mayor to Make an Appointments to the Labor Management Relations Board.

DEPT. OF ORIGIN: Mayor's Office
DATE SUBMITTED: October 25, 2023
SUBMITTED BY: Sam D. Cobb, Mayor

Summary:

The Mayor would like to re-appoint Hector Baeza to the Labor Management Relations Board; term expires October 3rd, 2024.

Fiscal Impact:

Reviewed By: _____

[Signature]
Finance Department

There is no effect on the current year budget.

Attachments:

Resolution

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

Motion to approve Resolution.

Approved For Submittal By:

Department Director

[Signature]

City Manager

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COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 7416

A RESOLUTION AUTHORIZING THE MAYOR
TO MAKE AN APPOINTMENT TO
THE LABOR MANAGEMENT RELATIONS BOARD

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO,
that the Mayor be and hereby is authorized to re-appoint Hector Baeza to the Labor Management
Relations Board. This appointment is for a one-year term which will expire October 3rd, 2024

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: Resolution Authorizing the Mayor to Make Appointments to City Advisory Boards.

DEPT. OF ORIGIN: Mayor's Office
DATE SUBMITTED: November 1, 2023
SUBMITTED BY: Sam D. Cobb, Mayor

Summary:

The two-year terms of the following Advisory Board members expired on March 31, 2023 and there is one new appointment for a vacant position.

Cemetery Board: Cindy Walker and Clarence Benford

Community Affairs Board: Chanelle Scott, Rachael Moon, Kevin Naegele and Pat Duran

Library Board: Sarah Reid, Robin Needham and Sandra Goad

Utilities Board: Kerry Romine and Byron Marshall

Veterans Board: Richard Duran and Michael Mings

Planning Board: Guy Kesner and Brett Clay.
Larchinee Turner is appointed to fill a vacant position

The three-year term of the following Advisory Board members expired on January 1, 2023.

Lodgers Tax Board: Lahcen Tigui, Lodging Industry Related and Oscar Gonzalez, Member-At-Large

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

There is no effect on the current year budget.

Attachments:

Resolution

Legal Review:

Approved As To Form: Valerie S. Chacon
City Attorney

Recommendation:

Motion to approve Resolution.

Approved For Submittal By:

Department Director
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 7417

A RESOLUTION AUTHORIZING THE MAYOR
TO MAKE APPOINTMENTS TO
THE CITY OF HOBBS ADVISORY BOARDS

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is authorized to make appointments to the following advisory boards:

CEMETERY BOARD (Two-year terms expiring March 31, 2025)

Cindy Walker - re-appoint
Clarence Benford - re-appoint

COMMUNITY AFFAIRS BOARD (Two-year terms expiring March 31, 2025)

Chanelle Scott - re-appoint
Rachael Moon - re-appoint
Kevin Naegele - re-appoint
Pat Duran - re-appoint

LIBRARY BOARD (Two-year terms expiring March 31, 2025)

Sarah Reid - re-appoint
Robin Needham - re-appoint
Sandra Goad - re-appoint

UTILITIES BOARD (Two-year terms expiring March 31, 2025)

Kerry Romine - re-appoint
Byron Marshall - re-appoint

VETERANS BOARD (Two-year terms expiring March 31, 2025)

Richard Duran - re-appoint
Michael Mings - re-appoint

PLANNING BOARD (Two-year terms expiring March 31, 2025)

Guy Kesner - re-appoint
Brett Clay - re-appoint
Larchinee Turner is appointed to fill a vacant position

LODGERS' TAX BOARD (Three-year terms expiring January 1, 2026)

Oscar Gonzalez - re-appoint Member-At-Large

Lahcen Tigui - re-appoint to fill Lodging Industry Related

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: Resolution approving the FY2024 DFA 1st Quarter (September 2023) Financial Report
DEPT. OF ORIGIN: Finance Department
DATE SUBMITTED: October 30, 2023
SUBMITTED BY: Deborah Corral, Assistant Finance Director

Summary:

Submitting the FY2024 1st Quarter DFA Financial Report for the approval of the Governing Body. The Department of Finance and Administration only **requires** that the 4th Quarter DFA Report be approved by resolution, however, it **recommends** all quarterly reports be approved by the governing body.

Fiscal Impact:

Reviewed By: 
Finance Department

The ending cash balance represents actual revenue and expenditure activity from 07/01/22-09/30/23.

- Actual Ending Cash Balance at 09/30/2023 is \$180,527,497.59 for all funds (restricted and unrestricted).
- The City of Hobbs year-to-date actual revenues and expenditures for the period are \$32,660,822.73 and \$30,346,241.63 respectively.

Attachments:

- 1st Quarter DFA Report Recap
- September 30, 2023 City of Hobbs Cash Report
- Resolution approving 1st Quarter DFA Report

Legal Review:

Approved As To Form: Valerie S. Chacon
City Attorney

Recommendation:

Motion to approve the resolution.

Approved For Submittal By:

Department Director



City Manager

CITY CLERK' S USE ONLY
COMMISSION ACTION TAKEN

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

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

CITY OF HOBBS
RESOLUTION NO. 7418

A RESOLUTION APPROVING THE FY2024
DFA 1st QUARTER FINANCIAL REPORT

WHEREAS, the State of New Mexico only requires the 4TH quarter DFA Financial Report to be approved annually, however, they now recommend that all quarterly financial reports be approved.

WHEREAS, the ending cash balance for the period ending September 30, 2023 was \$180,527,497.59 for all funds; and

WHEREAS, the City of Hobbs actual year-to-date revenue and expenditures for fiscal year 2024 crosswalk the amounts to the DFA 1st Quarter Financial Report;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the herein referenced 1st Quarter Financial Report be approved.

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

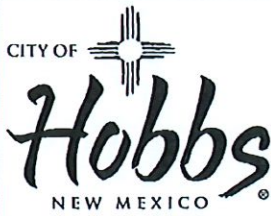
JAN FLETCHER, City Clerk

City of Hobbs
Cash Balance by Fund
9/30/2023

	Ending Cash 06/30/2023	June - July FY2024 Revenues	Actual Cash TRANSFERS	June - July FY2024 Expenditures	FY24 Balance Sheet Adjustments	Ending Cash 09/30/23
GOVERNMENTAL FUNDS						
11000 001 GENERAL	76,840,306.72	16,579,812.87	(1,177,357.48)	14,943,195.82	961,277.37	76,338,288.92
29900 002 LAND ACQUISITION	830,648.61	-	-	-	-	830,648.61
	77,670,955.33	16,579,812.87	(1,177,357.48)	14,943,195.82	961,277.37	77,168,937.53
SPECIAL REVENUES						
20100 110 LOCAL GOV CORR	1,012,394.62	44,624.02	-	9,864.93	-	1,047,153.71
21100 120 POLICE PROTECTION	24,383.39	204,500.00	-	53,732.55	-	175,150.84
29900 130 P D N (parif, drug, narcotics)	1,918.75	-	-	-	-	1,918.75
29900 150 COPS GRANT	8,881.98	-	(8,881.98)	-	-	-
21700 160 HWLC	1,000.00	559,843.93	378,178.10	938,060.81	(38.78)	1,000.00
21900 170 OLDER AMERICAN	1,000.00	64,869.23	182,650.90	247,520.13	-	1,000.00
51800 180 GOLF	1,000.00	339,082.19	421,149.62	760,196.81	35.00	1,000.00
50600 190 CEMETERY	1,000.00	53,840.41	297,996.74	351,837.15	-	1,000.00
50400 200 AIRPORT	690,720.93	46,889.95	-	379.15	-	737,231.73
30300 210 LEGISLATIVE APPROP	1,000.00	636,970.89	-	73,672.73	-	564,298.16
21800 220 INTERGOVERNMENTAL GRANTS	27,912,727.17	-	-	35,649.04	-	27,877,078.13
21400 230 LODGERS' TAX	1,062,654.52	452,603.90	(93,735.90)	208,828.98	-	1,212,693.54
27000 240 LG Abatement Fund (Oplold)	119,300.36	11,225.21	-	-	-	130,525.57
28000 250 Cannabis Regulation Act Fund	643,025.95	202,480.89	-	6,074.44	-	839,432.40
29900 270 PUBLIC TRANSPORTATION	1,000.00	121,783.88	-	187,144.15	(65,360.27)	1,000.00
20900 280 FIRE PROTECTION	1,221,313.43	349,586.32	-	104,061.16	-	1,466,838.59
20600 290 EMER MEDICAL SERV	2,595.39	42,362.00	-	5,542.20	-	39,415.19
21200 300 LAW ENFORCEMENT RECRUITME	139,316.51	-	-	353,328.72	(215,012.21)	1,000.00
21200 310 LEDA	-	-	-	-	-	-
30200 370 COMM DEVE CONST	82,327.62	-	-	-	-	82,327.62
	32,927,560.62	3,130,662.82	1,177,357.48	3,335,892.95	(280,376.26)	34,180,064.23
CAPITAL PROJECTS FUNDS						
39900 460 BEAUTIFICATION IMPROVEMENT	1,538,849.89	-	-	-	-	1,538,849.89
21600 480 STREET IMPROVEMENTS	5,668,692.61	284,179.01	-	354,168.41	-	5,598,703.21
39900 490 CITY COMM. IMPROVEMENTS	10,109,110.76	676,561.65	-	19,778.33	-	10,765,894.08
	17,316,653.26	960,740.66	-	373,946.74	-	17,903,447.18
DEBT SERVICE FUNDS						
40400 510 UTILITY BOND	45.00	-	-	-	-	45.00
40400 530 2005 WASTEWATER BOND ISSUI	1,989,842.96	-	1,921,489.12	1,921,489.12	-	1,989,842.96
	1,989,887.96	-	1,921,489.12	1,921,489.12	-	1,989,887.96
TOTAL GOVERNMENTAL FUNDS	129,905,057.17	20,671,216.35	1,921,489.12	20,574,524.63	680,901.11	131,242,336.90
ENTERPRISE FUNDS						
50200 100 SOLID WASTE	2,872,856.74	2,081,655.41	-	2,070,996.73	-	2,883,515.42
39900 440 JOINT UTILITY EXTENSIONS CAPIT	1,000.00	-	-	-	-	1,000.00
50100 600 JOINT UTILITY	1,000.00	-	1,330,587.83	1,327,469.83	3,118.00	1,000.00
50100 610 JOINT UTILITY CONST	1,000.00	-	84,482.81	84,482.81	-	1,000.00
50300 620 WASTE WATER PLANT CONST	6,857,812.29	-	-	28,624.82	-	6,829,187.47
50300 630 JOINT UTILITY - WASTEWATER	1,000.00	-	959,498.44	959,498.44	-	1,000.00
50300 650 JOINT UTILITY INCOME - WASTE	10,856,602.76	2,136,117.80	(2,880,987.56)	9,888.99	-	10,101,844.01
50100 660 JOINT UTILITY INCOME	9,447,098.98	2,702,789.67	(1,415,070.64)	-	44.83	10,734,773.18
50100 680 METER DEPOSIT RES	1,405,056.17	106,970.25	-	19,288.76	-	1,492,737.66
TOTAL ENTERPRISE FUNDS	31,443,426.94	7,027,533.13	(1,921,489.12)	4,500,250.38	3,162.83	32,046,057.74
INTERNAL SERVICE FUNDS						
69900 640 MEDICAL INSURANCE	1,658,623.59	2,057,048.68	(258,171.92)	2,095,008.00	294,701.42	1,067,790.93
69900 670 WORKERS COMP TRUST	1,206,454.59	151,739.52	-	132,099.94	-	1,226,094.17
69900 690 INTERNAL SUPPLY	109,115.46	62,654.88	-	88,010.25	-	83,760.09
69900 740 INSURANCE - RISK	5,428,141.68	995,484.62	-	989,163.62	-	5,434,462.68
TOTAL INTERNAL SERVICE FUNDS	8,402,335.32	3,266,927.70	(258,171.92)	3,304,281.81	294,701.42	7,812,107.87
TRUST AND AGENCY FUNDS						
79900 700 MOTOR VEHICLE	1,802.83	1,433,443.45	-	1,429,632.39	(10,435.68)	16,049.57
79900 710 MUNI JUDGE BOND FUND	108,174.34	-	-	-	(80.00)	108,254.34
79900 720 RETIREE HEALTH INSURANCE TRU	9,000,000.00	265,859.07	258,171.92	527,506.11	(3,475.12)	9,000,000.00
79900 730 CRIME LAB FUND	74,148.80	10,063.00	-	9,585.25	-	74,626.55
79900 750 FORECLOSURE TRUST FUND	71.88	-	-	-	-	71.88
79900 770 LIBRARY TRUST	6,290.69	42.78	-	-	-	6,333.47
79900 780 SENIOR CITIZEN TRUST	5,195.94	15.00	-	-	-	5,210.94
79900 790 PRAIRIE HAVEN MEM	6,025.45	88.79	-	-	-	6,114.24
79900 800 COMMUNITY PARK TRUST	1,611.76	23.75	-	-	-	1,635.51
79900 820 EVIDENCE TRUST FUND	206,602.63	(14,958.12)	-	-	-	191,644.51
79900 830 HOBBS BEAUTIFUL	15,440.93	227.59	-	-	-	15,668.52
79900 860 CITY AGENCY TRUST	1,506.37	340.24	-	461.06	-	1,385.55
TOTAL TRUST AND AGENCY FUNDS	9,426,871.62	1,695,145.55	258,171.92	1,967,184.81	(13,990.80)	9,426,995.08
GRAND TOTAL ALL FUNDS	179,177,691.05	32,660,822.73	-	30,346,241.63	964,774.56	180,527,497.59

State of New Mexico Local Government Budget Management System (LGBMS)
 Report Recap - Hobbs (City) - FY2024 Q1
 Printed from LGBMS on 2023-10-30 10:13:31

Fund	Cash	Investments	Revenues	Transfers	Expenditures	Adjustments	Balance	Reserve	Adj. Balance
11000 General Operating Fund	76,840,352.00	0.00	16,579,812.87	-1,177,357.48	14,953,480.38	-961,277.37	76,328,049.64	1,246,123.37	75,081,926.27
20100 Corrections	1,012,395.00	0.00	44,624.02	0.00	9,864.93	0.00	1,047,154.09	0.00	1,047,154.09
20600 Emergency Medical Services	2,596.00	0.00	42,362.00	0.00	5,542.20	0.00	39,415.80	0.00	39,415.80
20900 Fire Protection	1,221,314.00	0.00	349,586.32	0.00	104,061.16	0.00	1,466,839.16	0.00	1,466,839.16
21100 Law Enforcement Protection	24,384.00	0.00	204,500.00	0.00	53,732.55	0.00	175,151.45	0.00	175,151.45
21200 Laws of FY22 LERR (YEAR 1)	139,317.00	0.00	0.00	0.00	139,316.51	0.00	0.49	0.00	0.49
21210 Laws of FY22 LERR (YEAR 2)	0.00	0.00	0.00	0.00	203,727.65	215,012.21	11,284.56	0.00	11,284.56
21220 Laws of 2023-Recruitment-LEP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
21400 Lodgers' Tax	1,062,655.00	0.00	452,603.90	-93,735.90	208,828.98	0.00	1,212,694.02	0.00	1,212,694.02
21600 Municipal Street	5,668,693.00	0.00	284,179.01	0.00	354,168.41	0.00	5,598,703.60	0.00	5,598,703.60
21700 Recreation	1,000.00	0.00	559,843.93	378,178.10	938,060.81	38.78	1,000.00	0.00	1,000.00
21800 Intergovernmental Grants	18,241,697.00	0.00	0.00	0.00	35,649.04	0.00	18,206,047.96	0.00	18,206,047.96
21900 Senior Citizens	1,000.00	0.00	64,869.23	182,650.90	247,520.13	0.00	1,000.00	0.00	1,000.00
26000 American Rescue Plan Act	9,671,031.00	0.00	0.00	0.00	0.00	0.00	9,671,031.00	0.00	9,671,031.00
27000 LG Abatement Opioid Fund	119,301.00	0.00	11,225.21	0.00	0.00	0.00	130,526.21	0.00	130,526.21
28000 Cannabis Regulation Act	643,026.00	0.00	202,480.89	0.00	6,074.44	0.00	839,432.45	0.00	839,432.45
29900 Other Special Revenue	842,450.00	0.00	121,783.88	-8,881.98	187,144.15	65,360.27	833,568.02	0.00	833,568.02
30200 CDBG (HUD) Project	82,328.00	0.00	0.00	0.00	0.00	0.00	82,328.00	0.00	82,328.00
30300 State Legislative Appropriation Project	1,000.00	0.00	636,970.89	0.00	73,672.73	0.00	564,298.16	0.00	564,298.16
39900 Other Capital Projects	11,648,961.00	0.00	676,561.65	0.00	19,778.33	0.00	12,305,744.32	0.00	12,305,744.32
40400 NMFA Loan Debt Service	1,989,843.00	0.00	0.00	1,921,489.12	1,921,489.12	0.00	1,989,843.00	0.00	1,989,843.00
50100 Water Enterprise	10,854,156.00	0.00	2,809,759.92	0.00	1,431,241.40	-3,162.83	12,229,511.69	0.00	12,229,511.69
50200 Solid Waste Enterprise	2,872,857.00	0.00	2,081,655.41	0.00	2,070,996.73	0.00	2,883,515.68	0.00	2,883,515.68
50300 Wastewater/Sewer Enterprise	17,715,416.00	0.00	2,136,117.80	-1,921,489.12	998,012.25	0.00	16,932,032.43	0.00	16,932,032.43
50400 Airport Enterprise	690,721.00	0.00	46,889.95	0.00	379.15	0.00	737,231.80	0.00	737,231.80
50600 Cemetery Enterprise	1,000.00	0.00	53,840.41	297,996.74	351,837.15	0.00	1,000.00	0.00	1,000.00
51800 Golf Course Enterprise	1,000.00	0.00	339,082.19	421,149.62	760,196.81	-35.00	1,000.00	0.00	1,000.00
69900 Other Internal Service	8,402,336.00	0.00	3,266,927.70	-258,171.92	3,304,281.81	-294,701.42	7,812,108.55	0.00	7,812,108.55
79900 Other Trust & Agency	9,426,872.00	0.00	1,695,145.55	258,171.92	1,967,184.81	13,990.80	9,426,995.46	0.00	9,426,995.46
Totals	179,177,701.00	0.00	32,660,822.73	0.00	30,346,241.63	-964,774.56	180,527,507.54	1,246,123.37	179,281,384.17



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6th, 2023

SUBJECT: Approving the 1st quarter fiscal year 2024 DFA Report for Lodgers' Tax.

DEPT. OF ORIGIN: Finance
DATE SUBMITTED: October 30, 2023
SUBMITTED BY: Toby Spears, Finance Director

Summary:

The NM Department of Finance Administration recommends approving the City of Hobbs quarterly lodgers' tax process. The following attachment is for the 1st quarter 2024 DFA report.

Fiscal Impact:

Reviewed By: 
Finance Department

The September 30, 2023 Cash Balance for the Lodgers' Tax Fund is \$1,212,693.54.

Total lodgers' tax revenue for the 1st quarter fiscal year 2024 was \$ 435,505.98 and total expenditures were \$302,564.88. The breakdown of cash balances at September 30, 2023 by category are as follows:

Profit, Non-profit, Public Entities (20%)	=	\$ 168,984.42
Local Government (40%)	=	\$ 441,724.70
Fire, EMS, Sanitation (15%)	=	\$ 65,325.90
Airline Subsidy (25%)	=	\$ 536,658.52

Attachments:

DFA Quarterly Report
Resolution
9-30-2023 Financial Report

Legal Review:

Approved As To Form: 
Valerie S. Chacon
City Attorney

Recommendation:

To be determined by City Commission.

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. 7419

A RESOLUTION APPROVING THE FY 2024
LODGERS' TAX DFA 1ST QUARTER FINANCIAL REPORT

WHEREAS, the State of New Mexico requires the 1st quarter Lodgers' Tax DFA Financial Report to be approved annually, they now recommend that all quarterly financial reports be approved.

WHEREAS, the ending cash balance for the period ended September 30, 2023 was \$1,212,693.54 for lodgers' tax funds; and

WHEREAS, the City of Hobbs actual quarter-to-date lodgers' tax revenue and expenditures for fiscal year 2024 crosswalk the amounts to the DFA 1st quarter financial report;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the herein referenced 1st quarter lodgers' tax financial report be approved.

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

State of New Mexico Local Government Budget Management System (LGBMS)
 Report Recap - Hobbs (City) - FY2024 Q1
 Printed from LGBMS on 2023-10-30 10:13:31

Fund	Cash	Investments	Revenues	Transfers	Expenditures	Adjustments	Balance	Reserve	Adj. Balance
11000 General Operating Fund	76,840,352.00	0.00	16,579,812.87	-1,177,357.48	14,953,480.38	-961,277.37	76,328,049.64	1,246,123.37	75,081,926.27
20100 Corrections	1,012,395.00	0.00	44,624.02	0.00	9,864.93	0.00	1,047,154.09	0.00	1,047,154.09
20600 Emergency Medical Services	2,596.00	0.00	42,362.00	0.00	5,542.20	0.00	39,415.80	0.00	39,415.80
20900 Fire Protection	1,221,314.00	0.00	349,586.32	0.00	104,061.16	0.00	1,466,839.16	0.00	1,466,839.16
21100 Law Enforcement Protection	24,384.00	0.00	204,500.00	0.00	53,732.55	0.00	175,151.45	0.00	175,151.45
21200 Laws of FY22 LERR (YEAR 1)	139,317.00	0.00	0.00	0.00	139,316.51	0.00	0.49	0.00	0.49
21210 Laws of FY22 LERR (YEAR 2)	0.00	0.00	0.00	0.00	203,727.65	215,012.21	11,284.56	0.00	11,284.56
21220 Laws of 2023-Recruitment-LER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
21400 Lodgers' Tax	1,062,655.00	0.00	452,603.90	-93,735.90	208,828.98	0.00	1,212,694.02	0.00	1,212,694.02
21600 Municipal Street	5,668,693.00	0.00	284,179.01	0.00	354,168.41	0.00	5,598,703.60	0.00	5,598,703.60
21700 Recreation	1,000.00	0.00	559,843.93	378,178.10	938,060.81	38.78	1,000.00	0.00	1,000.00
21800 Intergovernmental Grants	18,241,697.00	0.00	0.00	0.00	35,649.04	0.00	18,206,047.96	0.00	18,206,047.96
21900 Senior Citizens	1,000.00	0.00	64,869.23	182,650.90	247,520.13	0.00	1,000.00	0.00	1,000.00
26000 American Rescue Plan Act	9,671,031.00	0.00	0.00	0.00	0.00	0.00	9,671,031.00	0.00	9,671,031.00
27000 LG Abatement Opioid Fund	119,301.00	0.00	11,225.21	0.00	0.00	0.00	130,526.21	0.00	130,526.21
28000 Cannabis Regulation Act	643,026.00	0.00	202,480.89	0.00	6,074.44	0.00	839,432.45	0.00	839,432.45
29900 Other Special Revenue	842,450.00	0.00	121,783.88	-8,881.98	187,144.15	65,360.27	833,568.02	0.00	833,568.02
30200 CDBG (HUD) Project	82,328.00	0.00	0.00	0.00	0.00	0.00	82,328.00	0.00	82,328.00
30300 State Legislative Appropriation Project	1,000.00	0.00	636,970.89	0.00	73,672.73	0.00	564,298.16	0.00	564,298.16
39900 Other Capital Projects	11,648,961.00	0.00	676,561.65	0.00	19,778.33	0.00	12,305,744.32	0.00	12,305,744.32
40400 NMFA Loan Debt Service	1,989,843.00	0.00	0.00	1,921,489.12	1,921,489.12	0.00	1,989,843.00	0.00	1,989,843.00
50100 Water Enterprise	10,854,156.00	0.00	2,809,759.92	0.00	1,431,241.40	-3,162.83	12,229,511.69	0.00	12,229,511.69
50200 Solid Waste Enterprise	2,872,857.00	0.00	2,081,655.41	0.00	2,070,996.73	0.00	2,883,515.68	0.00	2,883,515.68
50300 Wastewater/Sewer Enterprise	17,715,416.00	0.00	2,136,117.80	-1,921,489.12	998,012.25	0.00	16,932,032.43	0.00	16,932,032.43
50400 Airport Enterprise	690,721.00	0.00	46,889.95	0.00	379.15	0.00	737,231.80	0.00	737,231.80
50600 Cemetery Enterprise	1,000.00	0.00	53,840.41	297,996.74	351,837.15	0.00	1,000.00	0.00	1,000.00
51800 Golf Course Enterprise	1,000.00	0.00	339,082.19	421,149.62	760,196.81	-35.00	1,000.00	0.00	1,000.00
69900 Other Internal Service	8,402,336.00	0.00	3,266,927.70	-258,171.92	3,304,281.81	-294,701.42	7,812,108.55	0.00	7,812,108.55
79900 Other Trust & Agency	9,426,872.00	0.00	1,695,145.55	258,171.92	1,967,184.81	13,990.80	9,426,995.46	0.00	9,426,995.46
Totals	179,177,701.00	0.00	32,660,822.73	0.00	30,346,241.63	-964,774.56	180,527,507.54	1,246,123.37	179,281,384.17

CITY OF HOBBS LODGERS' TAX REPORT

September 30, 2023

		RECEIPTS				EXPENDITURES			NET CHANGE		Cash
Month	Month	Gross Taxable Revenue	Lodgers' Tax	Other Income	TOTAL	Contract for Services	Advert & Promotion	TOTAL	For Month	YTD	Balance
FY 2021			710,404.36								
CASH BALANCE		1,184,148.04									
July 2021		1,801,674.20	90,083.71	45.30	90,129.01		-	-	90,129.01	90,129.01	1,274,277.05
August 2021		1,915,939.00	95,796.95	45.20	95,842.15		25,355.08	25,355.08	70,487.07	160,616.08	1,344,764.12
September 2021		1,868,698.40	93,434.92	51.06	93,485.98		222,127.13	222,127.13	(128,641.15)	31,974.93	1,216,122.97
October 2021		1,780,151.80	89,007.59	38.65	89,046.24		51,709.00	51,709.00	37,337.24	69,312.17	1,253,460.21
November 2021		2,429,424.60	121,471.23	47.62	121,518.85		-	-	121,518.85	190,831.02	1,374,979.06
December 2021		1,744,665.80	87,233.29	96.08	87,329.37		305,240.26	305,240.26	(217,910.89)	(27,079.87)	1,157,068.17
SUBTOTAL		11,540,553.80	577,027.69	323.91	577,351.60	0.00	604,431.47	604,431.47			
January 2022		1,577,475.40	78,873.77	57.30	78,931.07		15,947.15	15,947.15	62,983.92	62,983.92	1,220,052.09
February 2022		1,654,709.20	82,735.46	55.26	82,790.72		0.00	0.00	82,790.72	82,790.72	1,302,842.81
March 2022		1,627,879.20	81,393.96	59.05	81,453.01		319,470.83	319,470.83	-238,017.82	-238,017.82	1,064,824.99
April 2022		1,977,060.60	98,853.03	90.76	98,943.79		20,000.00	20,000.00	78,943.79	78,943.79	1,143,768.78
May 2022		2,402,337.40	120,116.87	236.22	120,353.09		-	-	120,353.09	120,353.09	1,264,121.87
June 2022		2,498,604.00	124,930.20	515.49	125,445.69		302,631.99	302,631.99	-177,186.30	-177,186.30	1,086,935.57
SUBTOTAL		11,738,065.80	586,903.29	1,014.08	587,917.37	0.00	658,049.97	658,049.97			
CASH BALANCE		1,086,935.57	1,163,930.98				1,262,481.44				
July 2022		2,344,993.40	117,249.67	724.61	117,974.28		18,764.47	18,764.47	99,209.81	99,209.81	1,186,145.38
August 2022		2,301,976.00	115,098.80	1,312.73	116,411.53		87,372.03	87,372.03	29,039.50	128,249.31	1,215,184.88
September 2022		2,432,846.20	121,642.31	1,763.30	123,405.61		249,365.79	249,365.79	(125,960.18)	2,289.13	1,089,224.70
October 2022		2,381,193.20	119,059.66	1,928.75	120,988.41		-	-	120,988.41	123,277.54	1,210,213.11
November 2022		2,688,695.60	134,434.78	2,574.32	137,009.10		192,300.35	192,300.35	(55,291.25)	67,986.29	1,154,921.86
December 2022		2,419,647.60	120,982.38	3,328.48	124,310.86		316,325.61	316,325.61	(192,014.75)	(124,028.46)	962,907.11
SUBTOTAL		14,569,352.00	728,467.60	11,632.19	740,099.79	0.00	864,128.25	864,128.25			
January 2023		2,182,112.60	109,105.63	3,183.80	112,289.43		35,371.75	35,371.75	76,917.68	76,917.68	1,039,824.79
February 2023		2,242,822.80	112,141.14	3,788.90	115,930.04		53,799.13	53,799.13	62,130.91	62,130.91	1,101,955.70
March 2023		2,432,360.40	121,618.02	3,670.54	125,288.56		216,175.23	216,175.23	-90,886.67	-90,886.67	1,011,069.03
April 2023		2,628,350.20	131,417.51	3,871.88	135,289.39		72,615.52	72,615.52	62,673.87	62,673.87	1,073,742.90
May 2023		2,699,091.00	134,954.55	4,283.86	139,238.41		20,835.92	20,835.92	118,402.49	118,402.49	1,192,145.39
June 2023		3,048,922.00	152,446.10	4,975.72	157,421.82		286,912.69	286,912.69	-129,490.87	-129,490.87	1,062,654.52
SUBTOTAL		15,233,659.00	761,682.95	23,774.70	785,457.65	0.00	685,710.24	685,710.24			
CASH BALANCE		1,062,654.52	1,490,150.55				1,549,838.49				
July 2023		2,792,496.40	139,624.82	5,130.83	144,755.65		29,856.26	29,856.26	114,899.39	114,899.39	1,177,553.91
August 2023		2,827,934.60	141,396.73	5,783.05	147,179.78		153,485.80	153,485.80	(6,306.02)	108,593.37	1,171,247.89
September 2023		3,089,688.60	154,484.43	6,184.04	160,668.47		119,222.82	119,222.82	41,445.65	150,039.02	1,212,693.54
October 2023		-	-	-	-		-	-	-	150,039.02	1,212,693.54
November 2023		-	-	-	-		-	-	-	150,039.02	1,212,693.54
December 2023		-	-	-	-		-	-	-	150,039.02	1,212,693.54
SUBTOTAL		8,710,119.60	435,505.98	17,097.92	452,603.90	0.00	302,564.88	302,564.88			
January 2024		0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	1,212,693.54
February 2024		0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	1,212,693.54
March 2024		0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	1,212,693.54
April 2024		0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	1,212,693.54
May 2024		0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	1,212,693.54
June 2024		0.00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	1,212,693.54
SUBTOTAL		0.00	0.00	0.00	0.00	0.00	0.00	0.00			
CASH BALANCE		1,212,693.54	435,505.98	17,097.92	452,603.90		302,564.88				

CITY OF HOBBS LODGERS' TAX PROGRAM						
9/30/2023						
		AWARD				ACTUAL
		PROJECT	DATE	AMOUNT	EXPENSE	GRANT
						CATEGORY
9/30/2023		CASH BALANCE				1,212,693.54
Proof of Cash:						
Beginning Cash Available for Profit, Non-Profit, and Public Entities (20%)						249,067.52
23-20		Tuff Hedeman Bull Riding	11-21-22	20,000.00	0.00	20,000.00
23-30		New Mexico Junior College - NJCAA 2023 Outdoor Natl Champlo	1-11-23	49,775.00	0.00	49,775.00
23-33		Hobbs Quarterback Club - Hobbs Varsity Home Games	4-12-23	9,500.00	0.00	9,500.00
23-36		Hobbs USSSA - Hobbs Superslam NIT	4-12-23	11,500.00	0.00	11,500.00
23-37		Hobbs USSSA - JB Memorial	4-12-23	12,500.00	0.00	12,500.00
23-38		Permian Basin USSSA - Bball Moms are the Best/Last Chance fo	4-12-23	44,160.00	19,760.00	24,400.00
23-39		Southwest Symphony - Americana!	4-12-23	1,280.00	0.00	1,280.00
24-03		Permian Basin USSSA - Hobbs Fall Turf Games	7-12-23	21,750.00	0.00	21,750.00
24-05		United Way of Lea County - Chili Festival	7-12-23	9,730.00	0.00	9,730.00
24-06		Hobbs Chamber of Commerce - 2023 Hobbs August Nites	7-12-23	6,739.30	0.00	6,739.30
		TOTAL REMAINING ALLOCATION FOR PROFIT, NON-PROFIT AND PUBLIC EN		179,693.38		167,174.30
Add:		20% Monthly Tax Revenue (starting April 1st, 2013)				87,101.20
		Cash Available for Allocation				168,984.42
Beginning Cash Available for Local Government (City and County) (40%)						591,243.16
20-27		CITY OF HOBBS - MARKETING/BRANDING CAMPAIGN	3/2/2020	250,000.00	42,507.15	207,492.85 transfer
23-12		City of Hobbs - Rockwind Golf Marketing	7-13-2022	64,650.00	31,535.00	33,115.00 transfer
24-02		Lea County Fair and Rodeo	7-12-2023	83,113.00	0.00	83,113.00
		TOTAL REMAINING ALLOCATION FOR LOCAL GOVERNMENT		397,763.00	74,042.15	323,720.85
Add:		40% Monthly Tax Revenue (starting April 1st, 2013)				174,202.39
		Cash Available for Allocation				441,724.70
Beginning Cash Available for Fire, EMS, Sanitation (15%)						
		TOTAL REMAINING ALLOCATION FOR CITY OF HOBBS POLICE AND FIRE		195,000.00	65,325.90	129,674.10 transfer
Add:		15% Monthly Tax Revenue (starting April 1st, 2013)			65,325.90	65,325.90
		Cash Available for Allocation				(64,348.21)
Beginning Cash Available for Airline subsidy (25%)						427,782.03
24-01		EDC - MARKETING of Airline 2024	4-12-23	200,000.00	52,665.29	147,334.71
24-07		EDC - MRG Subsidy 2024	7-12-23	151,272.00	0.00	151,272.00
Add:		25% Monthly Tax Revenue (starting April 1st, 2013)				108,876.50
		TOTAL REMAINING ALLOCATION FOR AIRLINE SUBSIDY				
		Cash Available for Allocation				536,658.53



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: RESOLUTION APPROVING A ONE-YEAR EXTENSION OF THE PROFESSIONAL SERVICES AGREEMENT WITH LUKE OTERO FOR LOBBYING SERVICES

DEPT. OF ORIGIN: Legal Department
DATE SUBMITTED: October 30, 2023
SUBMITTED BY: Valerie S. Chacon, Acting City Attorney

Summary:

On January 18, 2022, the City of Hobbs City Commission voted to approve a professional services agreement with Lobbyist Luke Otero for the 2022 New Mexico Legislative Session. The agreement states in pertinent part that, "This Agreement may be renewed for up to three additional one-year terms upon written approval from both City and Contractor prior to the expiration of any one-year term." The existing Professional Services Agreement is attached. This one-year extension would cover the 2024 Legislative Session, any pre-session meetings/services, and follow up meetings/services following the 2024 session and any interim session meetings/services. This one-year extension is for \$25,635.00 inclusive of New Mexico Gross Receipts Taxes (NMGRT).

Fiscal Impact:

Reviewed By: Valerie S. Chacon
Finance Department

The professional services agreement is for \$25,635.00 inclusive of NMGRT for fiscal year 2024. Adequate funds are budgeted in line item 010100-42601 for Professional Services.

Attachments:

Resolution; 2022 Professional Services Agreement

Legal Review:

Approved As To Form: Valerie S. Chacon
City Attorney

Recommendation:

The Commission should consider approval of the Professional Services Agreement.

Approved For Submittal By:

Valerie S. Chacon
Digitally signed by Valerie S. Chacon
DN: cn=Valerie S. Chacon, o=City of Hobbs, email=vschacon@hobbsnm.gov, c=US
Date: 2023.10.30 13:23:14 -0600

Department Director

City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

Resolution No.
Ordinance No.
Approved
Other

Continued To:
Referred To:
Denied
File No.

CITY OF HOBBS

RESOLUTION NO. 7420

A RESOLUTION APPROVING A ONE-YEAR EXTENSION OF THE PROFESSIONAL SERVICES AGREEMENT WITH LUKE OTERO FOR LOBBYING SERVICES

WHEREAS, on January 18, 2022, the City of Hobbs City Commission voted to approve a Professional Services Agreement with Lobbyist Luke Otero for the 2022 New Mexico Legislative Session; and

WHEREAS, the Professional Services Agreement allowed for up to three one-year renewals upon written approval from both City and Contractor prior to the expiration of any one-year term; and

WHEREAS, Luke Otero has expressed a desire to exercise the Second one-year renewal of the Professional Services Agreement, subject to the same terms, at an aggregate cost of \$25,635.00 inclusive of New Mexico Gross Receipts Taxes; and

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that the parties hereby agree to exercise the second one-year extension of the 2022 Professional Services Agreement with Luke Otero.

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



PROFESSIONAL SERVICES AGREEMENT

12036
2022-61

THIS CONTRACT is made the 18 day of January, 2022, by and between the City of Hobbs, New Mexico, a municipal corporation located in Lea County, New Mexico (hereinafter referred to as "City") and Luke Otero, an independent contractor with a business address of 1458 Miracerros Loop North, Santa Fe, NM 87505 (hereinafter referred to as "Contractor").

This Contract (hereinafter referred to as "Agreement") is a:

- Category 1 Contract:** (\$0 – not to exceed \$20,000.00). Purchasing requires good faith efforts to acquire the materials or services at the best obtainable price.
- Category 2 Contract:** (\$20,000.00 - not to exceed \$75,000.00). Purchasing requires three (3) written quotes turned in to the Central Purchasing Office.
- Category 3 Contract:** (\$75,000.00 and over). Purchasing requires formal sealed bids or competitive sealed proposals through the Central Purchasing Office.
- Professional Services Contract under \$75,000.00.** Purchasing requires the direction of the City Manager.
- Professional Services Contract \$75,000.00 and over.** Purchasing requires the direction of the City Manager with City Commission approval, subject to the competitive sealed proposal requirements.
- Exempt Contract under \$75,000.00.** Purchasing requires the direction of the City Manager.
- Exempt Contract \$75,000.00 and over.** Purchasing requires the direction of the City Manager with City Commission approval.

The parties to this Agreement, in consideration of their mutual promises, agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide professional State lobbying services for the 2022 New Mexico Legislative Session, any pre-session meetings/services, any follow-up meetings/services resulting from the 2022 New Mexico Legislative Session and any interim session meetings/services, as fully set forth herein.

Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered. These records shall be subject to inspection by City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

2. STATUS OF CONTRACTOR

Contractor acknowledges that its relationship with City is that of an "independent contractor." Therefore, Contractor shall not be considered an employee or agent of City, nor shall Contractor be eligible to accrue leave, retirement benefits, Insurance benefits, use of City vehicles, or any other benefits provided to City employees. Contractor agrees not to purport to bind City of Hobbs unless the Contractor has express written authority to do so, and then only within the strict limits of that authority. Contractor further acknowledges that no benefits pursuant to the Worker's Compensation Laws of the State of New Mexico are available to them for the services contemplated herein. Contractor shall be responsible for securing all licenses and registrations related to their business prior to commencing any work under this Agreement. Contractor shall be solely responsible for all taxes and related reporting requirements. City shall have no liability for the payment of taxes other than gross receipts taxes to be calculated in Contractor's invoices.

3. CONTRACT TERM AND TERMINATION

This Agreement shall be effective from date of execution (as noted on page 1 of this Agreement) and shall end upon completion of all services contemplated herein and final payment for said services, or one year from the date of execution, whichever occurs first. This Agreement may be renewed for up to three additional one-year terms upon written approval from both City and Contractor prior to the expiration of any one-year term. This Agreement may be terminated by either party, at any time with or without cause, upon a minimum of thirty (30) days' advanced written notice to the other party. Except as otherwise allowed or provided under this Agreement, City's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's receipt of the notice of termination, if City is the terminating party, or Contractor's sending of the notice of termination, if Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under, or breaches of, this Agreement. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Furthermore, City reserves the right to immediately cancel this Agreement if Contractor violates any provision specifically outlined in Paragraph 10 of this Agreement.

4. PRICE

City shall pay Contractor a total of \$ 25,635.00 inclusive of New Mexico gross receipts taxes. Contractor shall be responsible for paying all costs associated with performance of duties, including but not limited to, mileage and "wear and tear" of vehicles, and costs of equipment necessary to perform services. Contractor shall submit a monthly invoice for services performed in any given month. Upon receipt of any invoice, City shall render payment for said invoice as soon as practical within fifteen (15) days. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein. Contractor and City shall both be required to keep detailed records regarding the services rendered. In the event City disputes an invoice, Contractor shall provide City with records regarding all services rendered. Contractor shall remit all invoices to ATTN: Shelly Raulston, 200 E. Broadway Street, Hobbs, NM 88240.

Parties agree that the aggregate amount contemplated by this Agreement, including all contemplated gross receipts taxes, shall not exceed \$ 25,635.00. All amounts contemplated herein shall include all necessary labor, equipment, materials and all other costs necessary to complete the project as specified herein. Approval and acceptance of Contractor's satisfactory completion of the project shall be a prerequisite to final payment. Nothing contained in this Agreement shall be construed by Contractor as guaranteeing Contractor any minimum amount of work. Contractor, upon final payment of all amounts due under this Agreement, releases City and its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. No guarantee of future contracts will be granted to any Contractor.

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

5. INSURANCE REQUIREMENTS

Contractor shall maintain insurance coverage through the duration of this Agreement. Contractor shall provide City with a certificate of insurance coverage for General Liability (GL) in a minimum amount of \$ N/A per occurrence, and naming City as an additional insured. The insurance required herein shall be primary and shall be attached hereto as "Exhibit A."

6. INDEMNITY AND HOLD HARMLESS

Contractor shall indemnify, defend and hold City, the City Commission of the City of Hobbs, its individual commissioners, its officers, employees and agents, past or present, harmless from any and all causes of action, suits, claims, judgments, losses, costs, expenses, and liens of every kind and nature, including, but not limited to court costs and attorney's fees, arising or alleged to have arisen due to negligence of Contractor, or any employees working under Contractor, while engaged in the performance of this Agreement, or for Contractor's failure to render services, or any breach of this Agreement. Indemnification shall survive the expiration of this Agreement.

City shall not be liable to Contractor, or Contractor's successors, heirs, agents, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold City harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by City in connection with the performance by Contractor of Contractor's duties according to this Agreement.

7. FACILITY AND EQUIPMENT—SAFETY

Contractor shall report any unsafe conditions prior to the commencement of any activity. Commencement of activity by the Contractor constitutes agreement as to the safety of the premises. Contractor is responsible for supervision of all participants so as to conduct the services in a safe and orderly manner. Contractor shall be solely responsible for the safety of any of their employees, affiliates, associates, or subcontractors. City is not required to provide storage for Contractor's equipment or materials.

8. BACKGROUND CHECK

Contractor is subject to a background check prior to providing services. By signing this Agreement, the Contractor is certifying that they have reviewed criminal background histories of each and every employee, assistant and/or agent working for Contractor. Contractor further certifies that no person with a history of sexual or violent offenses is in Contractor's employ in any fashion. Employees, assistants and/or agents who are minors (under 18 years old) shall be supervised by an adult in Contractor's employ at all times.

9. DRUG-FREE WORKPLACE

City seeks to provide a safe and productive work environment that is free from impaired performance caused by the use of alcohol, controlled substances, and/or medications. The Contractor agrees to maintain such an environment.

10. RULES, REGULATIONS, AND CARE

Contractor shall treat all individuals and City employees with respect and will not subject anyone to discrimination or harassment because of the person's race, color, sexual orientation, national origin, age, religion, gender, gender identity, or disability. Contractor shall use all reasonable care so as to not damage, or authorize any other person/entity, to damage the property of City. In the event that any City-owned property, whatsoever, is damaged or destroyed due to the negligence or acts of omissions of the Contractor, or any agent of Contractor, Contractor shall replace or repair the damage at no cost to City. City shall determine the existence of any damage and provide Contractor with an estimate of repair or replacement costs. Damage shall be repaired or replaced by Contractor to the reasonable satisfaction of City within thirty (30) days of receipt of written notification from City. If Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from payments provided for in this Agreement. City reserves the right to immediately cancel the Agreement if the Contractor violates any provision herein.

11. 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 City, ATTN: City Manager Manny Gomez, City Hall, 200 E. Broadway Street, Hobbs, NM 88240 and to Contractor at 1458 Miracerros Loop North, Santa Fe, NM 87505 or to such other address as requested in writing by either party. Notice shall be deemed to be received on the fifth day following posting.

12. CONFLICT OF INTEREST AND GOVERNMENTAL CONDUCT ACT

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

B. Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, Section 10-16-4.3, Contractor does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by City and participating directly or indirectly in City's contracting process;

2) this Agreement complies with NMSA 1978, Section 10-16-7(B), because (i) Contractor is not a public officer or employee of City; (ii) Contractor is not a member of the family of a public officer or employee of City; (iii) Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if Contractor is a public officer or employee of City, a member of the family of a public officer or employee of City, or a business in which a public officer or employee of City or the family of a public officer or employee of City has a substantial interest, public notice was given as required by NMSA 1978, Section 10-16-7(B), and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, Section 10-16-8(C), (i) Contractor is not, and has not been represented by, a person who has been a public officer or employee of City within the preceding year and whose official act directly resulted in this Agreement and (ii) Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of City whose official act, while in City employment, directly resulted in City making this Agreement;

4) in accordance with NMSA 1978, Section 10-16-13, Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with NMSA 1978, Section 10-16-3 and Section 10-16-13.3, Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of City.

C. Contractor's representations and warranties in Paragraphs A and B of this Section 12 are material representations of fact upon which City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to City and notwithstanding anything in the Agreement to the contrary, City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in Section 12(B).

13. MISCELLANEOUS PROVISIONS

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

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from City. In all cases, Contractor is solely responsible for fulfillment of this Agreement. Duly authorized representatives for City shall have the right to direct and inspect the work under this Agreement.

If any part of this Agreement is found to be in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts of this Agreement shall remain valid and enforceable.

This Agreement is governed by the laws of the State of New Mexico and will bind and inure to the benefit of City and Contractor, their respective successors and assigns. In the event that Contractor defaults on any term of this Agreement, after reasonable attempts to cure said default, City retains the right to declare this Agreement void. In the event that this Agreement is declared void, neither party shall be obligated to perform further under this Agreement. 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. Contractor agrees to pay City reasonable costs, including court fees and reasonable attorney's fees, incurred by City in the enforcement of this Agreement, even though City may employ in-house legal counsel.

A party shall be excused from performance under this agreement for any period that the party is directly prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

In the event that Contractor desires to cancel the scheduled services for any reason, Contractor is responsible for the following:

Contacting City via telephone at (575) 397-9206 ; and
Contacting City via e-mail at mgomez@hobbsnm.org .

Any change orders shall be in writing and signed by the parties specifically enumerating the additional work to be performed, change in scope, and/or the cost therein. A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights but the ones delineated in said effective waiver.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that they have the legal power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

The foregoing constitutes the entire Agreement between the parties. This Agreement may only be modified through a written amendment signed by both parties.

[Required Signatures on Next Page]

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

THE CITY OF HOBBS, NEW MEXICO

Department Head Approval:

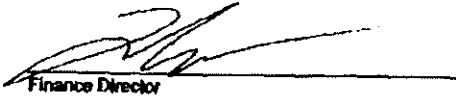
Contractor Approval:



Contractor Signature

Account No.: 010100-42601

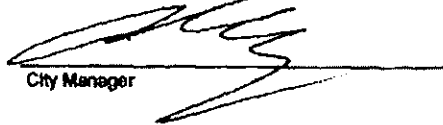
Finance Director:


Finance Director

City Attorney "as to form" Approval:


City Attorney

City Manager Approval:


City Manager

City Clerk Approval:
City Clerk (Professional Service
Contracts over \$75,000)

City Clerk

Mayor Approval:
(Professional Service Contracts over
\$75,000)

Mayor



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: APPROVAL AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CAMBIAR CONSULTING, LLC FOR LOBBYING SERVICES

DEPT. OF ORIGIN: Legal Department
DATE SUBMITTED: October 30, 2023
SUBMITTED BY: Valerie S. Chacon, Acting City Attorney

Summary: It has been determined that the City would benefit from having the services of a Lobbyist during the 2023-2024 New Mexico Legislative Session. Specifically, the City of Hobbs would benefit from the services of a Lobbyist that is familiar with upcoming house bills and their positive and negative impacts to municipalities.

Fiscal Impact: Reviewed By: Finance Department
The professional services agreement is for \$54,000.00 inclusive of NMGR T for fiscal year 2023-2024. Adequate funds are budgeted in line item 010100-42601 for professional services.

Attachments: Resolution and Professional Services

Legal Review: Approved As To Form: Valerie S. Chacon City Attorney

Recommendation: The Commission should consider approval of the Professional Services Agreement.

Approved For Submittal By: Valerie S. Chacon, Department Director, City Manager
CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN
Resolution No., Ordinance No., Approved, Other, Continued To, Referred To, Denied, File No.

CITY OF HOBBS

RESOLUTION NO. 7421

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH
CAMBIAR CONSULTING LLC

WHEREAS, the City of Hobbs Commission, authorizes the Professional Services Agreement with Cambiar Consulting LLC; and

WHEREAS, the City desires to enter into an Agreement with Cambiar Consulting LLC to provide lobbyist services for 2023-2024 Legislative Session, and any interim session meetings/services; and

WHEREAS, Cambiar Consulting LLC has expressed a desire to provide services to the City of Hobbs for \$4,500.00 a month, \$54,000.00 a year inclusive of New Mexico Gross Receipts Taxes; and

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, a professional services agreement, to be effective November 6, 2023, a copy of which is attached hereto and incorporated hereby reference, be and is hereby adopted and approved.

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



PROFESSIONAL SERVICES AGREEMENT

THIS CONTRACT is made the 6 day of November, 2023, by and between the City of Hobbs, New Mexico, a municipal corporation located in Lea County, New Mexico (hereinafter referred to as "City") and CAMBIAR CONSULTING, LLC, an independent contractor with a business address of PO Box 8319, Santa Fe, NM 87504 (hereinafter referred to as "Contractor").

This Contract (hereinafter referred to as "Agreement") is a:

- Category 1 Contract:** (\$0 – not to exceed \$20,000.00). Purchasing requires good faith efforts to acquire the materials or services at the best obtainable price.
- Category 2 Contract:** (\$20,000.00 - not to exceed \$75,000.00). Purchasing requires three (3) written quotes turned in to the Central Purchasing Office.
- Category 3 Contract:** (\$75,000.00 and over). Purchasing requires formal sealed bids or competitive sealed proposals through the Central Purchasing Office.
- Professional Services Contract under \$75,000.00.** Purchasing requires the direction of the City Manager.
- Professional Services Contract \$75,000.00 and over.** Purchasing requires the direction of the City Manager with City Commission approval, subject to the competitive sealed proposal requirements.
- Exempt Contract under \$75,000.00.** Purchasing requires the direction of the City Manager.
- Exempt Contract \$75,000.00 and over.** Purchasing requires the direction of the City Manager with City Commission approval.

The parties to this Agreement, in consideration of their mutual promises, agree as follows:

1. SCOPE OF SERVICES

Please see "Exhibit A" attached hereto and incorporated herein.

2. STATUS OF CONTRACTOR

Contractor acknowledges that its relationship with City is that of an "independent contractor." Therefore, Contractor shall not be considered an employee or agent of City, nor shall Contractor be eligible to accrue leave, retirement benefits, insurance benefits, use of City vehicles, or any other benefits provided to City employees. Contractor agrees not to purport to bind City of Hobbs unless the Contractor has express written authority to do so, and then only within the strict limits of that authority. Contractor further acknowledges that no benefits pursuant to the Worker's Compensation Laws of the State of New Mexico are available to them for the services contemplated herein. Contractor shall be responsible for securing all licenses and registrations related to their business prior to commencing any work under this Agreement. Contractor shall be solely responsible for all taxes and related reporting requirements. City shall have no liability for the payment of taxes other than gross receipts taxes to be calculated in Contractor's invoices.

3. CONTRACT TERM AND TERMINATION

This Agreement shall be effective from date of execution (as noted on page 1 of this Agreement) and shall end upon completion of all services contemplated herein and final payment for said services, or one year from the date of execution, whichever occurs first. This Agreement may be renewed for up to three additional one-year terms upon written approval from both City and Contractor prior to the expiration of any one-year term. This Agreement may be terminated by either party, at any time with or without cause, upon a minimum of thirty (30) days' advanced written notice to the other party. Except as otherwise allowed or provided under this Agreement, City's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's receipt of the notice of termination, if City is the terminating party, or Contractor's sending of the notice of termination, if Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under, or breaches of, this Agreement. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Furthermore, City reserves the right to immediately cancel this Agreement if Contractor violates any provision specifically outlined in Paragraph 10 of this Agreement.

4. PRICE

City shall pay Contractor a total of \$ 4,500.00 a month inclusive of New Mexico gross receipts taxes. Contractor shall be responsible for paying all costs associated with performance of duties, including but not limited to, mileage and "wear and tear" of vehicles, and costs of equipment necessary to perform services. Contractor shall submit a monthly invoice for services performed in any given month. Upon receipt of any invoice, City shall render payment for said invoice as soon as practical within fifteen (15) days. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein. Contractor and City shall both be required to keep detailed records regarding the services rendered. In the event City disputes an invoice, Contractor shall provide City with records regarding all services rendered. Contractor shall remit all invoices to ATTN: Brandy Hukins, 200 E. Broadway Street, Hobbs, NM 88240.

Parties agree that the aggregate amount contemplated by this Agreement, including all contemplated gross receipts taxes, shall not exceed \$ 54,000.00. All amounts contemplated herein shall include all necessary labor, equipment, materials and all other costs necessary to complete the project as specified herein. Approval and acceptance of Contractor's satisfactory completion of the project shall be a prerequisite to final payment. Nothing contained in this Agreement shall be construed by Contractor as guaranteeing Contractor any minimum amount of work. Contractor, upon final payment of all amounts due under this Agreement, releases City and its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. No guarantee of future contracts will be granted to any Contractor.

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

5. INSURANCE REQUIREMENTS

Contractor shall maintain insurance coverage through the duration of this Agreement. Contractor shall provide City with a certificate of insurance coverage for General Liability (GL) in a minimum amount of \$ N/A per occurrence, and naming City as an additional insured. The insurance required herein shall be primary and shall be attached hereto as "Exhibit A."

6. INDEMNITY AND HOLD HARMLESS

Contractor shall indemnify, defend and hold City, the City Commission of the City of Hobbs, its individual commissioners, its officers, employees and agents, past or present, harmless from any and all causes of action, suits, claims, judgments, losses, costs, expenses, and liens of every kind and nature, including, but not limited to court costs and attorney's fees, arising or alleged to have arisen due to negligence of Contractor, or any employees working under Contractor, while engaged in the performance of this Agreement, or for Contractor's failure to render services, or any breach of this Agreement. Indemnification shall survive the expiration of this Agreement.

City shall not be liable to Contractor, or Contractor's successors, heirs, agents, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold City harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by City in connection with the performance by Contractor of Contractor's duties according to this Agreement.

7. FACILITY AND EQUIPMENT—SAFETY

Contractor shall report any unsafe conditions prior to the commencement of any activity. Commencement of activity by the Contractor constitutes agreement as to the safety of the premises. Contractor is responsible for supervision of all participants so as to conduct the services in a safe and orderly manner. Contractor shall be solely responsible for the safety of any of their employees, affiliates, associates, or subcontractors. City is not required to provide storage for Contractor's equipment or materials.

8. BACKGROUND CHECK

Contractor is subject to a background check prior to providing services. By signing this Agreement, the Contractor is certifying that they have reviewed criminal background histories of each and every employee, assistant and/or agent working for Contractor. Contractor further certifies that no person with a history of sexual or violent offenses is in Contractor's employ in any fashion. Employees, assistants and/or agents who are minors (under 18 years old) shall be supervised by an adult in Contractor's employ at all times.

9. DRUG-FREE WORKPLACE

City seeks to provide a safe and productive work environment that is free from impaired performance caused by the use of alcohol, controlled substances, and/or medications. The Contractor agrees to maintain such an environment.

10. RULES, REGULATIONS, AND CARE

Contractor shall treat all individuals and City employees with respect and will not subject anyone to discrimination or harassment because of the person's race, color, sexual orientation, national origin, age, religion, gender, gender identity, or disability. Contractor shall use all reasonable care so as to not damage, or authorize any other person/entity, to damage the property of City. In the event that any City-owned property, whatsoever, is damaged or destroyed due to the negligence or acts of omissions of the Contractor, or any agent of Contractor, Contractor shall replace or repair the damage at no cost to City. City shall determine the existence of any damage and provide Contractor with an estimate of repair or replacement costs. Damage shall be repaired or replaced by Contractor to the reasonable satisfaction of City within thirty (30) days of receipt of written notification from City. If Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from payments provided for in this Agreement. City reserves the right to immediately cancel the Agreement if the Contractor violates any provision herein.

11. 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 City, ATTN: City Manager Manny Gomez, City Hall, 200 E. Broadway Street, Hobbs, NM 88240 and to Contractor at PO Box 8319, Santa Fe, NM 87504 or to such other address as requested in writing by either party. Notice shall be deemed to be received on the fifth day following posting.

12. CONFLICT OF INTEREST AND GOVERNMENTAL CONDUCT ACT

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

B. Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, Section 10-16-4.3, Contractor does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by City and participating directly or indirectly in City's contracting process;

2) this Agreement complies with NMSA 1978, Section 10-16-7(B), because (i) Contractor is not a public officer or employee of City; (ii) Contractor is not a member of the family of a public officer or employee of City; (iii) Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if Contractor is a public officer or employee of City, a member of the family of a public officer or employee of City, or a business in which a public officer or employee of City or the family of a public officer or employee of City has a substantial interest, public notice was given as required by NMSA 1978, Section 10-16-7(B), and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, Section 10-16-8(C), (i) Contractor is not, and has not been represented by, a person who has been a public officer or employee of City within the preceding year and whose official act directly resulted in this Agreement and (ii) Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of City whose official act, while in City employment, directly resulted in City making this Agreement;

4) in accordance with NMSA 1978, Section 10-16-13, Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with NMSA 1978, Section 10-16-3 and Section 10-16-13.3, Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of City.

C. Contractor's representations and warranties in Paragraphs A and B of this Section 12 are material representations of fact upon which City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to City and notwithstanding anything in the Agreement to the contrary, City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in Section 12(B).

13. MISCELLANEOUS PROVISIONS

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

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from City. In all cases, Contractor is solely responsible for fulfillment of this Agreement. Duly authorized representatives for City shall have the right to direct and inspect the work under this Agreement.

If any part of this Agreement is found to be in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts of this Agreement shall remain valid and enforceable.

This Agreement is governed by the laws of the State of New Mexico and will bind and inure to the benefit of City and Contractor, their respective successors and assigns. In the event that Contractor defaults on any term of this Agreement, after reasonable attempts to cure said default, City retains the right to declare this Agreement void. In the event that this Agreement is declared void, neither party shall be obligated to perform further under this Agreement. 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. Contractor agrees to pay City reasonable costs, including court fees and reasonable attorney's fees, incurred by City in the enforcement of this Agreement, even though City may employ in-house legal counsel.

A party shall be excused from performance under this agreement for any period that the party is directly prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

In the event that Contractor desires to cancel the scheduled services for any reason, Contractor is responsible for the following:

Contacting City via telephone at (575) 397-9206 ; and
Contacting City via e-mail at mgomez@hobbsnm.org .

Any change orders shall be in writing and signed by the parties specifically enumerating the additional work to be performed, change in scope, and/or the cost therein. A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights but the ones delineated in said effective waiver.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that they have the legal power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

The foregoing constitutes the entire Agreement between the parties. This Agreement may only be modified through a written amendment signed by both parties.

[Required Signatures on Next Page]

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

THE CITY OF HOBBS, NEW MEXICO

Department Head Approval:

Contractor Approval:

Account No.: 010100-42601

Contractor Signature

Finance Director:

Finance Director

City Attorney "as to form" Approval:

City Manager Approval:

City Attorney

City Manager

City Clerk Approval:
City Clerk (Professional Service
Contracts over \$75,000)

Mayor Approval:
(Professional Service Contracts over
\$75,000)

City Clerk

Mayor



New Mexico Governmental Affairs Services for

City of Hobbs, New Mexico

October 31, 2023

Cambiar Consulting, LLC
PO Box 8319
Santa Fe, NM 87504
405.250.9555

OBJECTIVE

Facilitate a multi-phase approach to ensuring regional and state government and regulatory support for City of Hobbs, New Mexico.

ABOUT CAMBIAR CONSULTING, LLC

Cambiar Consulting is a leading public, government and regulatory affairs and communications firm in New Mexico. Cambiar Consulting crafts and executes the strategies that will assist the City of Hobbs's continued and growing success.

Cambiar Consulting was founded and run by New Mexicans who understand the state's political climate, complexities and opportunities to build relationships and business wins throughout the state. Your core team of New Mexico principles have over 40 years of collective experience working in local, regional and state politics and regulatory expertise. Our team continuously delivers high-profile wins in New Mexico across a broad spectrum of complicated issues, including numerous regulatory and legislative wins for companies and local entities focusing on taxes, capital outlay, transmission, extractive industries, agriculture, education, and many other issues.

In an increasingly complicated landscape, Cambiar Consulting assists clients navigate public policy and communication challenges, neutralize opposition, and increase public perception and support for your projects. Our team has the experience to bring natural resources, land use, energy, transportation, and tax issues to successful legislative resolution and beyond. Working with the full suite of Cambiar Consulting services and resources, the company creates the environment for success for our clients, offering custom-tailored strategies that match the nuance of the project and advance business objectives. Our services include, but are not limited to:

- Government, Regulatory and Public Affairs
- Communications and Media Relations
- Coalition Building and Stakeholder Engagement
- Federal, State, and Local Lobbying
- Targeted Digital Advocacy and Marketing
- Public Opinion Research

SCOPE OF SERVICES

With City of Hobbs's importance to the sustainability of New Mexico, Cambiar Consulting offers the following potential:

Governmental and Regulatory Affairs and Services:

- Assist in creating and presenting a consistent, vetted message to ensure Cambiar Consulting is prepared to represent the client at the local, regional and state level and to

necessary and relevant stakeholders throughout the legislative interim, regular legislative session, and, as necessary, special legislative sessions;

- Engage in lobbying the New Mexico Legislature, Governor, and relevant state agencies to achieve passage or oppose priority legislation and regulatory proposals as directed by City of Hobbs;
- Research legislative, regulatory and executive branch issues as necessary in support of City of Hobbs's objectives;
- Arrange meetings and meet-and-greets with key legislative and executive officials at the local, regional and state levels.

THE INVESTMENT

To ensure the full suite of governmental affairs and regulatory offerings, the investment will be \$4,500 per month plus the appropriate tax and applicable, approved expenses.

ACCOUNT LEAD

MATT THOMPSON

Owner/Principal

Matt Thompson has spent more than 25 years representing energy companies and trade associations at the state and federal levels. He has focused on developing pragmatic energy policies that emphasize the importance of the industry to the economy and individuals' quality of life, while protecting the environment and sustaining communities.

Matt joined Missi Currier in co-founding Cambiar after more than 25 years of governmental affairs experience in New Mexico, Texas and Oklahoma for Apache Corporation and Occidental Petroleum. Prior to that he served as the VP Government Relations for the Oklahoma Petroleum Association, and Director of Corporate Affairs for Diamondback Energy.

Originally from Oklahoma, and a proud University of Oklahoma graduate, Matt served in the U.S. Air Force and Oklahoma Air National Guard before beginning his career in government relations. He is fortunate to now reside in New Mexico, where he focuses his lobbying efforts.

CAMBIAR CO-OWNER

MISSI CURRIER, Ph.D.

Missi brings an array of experiences and passions to her clients as the cofounder of Cambiar Consulting. She has over 15 years of experience and success in community development, governmental affairs, and strategic communications.

Prior to co-founding Cambiar Consulting, Missi served as the president and CEO of the Economic Development Corporation of Lea County, where she worked to recruit, retain and diversify economic-based industries and continuing to improve quality of life throughout the region. In addition, she has worked for XTO Energy, a subsidiary of ExxonMobil, Nuclear Waste Partnership, the managing and operating partner of the Waste Isolation Pilot Plant (WIPP), Texas Tech University, and Texas Tech University System. Her professional career has allowed her to focus on a multitude of topics all concentrated on moving communities and relationships forward in positive, enriching ways.

Missi earned a Doctor of Philosophy, Master of Science, and Bachelor of Science all in agricultural communications from Texas Tech University.



ACTION ITEMS



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: FINAL ADOPTION OF AN ORDINANCE AMENDING SECTION 2.12 OF THE HOBBS MUNICIPAL CODE

DEPT. OF ORIGIN: Legal Department
DATE SUBMITTED: October 30, 2023
SUBMITTED BY: Valerie S. Chacon, Acting City Attorney

Summary: Section 2.12 of the Hobbs Municipal Code sets forth the salary, duties, administration, and training requirements for the Hobbs Municipal Judge. At least one New Mexico Attorney General Opinion has opined that the salary of an elected official cannot be increased mid-term unless additional duties are added by the governing body. see 1979 N.M. Op. Atty. Gen. 65 (NMAG) 79-27, 1979 WL 31489 (July 3, 1979). Additional duties are those duties "not contemplated when the office was created and the salary was specified." Pursuant to these proposed changes, the Municipal Court Judge will conduct all pretrial release matters and arraignments on weekend, holidays, and before and after the regular operating hours of the Hobbs Municipal Court to accommodate the closure of the City Jail. Furthermore, the Municipal Court Judge added an additional one to two dockets to his weekly court schedule to provide citizens an additional opportunity to be heard on the terms of their Judgement and Sentence as it relates to fines and fees. These extra dockets will provide citizens with a hearing date as an alternative to incarceration. The Municipal Court Judge's salary shall be increased by \$38,453.25 due to his additional duties. The Municipal Judges salary shall be \$111,175.25. The Municipal Judge will be working 104 hours every two weeks, an additional 30 hours bi-weekly. The Municipal Judge's case load has increased by 1,414 cases since 2018. In the annual budgeting process if a cost of living adjustment is extended to regular Employees, it shall also be extended to the Municipal Judge in that respective year. This proposed ordinance was published in accordance with NMSA 1978, § 3-17-3, on October 19, 2023.

Fiscal Impact:

Reviewed By: Valerie S. Chacon

Finance Department

The current salary of the Hobbs Municipal Judge is \$72,722.00 and the proposed change would increase the Hobbs Municipal Judge's salary to \$111,175.25. The increase has been budgeted.

Attachments:

Proposed Ordinance and Affidavit of Publication.

Legal Review:

Approved As To Form: Valerie S. Chacon, City Attorney

Recommendation:

The Commission should consider adoption of the ordinance amendment.

Approved For Submittal By:

Valerie S. Chacon, Department Director

Handwritten signature of Valerie S. Chacon, City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

ORDINANCE NO. 1156

AN ORDINANCE AMENDING SECTION 2.12 OF
THE HOBBS MUNICIPAL CODE

WHEREAS, NMSA 1978, § 35-14-3 states, "The qualifications of municipal judges, bond required and salary received shall be provided by ordinance of the municipality."; and

WHEREAS, NMSA 1978, § 35-14-2 states, "Each municipal court has jurisdiction over all offenses and complaints under ordinances of the municipality and may issue subpoenas and warrants and punish for contempt."; and

WHEREAS, the City of Hobbs previously enacted an ordinance establishing the salary, duties, administration, and training of the Hobbs Municipal Judge in 1995; and

WHEREAS, the ordinance establishing the salary, duties, administration, and training of the Hobbs Municipal Judge was subsequently amended in 2001, 2009, 2010, and 2018; and

WHEREAS, many of the past amendments have addressed the salary and duties of the Hobbs Municipal Judge; and

WHEREAS, the current salary of the Hobbs Municipal Judge is set at "one thousand three hundred ninety-eight dollars and fifty cents (\$1,398.50) per week "for pay periods that coincide with the City of Hobbs' pay periods" which is an annual salary of \$72,722.00; and

WHEREAS, since 2018 the current duties of the Hobbs Municipal Judge have changed substantially in that the Hobbs Municipal Court hears over 6,000 hearings a

year, now hears DWI 2nd, and DWI 3rd cases, and works an additional 30 hours bi-weekly; and

WHEREAS, since 2018, the Municipal Judge has had an exponential amount of complex cases, which warrant multiple hearings, a vast amount of research and an increased amount of pleadings filed by the court. The Municipal Judge has also added additional hearing dates to his weekly schedule for the review of adjudicated matters based on violations or economic hardship; and

WHEREAS, the current salary of the Hobbs Municipal Judge is currently far below municipal judges for similarly sized New Mexico municipalities including: Clovis Municipal Judge (\$104,998.85); Roswell Municipal Judge (\$92,822.45); Farmington Municipal Judge (\$111,175.25); and

WHEREAS, the proposed changes would require the Hobbs Municipal Judge to conduct arraignments on the weekends and would increase the annual salary of the Hobbs Municipal Judge by \$38,453.25 thereby setting the Hobbs Municipal Judge's annual salary at \$111,175.25; and

WHEREAS, time spent completing the required judicial training program will not require the utilization of paid time off.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Section 2.12 of the Hobbs Municipal Code, is hereby amended as more specifically described as follows:

2.12.030 Salary—Duties—Administration—Training.

A. The salary of the Municipal Judge shall be increased by thirty-eight thousand four hundred fifty-three dollars and twenty-five cents (\$38,453.25). ~~be increased to one thousand three hundred ninety-eight dollars and fifty cents (\$1,398.50) per week for fifty-two (52) weeks.~~ The annual salary shall be one hundred and eleven thousand one hundred seventy-five dollars and twenty-five cents (\$111,175.25) and shall paid in a manner that be payable in twenty-six (26) payments to coincides with the payroll dates of the City. No payment shall be made when the Municipal Judge is not available and is failing to render services in violation of the anti-donation provision of the New Mexico Constitution except for the twenty (20) days per year of paid time off set forth in Section 2.12.040.

B. The Municipal Judge shall devote full time and attention to the office, including such hours on weekends and holidays as may be necessary, in order to fully and efficiently discharge the duties of such office as they may be set forth under the law of the United States, the State of New Mexico and the ordinances of the City. In order to comply with the rules of procedure related to pretrial detention set forth in Article II, Section 13 of the New Mexico Constitution and Rule 8-401 NMRA and Rule 8-403 NMRA, and Rule 8-501, the Municipal Judge shall conduct pretrial release hearings and arraignments on weekends, holidays, and after the regular hours of operation of the Hobbs Municipal Court. The Municipal Judge shall preside over all hearings at every stage of any proceeding concerning violation of this code or any other ordinances of the City and administer the community service program as provided in Section 2.16.050. The Municipal Judge shall also conduct additional hearings as needed. The Municipal Judge shall comply with the Code of Judicial Conduct and all rules of procedure for the Municipal Courts as promulgated by the State Supreme Court.

C. Any attorney serving as the elected or appointed Municipal Judge is prohibited from engaging in the practice of law, nor shall any elected or appointed Municipal Judge or Alternate Judge hold political office during the time served as the Municipal Judge.

D. The Municipal Judge shall be responsible for providing to the Finance Director a reconciliation of accounts receivable and bond payable accounts in the current court software system to the general ledger balance beginning the first month after system compatibility is resolved and the reconciliation is brought current. Until such time as this reconciliation is possible, the Municipal Judge shall provide details of current monthly accounts receivable and bond payable account activity in a timely manner to the Finance Director in connection with the required monthly reports in paragraph E. of this section.

E. The City Finance Department shall make monthly reports of monies collected by the Municipal Court and shall be submitted to the Administrative Office of the Courts and the New Mexico Judicial Education Center. The reports shall include an itemized statement showing the different amounts collected for the fees due to the respective

entities. Such reports shall be reviewed and signed by the Municipal Judge prior to their filing. The monies collected in connection therewith shall be paid by the City Finance Director not later than the tenth day of the month following collection pursuant to New Mexico statutes.

F. The elected or appointed Municipal Judge shall annually, as a condition of discharging the duties of that office, successfully complete a judicial training program conducted under the authority, or with the approval of, the court administrator director of the Municipal Court ~~of the New Mexico Administrative Offices of the Courts,~~ unless exempted from this requirement by the Chief Justice of the Supreme Court. An Alternate Judge is not required to complete annual judicial training programs as required of the Municipal Judge. No elected or appointed Municipal Judge ~~or Alternate Judge~~ shall receive a salary until such judge has successfully completed, and received certification of completion from the Administrative Office of the Courts, ~~or has been exempted from,~~ the required ~~initial~~ judicial training program. (Section ~~357~~-14-10, N.M.S.A. 1978.)

(Ord. 887 § 1, 2001; Ord. 827 § 3 (part), 1995: prior code § 9-25)

(Ord. No. 1019, 9-21-2009; Ord. No. 1028, 1-4-2010; Ord. No. 1110 , 1-2-2018)

2.12.040 Vacation, sick leave and employee benefits.

The Municipal Judge shall receive up to twenty (20) days paid time off each year ~~for absences due to illness, vacation or training~~. The paid time off shall not be accrued but made available on March 10 of each year, with no carryover year to year. The elected or appointed Municipal Judge shall attend the annual required judicial training and shall be reimbursed for reasonable expenses connected with said annual training. The Municipal Judge may elect to pay into and receive medical insurance and life insurance coverage; and the Municipal Judge may participate in the retirement plan.

(Ord. 827 § 3 (part), 1995: prior code § 9-26)

(Ord. No. 1028, 1-4-2010)

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Affidavit of Publication

STATE OF NEW MEXICO
COUNTY OF LEA

I, Daniel Russell, Publisher of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, solemnly swear that the clipping attached hereto was published in the regular and entire issue of said newspaper, and not a supplement thereof for a period of 1 issue(s).

Beginning with the issue dated
October 19, 2023
and ending with the issue dated
October 19, 2023.



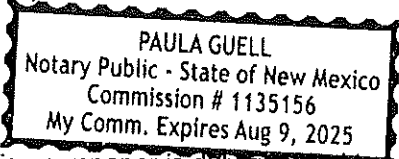
Publisher

Sworn and subscribed to before me this
19th day of October 2023.



Notary

My commission expires
August 09, 2025
(Seal)



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

LEGAL NOTICE
October 19, 2023

NOTICE OF ORDINANCE

NOTICE IS HEREBY GIVEN that on the 6th day of November, 2023, at its meeting at 6:00 p.m., in the City Commission Chamber at City Hall, 1st Floor Annex, 200 East Broadway, Hobbs, New Mexico, the governing body of the City of Hobbs proposes to adopt an ordinance amending Section 2.12 of the Hobbs Municipal Code relating to the Municipal Judge. A summary of the ordinance is contained in its title and is described as follows:

AN ORDINANCE AMENDING SECTION 2.12 OF THE HOBBS MUNICIPAL CODE

WHEREAS, NMSA 1978, § 35-14-3 states, "The qualifications of municipal judges, bond required and salary received shall be provided by ordinance of the municipality."; and

WHEREAS, NMSA 1978, § 35-14-2 states, "Each municipal court has jurisdiction over all offenses and complaints under ordinances of the municipality and may issue subpoenas and warrants and punish for contempt."; and

WHEREAS, the City of Hobbs previously enacted an ordinance establishing the salary, duties, administration, and training of the Hobbs Municipal Judge in 1995; and

WHEREAS, the ordinance establishing the salary, duties, administration, and training of the Hobbs Municipal Judge was subsequently amended in 2001, 2009, 2010, and 2018; and

WHEREAS, many of the past amendments have addressed the salary and duties of the Hobbs Municipal Judge; and

WHEREAS, the current salary of the Hobbs Municipal Judge is set at "one thousand three hundred ninety-eight dollars and fifty cents (\$1,398.50) per week "for pay periods that coincide with the City of Hobbs' pay periods" which is an annual salary of \$72,722.00; and

WHEREAS, since 2018 the current duties of the Hobbs Municipal Judge have changed substantially in that the Hobbs Municipal Court hears over 6,000 hearings a year, now hears DWI 2nd, and DWI 3rd cases, and works an additional 30 hours bi-weekly; and

WHEREAS, since 2018, the Municipal Judge has had an exponential amount of complex cases, which warrant multiple hearings, a vast amount of research and an increased amount of pleadings filed by the court. The Municipal Judge has also added additional hearing dates to his weekly schedule for the review of adjudicated matters based on violations or economic hardship; and

WHEREAS, the current salary of the Hobbs Municipal Judge is currently far below municipal judges for similarly sized New Mexico municipalities including: Clovis Municipal Judge (\$104,998.85); Roswell Municipal Judge (\$92,822.45); Farmington Municipal Judge (\$111,175.25); and

WHEREAS, the proposed changes would require the Hobbs Municipal Judge to conduct arraignments on the weekends and would increase the annual salary of the Hobbs Municipal Judge by \$38,453.25 thereby setting the Hobbs Municipal Judge's annual salary at \$111,175.25; and

WHEREAS, time spent completing the required judicial training program will not require the utilization of paid time off.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Section 2.12 of the Hobbs Municipal Code, is hereby amended as more specifically described as follows:

2.12.030 Salary—Duties—Administration—Training.

annual judicial training programs as required of the Municipal Judge. No elected or appointed Municipal Judge shall receive a salary until such judge has successfully completed, or been exempted from, the required judicial training program. (Section 35- 14-10, N.M.S.A. 1978.)

2.12.040 Vacation, sick leave and employee benefits.

The Municipal Judge shall receive up to twenty (20) days paid time off each year. The paid time off shall not be accrued but made available on March 10 of each year, with no carryover year to year. The elected or appointed Municipal Judge shall attend the annual required judicial training and shall be reimbursed for reasonable expenses connected with said annual training. The Municipal Judge may elect to pay into and receive medical insurance and life insurance coverage; and the Municipal Judge may participate in the retirement plan.

A full copy of the ordinance is available to interested persons during regular business hours in the Office of the City Clerk, City Hall, 200 East Broadway, Hobbs, New Mexico. The ordinance is also available for viewing online at www.hobbsnm.org.

#00283953

/s/ Jan Fletcher
Jan Fletcher, City Clerk

67108146

00283953

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



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH LEA COUNTY FOR DETAINEE HOUSING

DEPT. OF ORIGIN: Legal Department
DATE SUBMITTED: October 30, 2023
SUBMITTED BY: Valerie S. Chacon, Acting City Attorney

Summary:

This resolution authorizes the Mayor to execute a Memorandum of Agreement between the City of Hobbs and Lea County for the housing of adult municipal detainees. City of Hobbs shall pay Lea County an annual fee of \$141,000.00 for the Alternative Monitoring Program and shall pay the daily housing rate of \$125.00 for each Hobbs detainee.

Fiscal Impact:

Reviewed By: Valerie S. Chacon
Finance Department

The funds are budgeted in the local government correction fund 4011.

Attachments:

Resolution; MOA

Legal Review:

Approved As To Form: Valerie S. Chacon
City Attorney

Recommendation:

Motion to approve.

Approved For Submittal By:

Valerie S. Chacon
Digitally signed by Valerie S. Chacon
DN: cn=Valerie S. Chacon, o=City of Hobbs, email=vschacon@cityofhobbs.org, c=US
Date: 2023.10.30 17:20:18 -0600

Department Director

[Handwritten signature of Valerie S. Chacon]

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. 7422

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF
AGREEMENT WITH LEA COUNTY FOR DETAINEE HOUSING

WHEREAS, the City of Hobbs has the need for housing of adult municipal offenders; and

WHEREAS, Lea County has agreed to utilize the Lea County Detention Center to house the City of Hobbs municipal offenders; and

WHEREAS, City of Hobbs has a need to participate in an alternative monitoring program for adult municipal offenders; and

WHEREAS, City of Hobbs and Lea County have agreed to enter into an agreement for the housing of adult municipal offenders and participation in alternative monitoring program for adult municipal offenders.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that the Mayor be and is hereby directed to execute a Memorandum of Agreement with Lea County for detainee housing and participation in an alternative monitoring program.

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

**AGREEMENT BETWEEN LEA COUNTY AND
CITY OF HOBBS FOR DETAINEE HOUSING**

This Agreement is entered into by and between the Lea County Board of Commissioners, hereinafter referred to as "Lea County", and the City of Hobbs, hereinafter referred to as "Hobbs".

RECITALS

WHEREAS, Hobbs needs a facility for the housing, care, and maintenance of persons charged with or arrested for violation of Hobbs' ordinances.

WHEREAS, Lea County owns and operates the Lea County Detention Center ("LCDC") which, from time to time, has vacant bed space; and

WHEREAS, Lea County is willing to house persons charged with or arrested for violation of Hobbs' ordinances on a space available basis.

1.0 PURPOSE

The purpose of this Agreement is to establish the terms and the conditions under which Lea County may accept and detain, on a space available basis, Hobbs' detainees which may be delivered to LCDC from time to time for housing.

2.0 TERM

The term of the Agreement shall become effective when signed by Lea County after Hobbs has signed it. The initial term of the Agreement is one year. Unless either party provides ninety (90) days written notice to the other party of its intent not to renew the Agreement, the Agreement will automatically be renewed for a one-year period, not to exceed a total of four (4) years.

3.0 ADULT DETAINEES HOUSING AND BOARD

3.1 Lea County Detention Center will house persons taken into legal custody by Hobbs at LCDC in Lovington, New Mexico, on a space available basis. The parties agree that Hobbs must call Lea County Detention Center for accommodations before bringing a detainee to the facility.

3.2 Hobbs shall provide all transportation for Hobbs detainees to and from LCDC. For purposes of this agreement, Hobbs detainees are defined as detainees with Hobbs Municipal charges only. The arresting agency, regardless of the status of the arrestee, shall always be responsible for the initial transportation to the LCDC.

3.3 Hobbs shall be responsible for the arraignment of Hobbs detainees. Hobbs shall make every effort to have Hobbs detainees arraigned prior to their transport to the LCDC. If arraignment of a Hobbs detainee does not occur prior to transport to the LCDC, Hobbs shall remain responsible for the arraignment, including but not limited to the transport, of Hobbs detainees. At no time, except without the written consent of the LCDC, shall the LCDC be responsible for any aspect of a Hobbs detainee's arraignment.

4.0 CONSIDERATION

4.1 Hobbs shall pay Lea County the daily housing rate of \$125.00 for each Hobbs detainee.

4.2 Lea County will invoice Hobbs on a monthly basis. Invoices shall be paid within 30 days of receipt.

4.3 Lea County reserves the right to refuse to accept any detainees from Hobbs in the event any invoice remains unpaid for 45 or more days.

4.4 For participation in the Alternative Monitoring Program, Hobbs shall pay an annual fee of \$141,000.00, which will be billed by Lea County within 30 days of the execution of this Agreement and then annually on the anniversary of the execution of this Agreement with an adjustment based on the change in the Consumer Price Index, All Urban Consumers, US City Average, All Items Less Food and Energy, 1981-84=100, for the calendar year ending prior to the start of the new fiscal year.

4.5 Hobbs shall pay the annual fee within 30 days of receiving an invoice therefor.

5.0 REJECTION/RETURN

5.1 LCDC warden or designee shall have the right to reject any detainee tendered by Hobbs, if authorized by LCDC policy.

6.0 BOOKING AND RELEASE PROCESS

6.1 Following the completion of a detainee's arresting paperwork, fingerprints and booking photos at the Hobbs Booking Facility, the transport officer will transport the detainee to LCDC during the hours of:

6:00am to 8:00am

4:00pm to 6:00pm

10:30pm to 12:30am

6.1.2 After reasonable inquiry, the transporting officer shall advise LCDC if the detainee was involved in any of the following before, during, or immediately after arrest:

- a. Vehicle accident
- b. TASER use
- c. Physical altercation
- d. Known drug/alcohol intake

6.1.3 After reasonable inquiry, the transporting officer shall advise LCDC if the detainee is known for any of the following:

- a. Suicidal ideations
- b. Violent tendencies
- c. Medical ailments
- d. Escape risks/attempts

7.0 MEDICAL CARE

7.1 As used herein, “medical care” and “medical treatment” includes medical, psychiatric and emergency dental treatment, and all prescribed drugs therapy.

7.2 LCDC shall not be required to provide medical care to any Hobbs detainee housed pursuant to this Agreement, except as is provided to the other detainees, by its medical staff.

7.3 Should medical care become necessary from an outside health care provider, Hobbs City Manager or a person designated in writing in advance by the City Manager will be contacted.

7.4 Notwithstanding the above, when treatment is clearly necessary to conserve a detainee’s health, Lea County may provide the necessary treatment without prior authority from Hobbs, but in such a case must notify the City Manager as soon as possible thereafter. At such a time, medical management of the problem will then be tendered to Hobbs. Lea County is expressly authorized to direct health care providers to bill Hobbs directly for medical care rendered in these circumstances.

8.0 TRANSPORTATION OF DETAINEES

8.1 Any municipal detainee being housed at LCDC shall be transported to the Hobbs Municipal Court by a Hobbs Police Department officer or designee. The arresting agency shall be responsible for transporting an arrestee to the LCDC.

9.0 ALTERNATIVE MONITORING PROGRAM

9.1 Pretrial Release:

9.1.1 Lea County Probation’s Alternative Monitoring Program may serve as the alternative electronic monitoring service agency for offenders released prior to trial on conditional releases imposed by the Hobbs Municipal Court.

- 9.1.2 Orders of release shall include verbiage instructing offenders to abide by and follow rules and regulations set forth in Lea County Probation's Alternative Monitoring Program monitoring plans and procedures.
- 9.1.3 Orders of release for offenders ordered to house arrest shall include verbiage stating the address of where the incarceration is to be conducted along with any curfews or exceptions.
- 9.1.4 Orders of release for offenders ordered to electronic monitoring shall include verbiage stating the address of any no contact orders, curfews or exceptions.
- 9.1.5 Monitoring fees shall be imposed and included in the offender's order of release. Applicable fees will be charged to offenders as stated in Lea County Probation Policy and Procedure Manual ADM 4-03-01 Program Fees.
- 9.1.6 Offenders who are in violation of the Alternative Services Program for pretrial release will be removed from electronic monitoring and a violation report will be submitted to Hobbs Municipal Court for revocation of pretrial release and to be detained at the Lea County Detention Center.
- 9.2 Pretrial Detention/House Arrest:
 - 9.2.1 Lea County Probation's Alternative Monitoring Program will serve as the alternative electronic monitoring service agency for offenders ordered to pretrial detention and house arrest imposed by the Hobbs Municipal Court.
 - 9.2.2 Order of Release Judgement and Sentence paperwork shall include verbiage instructing offenders to abide by and follow rules and regulations set forth in Lea County Probation's Alternative Monitoring Program monitoring plans and procedures.
 - 9.2.3 Order of Release Judgement and Sentence paperwork for offenders ordered to pretrial detention or house arrest shall include verbiage stating the address of where the confinement is to be conducted along with any exceptions.
 - 9.2.4 Monitoring fees shall be imposed and included in the offender's order of release. Applicable fees will be charged to offenders as stated in Lea County Probation Policy and Procedure Manual ADM 4-03-01 Program Fees.
 - 9.2.5 A violation report will be submitted to Hobbs Municipal Court for offenders who are in violation of pretrial detention or house arrest rules and/or conditions. Violation reports will include revocation of pretrial detention or house arrest and bench warrant request.
- 9.3 Supervised Probation:

- 9.3.1 Lea County Probation under the New Mexico Administration of the Courts statutory authority Section 31-20-5.1 NMSA 1978 will serve as the probation compliance agency and be responsible for supervising defendants' compliance who are ordered a sentence of 91 days or more of supervised probation with the conditions of probation imposed by Hobbs Municipal Court.
- 9.3.2 All offenders convicted of DWI shall be ordered to undergo a mandatory screening pursuant to Section 66-8-102(K) NMSA 1978, which states: "Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred, or taken under advisement." The DFA approved screening program is provided by the Lea County Probation Department.
- 9.3.3 Pursuant to Section 31-20-5.1 NMSA 1978 compliance fees shall be imposed and included in the offender's sentencing judgment. Additional applicable fees will be charged to the defendants as stated in Lea County Probation Policy and Procedure Manual ADM 4-03-01 Program Fees.
- 9.3.4 Sentencing judgments shall include verbiage instructing defendants to abide by and follow rules and regulations set forth in Lea County's Probation's probation supervision plans and procedures.

10.0 LIABILITY

- 10.1 Each party agrees to bear liability and responsibility for the negligent, reckless or deliberate acts or omissions of their own officers and employees, as limited by the New Mexico Tort Claims Act and the New Mexico Civil Rights Act.

11.0 TERMINATION

- 11.1 This agreement may be terminated by either party upon ninety (90) days written notice to the other party by certified mail at the following addresses or such other addresses that may be designated from time to time:

City of Hobbs
 City Manager
 200 E Broadway
 Hobbs, NM 88240

Lea County
 County Manager
 100 N Main, Suite 4
 Lovington, NM 88260

12.0 MISCELLANEOUS

- 12.1 This Agreement is subject to New Mexico law.

12.2 This Agreement shall not be modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto.

12.3 This Agreement constitutes the entire agreement and understanding of the parties and all other matters addressed or referred to herein and supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written relating to such matters.

IN WITNESS WHEREOF, we have hereunder affixed our hands and seals this 19 day of October 2023.

CITY OF HOBBS

BOARD OF COUNTY COMMISSIONERS

By: _____
Mayor


By: _____
Chairman

ATTEST: Hobbs City Clerk

ATTEST: Lea County Clerk

By: _____

By:  _____





CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: 11/6/23

SUBJECT: The purchase of a New Armored SWAT vehicle at the cost of \$281,596.25 utilizing a GSA Contract.

DEPT. OF ORIGIN: Hobbs Police Department
DATE SUBMITTED: 10/23/23
SUBMITTED BY: Captain Ricky Guerrero

Summary: Purchasing a new armored SWAT vehicle utilizing a GSA Contract at a cost of \$281,596.25 from International Armored Group.

Fiscal Impact:

Reviewed By: 

Finance Department

The fiscal impact will be \$281,596.25. The funds used will be in accordance with the grant funding that was received pursuant to the ICIP allocations. There is currently \$1,217,412.00 available in account 214021-43003-00367.

Attachments: Quote and GSA Paperwork

Legal Review:

Approved As To Form: 

City Attorney

Recommendation:

Motion to approve.

Approved For Submittal By:



Department Director


City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

Resolution No. _____

Ordinance No. _____

Approved _____

Other _____

Continued To: _____

Referred To: _____

Denied _____

File No. _____



INTERNATIONAL ARMORED GROUP US, Inc.

5840 US1 HWY S, Saint Augustine, Florida, 32086
 Tel: +1-904-794-4304, Fax: +1-904-794-9232, Email: info@interarmored.com, Web: www.interarmored.com

Price Quote

Department/ Agency: Hobbs Police Department

Contact: Lt. Mattocks

Phone: (619) 829-8634

Email: amattocks@hobbsnm.org

	Price USD	Quantity	Total
Sentinel ARV	\$ 279,500.00	1	\$ 279,500.00
Base Vehicle Information			
Engine: 6.7L Turbo Diesel	Included	1	Included
Transmission: 10 Speed Select-Shift Auto	Included	1	Included
Drivetrain: 4x4	Included	1	Included
Seating Capacity: 10-12	Included	1	Included
5 Door Configuration: 4 Side Doors and Double Rear Doors	Included	1	Included
Included Options			
NIJ IV Armoring (.50 Cal Protection)	Included	1	Included
Radiator Protection	Included	1	Included
Armored Firewall	Included	1	Included
Battery and ECM Protection	Included	1	Included
Fuel Tank Protection	Included	1	Included
Wire Mesh Installed In Tailpipe	Included	1	Included
Upgraded Heavy Duty Adaptive Suspension	Included	1	Included
Upgraded Heavy Duty Brake System	Included	1	Included
Upgraded HD Hinges	Included	1	Included
Lockable Fuel Tank Cover	Included	1	Included
Side Door Locking System (Side Doors Can Be Locked into Place at The Open Position)	Included	1	Included
Rear Door Locking System (Rear Doors Can Be Locked into Place at 90° and 180°)	Included	1	Included
Built in Ladder on Rear Doors for Roof Access	Included	1	Included
Heavy Duty Running Boards	Included	1	Included
Customized Seating Arrangement	Included	1	Included
Customized Exterior Color	Included	1	Included
Customized Interior Color	Included	1	Included
Emergency Escape Hatch with Gun Port	Included	1	Included



INTERNATIONAL ARMORED GROUP US, Inc.

5840 US1 HWY S, Saint Augustine, Florida, 32086
 Tel: +1-904-794-4304, Fax: +1-904-794-9232, Email: info@interarmored.com, Web: www.interarmored.com

Man/ual Vehicle Breaching Ram	Included	1	Included
Anti-Slip Coating on Roof	Included	1	Included
7" Vertical Gun Ports (12 Total)	Included	1	Included
Rear Compartment High-Capacity A/C and Heat	Included	1	Included
Custom Center Console	Included	1	Included
Rear Facing Jump Seats	Included	2	Included
Additional Options			
Tactical HD 20" Tires Mounted On HD Steel Rims With Beadlocks And FINABALL Run-Flat Inserts System	\$15,000.00	1	\$15,000.00
Manager Approved Discount	\$15,000.000	1	\$15,000.00
GSA Industrial Funding Fee	\$2,096.25	1	\$2,096.25
Tax not included in price			
Total Cost of Vehicle (with options)			\$281,596.25

* All prices are FOB St. Augustine, FL, please note sales tax has not been included.

Delivery Terms: FOB Origin, lead time is 180 Days from Arrival of Chassis.

Validity: Prices are valid for 60 days

Prepared By: Alex Wilson

Date: 9/27/2023

GENERAL SERVICES ADMINISTRATION
Federal Supply Service
Authorized Federal Supply Schedule Price List

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA *Advantage!*®, a menu-driven database system. The INTERNET address GSA *Advantage!*® is: GSAAdvantage.gov.

Multiple Award Schedule

FSC Group: Security and Protection FSC Class: Leave Blank
Contract number: 47QSWA18D009L

Contract period: September 11th, 2018 to September 10th, 2028



INTERNATIONAL ARMORED GROUP

International Armored Group US Inc.
5840 US 1 HWY South
St. Augustine, FL 32086

Phone: 904-794-4303

Contractor's internet address/web site where schedule information can be found:
www.interarmored.com

Contract administration source:
Sally Stefova
904-794-4303
s.stefova@interarmored.com

Business size: Small

List Socioeconomic status: Woman Owned business, Women Owned (WOSB)

For more information on ordering from Federal Supply Schedules go to the GSA Schedules page at GSA.gov.

Price list current as of Modification #PO-0007 effective Sep 11th, 2022
Prices Shown Herein are Net (discount deducted)

TABLE OF CONTENTS

General Contract Details p.1

Customer Information p.3

Keywords & Company Information p.5

CUSTOMER INFORMATION

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

SINs	Recovery	SIN Title
336992	336992RC	Non-Tactical Armored Vehicles and Vehicle Armoring Services
OLM	OLMRC	Order-Level Materials (OLM)

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply. See Page 6

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate "Not applicable" for this item. See Page 6

2. Maximum order: 336992: \$850,000.00

3. Minimum order: \$100

4. Geographic coverage (delivery area). Domestic

5. Point(s) of production (city, county, and State or foreign country). 5840 US 1 HWY South St. Augustine, FL 32086

6. Discount from list prices or statement of net price. Government Net Prices (discounts already deducted.)

7. Quantity discounts. None

8. Prompt payment terms. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions. Net 30 days

9. Foreign items (list items by country of origin). Not Applicable

10a. Time of delivery. (Contractor insert number of days.) Contact Contractor

10b. Expedited Delivery. Items available for expedited delivery are noted in this price list. Contact Contractor

10c. Overnight and 2-day delivery. Contact Contractor

10d. Urgent Requirements. Contact Contractor

11. F.O.B. point(s). Origin

12a. Ordering address(es). 5840 US 1 HWY South
St. Augustine, FL 32086

12b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

13. Payment address(es). Ordering Address

14. Warranty provision. Standard Commercial Warranty Terms & Conditions

15. Export packing charges, if applicable. Not Applicable

16. Terms and conditions of rental, maintenance, and repair (if applicable). Not Applicable

17. Terms and conditions of installation (if applicable). Not Applicable

18a. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable). Not Applicable

18b. Terms and conditions for any other services (if applicable). Not Applicable

19. List of service and distribution points (if applicable). Not Applicable

20. List of participating dealers (if applicable). Not Applicable

21. Preventive maintenance (if applicable). Not Applicable

22a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants). Not Applicable

22b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at: www.Section508.gov/.
Not Applicable

23. Unique Entity Identifier (UEI) number. D3YPHMJW5HL6

24. Notification regarding registration in System for Award Management (SAM) database. Contractor registered and active in SAM

COMPANY INFORMATION

International Armored Group is a quality conscious armored vehicle manufacturer with over 25 years of experience specializing in the fields of design, engineering, prototyping and manufacturing of armored commercial and tactical vehicles; armored components; and ballistic glass and framing systems, with locations in the United States of America, Canada, United Arab Emirates, Turkiye, Bulgaria, United Kingdom, Iraq and Pakistan. We have grown substantially over the years and have become one of the most technologically advanced armored vehicle manufacturers in the world.

IAG's engineering department has over 60 years of combined experience in design and manufacturing of armored vehicles. Our state-of-the-art production facilities allow the teams of highly skilled engineers and technicians to convert any vehicle platform into a fully re-engineered protective vehicle. These include VIP Protection, Luxury & Operational SUVs and cars, Police and Law Enforcement, Pickups & Trucks, Ambulances, Tactical and Armored Personnel Carriers, Anti-Riot vehicles and Cash-in-Transit vehicles.

Thousands of vehicles currently bear the IAG logo and operate in some of the most hostile environments in the world. Each vehicle is a testament to the class leading quality that IAG's clients have come to expect over the years. Our past and current clients include the US Military, NATO, and various government and non-government organizations.

Our exclusive Smartarmor™ technology featured on our entire product portfolio has a proven track record in defeating a wide range of ballistic and blast attacks. Every vehicle we sell is backed by our warranty because we are confident that our products are of the utmost quality and reliability.

We have offices located in the United States, Canada, United Kingdom, United Arab Emirates, Turkiye, Pakistan, Iraq and Bulgaria providing services to our clients worldwide around the clock, 24 hours a day, 7 days a week.



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 6, 2023

SUBJECT: Resolution Authorizing a Memorandum of Agreement with the New Mexico Department of Transportation for Public Transportation for Federal FY 23-24

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: October 19, 2023
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The attached Memorandum of Agreement is for continued operation of Public Transportation Services for Hobbs Express for the Federal FY 23-24 beginning October 1, 2023, through September 30, 2024.

This is a formulary grant whereby the costs of the program are shared as follows:

FY 24 Budget Award			
	Total	Federal	City
Admin (80/20) Section 5311	\$96,894.76	\$77,515.81	\$19,378.95
Oper (50/50) Section 5311	\$1,050,414.55	\$525,207.28	\$525,207.28
Capital (80/20) Section 5311	\$239,185.64	\$191,348.51	\$47,837.13
TOTALS	\$1,386,494.95	\$794,071.60	\$592,423.36

Fiscal Impact:

Reviewed By: _____
Finance Department

The City's FY 23-24 Budget approved by DFA includes \$1,569,584.28 for personnel, operating and capital expenditures. The total grant revenue and fares for FY 23-24 are projected at \$2,247,076.92 which includes carryover revenue due to the fiscal year timing differences.

Attachments:

Resolution Authorizing the Mayor to Execute a Memorandum of Agreement with NMDOT

Legal Review:

Approved As To Form: Valerie S. Chacon
City Attorney

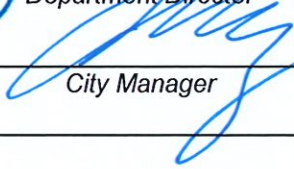
Recommendation:

Motion to approve the resolution.

Approved For Submittal By:



Department Director



City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

Resolution No. _____

Ordinance No. _____

Approved _____

Other _____

Continued To: _____

Referred To: _____

Denied _____

File No. _____

CITY OF HOBBS

RESOLUTION NO. 7423

**A RESOLUTION AUTHORIZING A MEMORANDUM OF AGREEMENT
WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT)
FOR FEDERAL FY 23-24 FOR PUBLIC TRANSPORTATION SERVICES**

WHEREAS, the State of New Mexico, under 49 U.S.C. Section 5311, authorizes Federal assistance to local communities for public transportation in rural and non-urbanized areas; and

WHEREAS, the City of Hobbs applied for financial assistance for administrative, operating and capital funding for public transportation services, which was approved by the NMDOT and the Federal Transit Administration (FTA).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be, and he hereby is, authorized and directed to take all necessary and appropriate action to effectuate this resolution and specifically to execute, on behalf of the City of Hobbs, a Memorandum of Agreement with the New Mexico Department of Transportation. A copy of the Memorandum of Agreement is attached hereto and incorporated herein by reference.

PASSED, ADOPTED AND APPROVED this 6th day of November, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, CITY CLERK

FISCAL YEAR 2024 (FY 24)

MEMORANDUM OF AGREEMENT

BETWEEN

THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

AND

CITY OF HOBBS

This Agreement is between the **STATE OF NEW MEXICO**, acting through its **DEPARTMENT OF TRANSPORTATION**, Transit and Rail Division (Department), and the **CITY OF HOBBS** (Subrecipient). This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

Whereas, 49 U.S.C. Section 5305(e) provides federal assistance for public transportation statewide planning that can be used to provide technical assistance to subrecipients for planning purposes;

Whereas, 49 U.S.C. Section 5307 provides federal assistance for public transportation in small urbanized areas by way of a formula grant program which may be administered by the state;

Whereas, 49 U.S.C. Section 5310 provides federal assistance for public transportation to meet the special needs of seniors and individuals with disabilities by way of a formula grant program administered by each state;

Whereas, 49 U.S.C. Section 5311 provides federal assistance for public transportation in rural areas by way of a formula grant program administered by each state;

Whereas, 49 U.S.C. Section 5339 provides federal assistance for buses and bus-related equipment and facilities by way of a formula and discretionary grant program administered by each state;

Whereas, the State of New Mexico participates in the 49 U.S.C. Section 5305(e), 49 U.S.C. Section 5307, 49 U.S.C. Section 5310, 49 U.S.C. Section 5311, and U.S.C. Section 5339 programs, collectively referred to herein as the Program;

Whereas, the Governor of the State of New Mexico designated the Department to administer the Program funds; and

Whereas, the Subrecipient applied for financial assistance for public transportation services, which was approved by the Department and the Federal Transit Administration (FTA).

Now, therefore, pursuant to Section 67-3-69 NMSA 1978, the parties agree as follows:

1. Scope of Program.

- A. **Operations Profile.** The Subrecipient shall provide transportation services to the public within its service area as specified in the Application, which is incorporated by reference and is on file with the Department and the Subrecipient.
- B. **Use of Program Equipment.** The Subrecipient agrees that any Program equipment purchased under this Agreement shall be used to provide public transportation service within the area described in the Operations Profile. If the equipment is not used in this manner or withdrawn from service, the Subrecipient shall notify the Department in accordance with *Section 15. Use of Program Equipment*.

- C. **Use of Program Funds.** The services described in the Operations Profile shall remain intact throughout the term of this Agreement. The Subrecipient shall notify and seek prior approval from the Department if there will be an elimination or a reduction of services greater than twenty percent (20%). Failure to provide notice shall give the Department cause for termination, as described in *Section 7. Termination for Cause*.
- D. **Fare Schedule.** The fare schedule, which shall be approved by the Subrecipient’s governing body, shall be stated in the approved Operations Profile. The Subrecipient shall provide the Department prior notification of any changes to the fare schedule and documentation of governing body approval.
- E. **Advertising and Public Information.** The Subrecipient shall implement an advertising and information program. Acceptable methods include but are not limited to: websites, social media, apps, trip planners, brochures, fliers and handbills, signs and posters, radio announcements, press releases and articles in local and organization newspapers, bulletins, and newsletters. Subrecipients operating fixed and deviated routes shall maintain General Transit Feed Specification (GTFS) data. In addition, the name of the service together with the words “Public Transportation” shall be prominently displayed on all vehicle(s) and be readable at a distance of no less than thirty (30) feet. Painted or affixed signing with a decal is acceptable. Magnetic signs are not acceptable. The name shall indicate that the service is a transportation system open to the public. The Subrecipient shall have a telephone number established and operative during hours of transportation services so that the public can access information. All methods of advertising and the signs on the vehicles shall include the telephone number.
- F. **Personnel.** The Subrecipient shall maintain and update organizational contacts in BlackCat Transit Data Management System (BlackCat).

2. Cost of Program.

The Department shall provide partial funding to the Subrecipient to cover expenses of the Program as described in the approved Operations Profile in an amount described below:

Subaward FY 24

City of Hobbs	Federal
Administration (80/20) Section 5311	\$ 77,515.81
Operating (50/50) Section 5311	\$ 525,207.28
Capital to Sub-recipient (80/20) Section 5339	\$ 181,883.20
Capital to Sub-recipient (80/20) Section 5339	\$ 9,465.31
Total Administration, Operating and Capital	\$ 794,071.60

Vehicle purchase funds that are not obligated by contract by August 31, 2024, may revert to the Department. Capital equipment acquisition funds that are not obligated by contract by August 31, 2025, may revert to the Department. Capital rehab/renovation and construction project funds that are not obligated by contract by August 31, 2026, may revert to the Department.

This program is funded with grants provided by the FTA Section 5305 Statewide Transportation Planning Formula Program, Assistance Listing number 20.505; FTA Section 5307 Urbanized Area Formula Program, Assistance Listing number 20.507; FTA Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program, Assistance Listing number 20.513; FTA Section 5311 Formula Grants for Rural Areas, Assistance Listing number 20.509; and FTA Section 5339 Bus and Bus Facilities Formula and Discretionary Program, Assistance Listing number 20.526. (**Attachment A.**) The Department’s share of Program expenses shall be obtained from the federal government. State funds will not be earmarked or disbursed to fund the Program. The Department shall not be responsible for any other costs incurred by the Subrecipient. The Subrecipient shall take all actions necessary to fund its share of the Program.

3. Method of Payment.

The Department shall reimburse the Subrecipient for the Department's share of Program administration, operating assistance, and/or non-vehicle capital upon receipt of invoices with sufficient supporting documentation as determined and approved by the Department indicating that expenses have been paid and/or money is owed.

The Subrecipient is to submit Budget Summary Reports for administration and/or operating assistance on a monthly basis, to be received by the Department by the 25th day of the following month. Reimbursement requests for non-vehicle capital shall be submitted within 30 days of payment to the vendor.

All reimbursement requests shall be submitted to the Department utilizing BlackCat. All expenses must be actual and listed on the invoice as charged. Rounding up or down, other than the total, is not permitted. Only those expenses or percentage thereof, properly documented and deemed eligible, shall be reimbursed. The Department may withhold payment of invoices that are incorrect and/or incomplete.

For Subrecipients that receive capital assistance for vehicle purchases, the Department shall either reimburse the Subrecipient or the vendor (capital to vendor) on behalf of the Subrecipient for the Department's share of Program costs upon receipt of invoices, with sufficient supporting documentation as determined and approved by the Department, indicating that expenses have been paid and/or money is owed. The Subrecipient should refer to the Vehicle Purchase Procedures in the Global Resources section of BlackCat for payment procedures.

4. Eligible Costs.

- A. Eligible Costs are those costs attributable to and allowed under the Program and the provisions of 2 CFR Parts 200 and 1201, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- B. Costs incurred by the Subrecipient prior to the effective date of this Agreement or after termination are not eligible for reimbursement.
- C. Within sixty (60) days after completion of this Agreement, the Subrecipient shall submit a final invoice to the Department for Administration and Operating expenses and a financial statement showing the total expense of the Program.
- D. Match shall be provided from eligible matching sources.

5. State General Appropriation Funds Not Obligated.

Nothing in this Agreement shall be construed as obligating State general appropriation funds for payment of any debt or liability arising under this Agreement. The parties expressly acknowledge that all payments made under this Agreement are from federal funds appropriated for these purposes.

6. Term.

Upon the signature of all parties, this Agreement becomes effective with a starting date of October 1, 2023. Costs incurred under this agreement for Administration and Operating expenses from October 1, 2023, to September 30, 2024, are eligible for reimbursement. Vehicle purchase funds obligated by contract by August 31, 2024, are eligible for reimbursement. Capital equipment acquisition funds obligated by contract by August 31, 2025, are eligible for reimbursement. Capital rehab/renovation and construction project funds obligated by contract by August 31, 2026, are eligible for reimbursement.

7. Termination for Cause.

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

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

8. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice from the Department to the Subrecipient. The Department's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

9. Termination Management, Allowable Costs.

In the event of termination, neither party may nullify obligations already incurred for performance or failure to perform. The Subrecipient shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the Department or its duly authorized representative. The Subrecipient shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this Agreement.

10. Breach and Dispute Resolution.

Disputes which cannot be resolved informally by the parties shall be decided in writing by a representative of the Department's Transit and Rail Division. The Subrecipient has ten (10) days from receipt of the decision to file a written appeal with the Transit and Rail Division. Upon appeal, the Subrecipient will be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Transit and Rail Division on appeal shall be binding.

11. Procurement Requirements.

The Subrecipient shall purchase Program equipment pursuant to procedures established by 2 CFR Parts 200 and 1201, the United States Department of Transportation (U.S. DOT), the FTA, applicable New Mexico State Law, and the standards set forth in: Third Party Contracting Guidance, FTA Circular 4220.1F; and the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

The Subrecipient agrees to comply with 49 U.S.C. Section 5323(j) as amended by the Infrastructure Investment in Jobs Act (IIJA).

Prior to awarding a bid award or execution of a contract for services or capital equipment in excess of \$10,000, the Subrecipient shall seek concurrence in writing from the Department.

12. Rolling Stock.

In acquiring rolling stock, the Subrecipient agrees that the parties are bound by the following provisions:

- A. **Method of Acquisition.** In compliance with 49 U.S.C. Section 5325(f), the Recipient agrees that any third party contract award it makes for rolling stock will be based on initial capital costs, or on performance, standardization, life cycle costs, and other factors, or on a competitive procurement process.

- B. **Multi-year Options.** In accordance with 49 U.S.C. Section 5325(e)(1), a Recipient procuring rolling stock financed with Federal assistance under 49 U.S.C. Chapter 53 may not enter into a multiyear contract with options, exceeding five (5) years after the date of the original contract, to purchase additional rolling stock and replacement parts.
- C. **Buy America.** The Recipient agrees to comply with the requirements of 49 U.S.C. Section 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments to those regulations that may be promulgated.
- D. **Pre-Award and Post-Delivery Audits.** The Recipient agrees to comply with the requirements of 49 U.S.C. Section 5323(m) and FTA regulations, "Pre Award and Post Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any amendments to those regulations that may be promulgated.
- E. **Bus Testing.** To the extent applicable, the Recipient agrees to comply with the requirements of 49 U.S.C. Section 5318(e) and FTA regulations, "Bus Testing," 49 C.F.R. Part 665, and any amendments to those regulations that may be promulgated.

13. Insurance.

The Subrecipient shall maintain liability, comprehensive, collision, and uninsured motorist insurance adequate to protect the Program equipment, and satisfactory to the Department. The Department shall be named as an additional insured and a loss payee on Subrecipient's policy for each vehicle on which the Department has a lien. A certificate of insurance shall be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance. The Subrecipient shall provide the Department documentation of subsequent renewals and shall keep on file a copy of the insurance policy, which shall be accessible to the Department.

The Subrecipient shall require contractors and subcontractors hired to perform the services under this Agreement to have a commercial general liability insurance policy. The Department shall be named as an additional insured on the contractor's and subcontractor's policy and a certificate of insurance shall be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.

The Subrecipient shall require contractors and subcontractors hired to perform services under this Agreement to indemnify, defend and hold harmless the State of New Mexico, the Department, its officers, agents and employees from and against all suits, actions or claims of any character brought because of any injury, including death or damages arising out of contractors' or subcontractors' construction or maintenance activities pursuant to this Agreement, as memorialized herein and subject to any additional permit that may be required of the contractor or subcontractor to perform said activities.

14. New Mexico Tort Claims Act.

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

15. Use of Program Equipment.

- A. A Program Vehicle Inventory shall be completed for each vehicle used in the program and entered into BlackCat within thirty (30) days of delivery. Post Delivery Inspection forms shall be completed before the vehicle is placed into service. The forms shall be uploaded to the corresponding vehicle inventory in BlackCat. Vehicle Inventory shall be reported and updated within BlackCat on a quarterly schedule, and as changes to the vehicle inventory occur.

- B. The Subrecipient shall maintain a current written fleet maintenance plan that includes procedures for preventive and corrective maintenance, warranty tracking and claims recovery, and recall notification and follow-up. Major corrective maintenance, warranty tracking and claims recovery, and recall notifications shall be reported in BlackCat as they are received and updated as repairs are completed.
- C. The Subrecipient shall follow the equipment manufacturer's minimum standards and recommended preventive maintenance schedules. The Subrecipient shall maintain the equipment in a clean, safe, and mechanically sound condition. The Department or its authorized representative has the right to conduct periodic inspections during normal business hours for the purpose of confirming property maintenance pursuant to this clause.
- D. The Subrecipient shall keep Vehicle Inspection Records before and/or after the use of each transit vehicle.
- E. Each vehicle shall be equipped with a fire extinguisher, first aid kit (including a blood borne pathogens/biohazard kit), fluorescent triangles and/or safety flares, reflective vests for drivers, flashlights, and web cutters/seat belt cutters, while the vehicle is in operation.
- F. Program Facilities Inventory shall be completed for each facility used in the Program. The Program Facility Inventory shall be reported and updated within BlackCat on an annual schedule, and, as changes to the facility inventory occur.
- G. The Subrecipient shall maintain a current written facility maintenance plan that includes procedures for preventive and corrective maintenance, warranty tracking and claims recovery, and recall notification and follow-up.
- H. The Program equipment shall be used to provide public transportation service within the described service area and in the manner described in *Section 1. Scope of Program*.
- I. Failure to use Program equipment as described in *Section 1. Scope of Program* shall be considered a material breach of contract subject to the provisions of *Section 7. Termination for Cause*.
- J. The Subrecipient shall notify the Department immediately of vehicular/facilities accidents, thefts, or vandalism involving Program equipment. All supporting documentation relating to the incident, including police reports, damage assessments, and insurance claims shall be reported and uploaded in BlackCat to the corresponding inventory record. Failure to notify the Department shall be considered a material breach of contract subject to the provisions of *Section 7. Termination for Cause*.
- K. All program equipment that is damaged in an accident, by vandalism, or weather is to be repaired or replaced depending on the physical and monetary extent of the damage and according to its scheduled final disposition.
- L. If the Subrecipient wants to remove any Program equipment from service or dispose of such equipment either as a result of planned withdrawal, casualty loss, or transfer, the Subrecipient shall submit a completed disposition or transfer request in BlackCat including all relevant and required supporting documentation. The Subrecipient should refer to the Vehicle Disposition Procedures in the Global Resources section of BlackCat.
- M. The Department may require that Program equipment purchased under FTA programs, on which liens are held, be returned to the Department. Such Program equipment shall be returned in good working condition within ten (10) business days or as stipulated by the Department. If the Subrecipient fails to return the equipment, the Department, as the recorded lien holder, shall have the right to immediately repossess the vehicle(s) by whatever means available to it under New Mexico law.
- N. Upon termination of the Agreement under *Section 7. Termination for Cause*, the Subrecipient shall not be eligible for reimbursement of any costs associated with the vehicle(s) purchase or be entitled to damages

arising from Program operations, except that the Subrecipient shall be reimbursed for its pro-rata share of the Program equipment's depreciated value as determined by the straight-line depreciation method.

- O. The Subrecipient agrees that no modifications will be made to Program vehicle(s) with liens held by the Department without prior written approval of the Department. If unapproved modifications are made, the Subrecipient is responsible for the cost of restoring the vehicle(s) to its original condition.

16. Charter Bus Requirements.

The Subrecipient agrees to comply with 49 U.S.C. Section 5323(d) and 49 C.F.R. Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 C.F.R. Part 604.9. Any charter service provided under one of the exceptions shall be "incidental." For example, it shall not interfere with or detract from the provision of mass transportation.

17. School Bus Requirements.

Pursuant to 49 U.S.C. Section 5323(f) and 49 C.F.R. Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub recipients may not use federally funded equipment, vehicles, or facilities.

18. Certificate of Title for Vehicles.

Any title to capital equipment the Subrecipient purchases will reflect in a lien in favor of the Department. The liens will remain in effect according to the following schedule:

Category	Approx. GVW	Minimum Life (either years or miles)	
		Years	Miles
Heavy-Duty Large Bus	33,000 to 40,000lbs	15	625,000
Medium-Duty and Purpose-Built Bus	16,000 to 26,000lbs	10	285,000
Light-Duty Mid-Sized Bus	10,000 to 16,000lbs	8	240,000
Light-Duty Small Bus, Cutaway, and Modified Van	6,000 to 14,000	7	175,000

The Subrecipient shall pay all costs associated with obtaining, securing, and maintaining titles and liens including the payment of all applicable taxes and fees.

19. Duration of Lien.

The Subrecipient shall not pledge or collateralize any vehicles purchased under this Agreement without written authorization from the Department. This restriction is in effect from the date a title certificate is issued to when the Department releases the lien pursuant to *Section 18. Certificate of Title for Vehicles*. For specifics on disposition of vehicles after title lien is released, the Subrecipient should refer to the Vehicle Disposition Procedures in the Global Resources section of BlackCat.

20. Reporting Requirements.

- A. **Monthly Budget Summary Reporting.** Section 5311 Subrecipients shall submit a monthly invoice/report using BlackCat to include financial expenditures and service data, as described in *Section 3. Method of Payment*. This monthly invoice shall be submitted to the Department by the 25th of the following month.
- B. **Vehicle/Facility Updates.** Section 5310 and Section 5311/5339 Subrecipients shall report *all* vehicle/facilities inventories within the BlackCat system as well as updates to the vehicle/facilities inventories as they occur.
- C. **Quarterly Section 5310 Ridership and Vehicle Inventory Reporting.** Section 5310 Subrecipients shall report Section 5310 ridership statistics quarterly within BlackCat system. Quarterly Ridership Reports are due thirty (30) days after the quarter ends. Reports are due January 30, April 30, July 30, and October 30 respectively. For 4th quarter reports, subrecipients shall upload certificates of insurance documenting compliance with *Section 13. Insurance*.
- D. **Drug and Alcohol Quarterly Testing Report.** Section 5311 Subrecipients will submit a quarterly Testing Report in BlackCat for each quarter of the calendar year. Subrecipients will also conduct one (1) breath alcohol test observation and two (2) urine collection observations during the calendar year. Completed checklists shall be submitted with the corresponding quarterly testing report during the quarter in which the test(s) were observed. Reports are due January 31, April 30, July 31, and October 31 respectively.
- E. **Semi-annual Disadvantaged Business Enterprise (DBE) Reporting.** Section 5311 Subrecipients will submit in BlackCat semi-annual DBE reports due May 15 (for the period October 1 to March 31) and due November 15 (for the period April 1 to September 30).
- F. **National Transit Database (NTD) Rural Report.** Section 5311 Subrecipients will submit an annual NTD report, as required by 49 U.S.C. Section 5335, due December 15.
- G. **Drug and Alcohol Management Information System (MIS) Data.** Section 5311 Subrecipients will submit drug and alcohol testing data for the previous calendar year using the Management Information System (MIS) Data Collection Form to the entity designated by the Department before March 1 of each year.
- H. **Drug and Alcohol Compliance Review/Report.** Section 5311 Subrecipients will participate in Drug and Alcohol Compliance Reviews by the Department. Once a final report has been issued, the Subrecipient will begin to implement corrective actions, providing supportive documentation for all deficiencies cited in the final report and respond to all recommendations in the final report.
- I. **Technical Assistance and Compliance Review/Report.** Section 5310 and Section 5311/5339 Subrecipients will participate in a Technical Assistance and Compliance Review by the Department. Once a final report has been issued, the Subrecipient will begin to implement corrective actions, providing supportive documentation for all deficiencies cited in the final report and respond to all recommendations in the final report.
- J. **Transit Asset Management (TAM) Reporting.** Section 5310 and Section 5311 Public Transit Providers may participate in a group TAM Plan sponsored by The Department (49 U.S.C. 625). All TAM plan participants shall sign a TAM Plan Approval Statement and assign an Accountable Executive to be identified in BlackCat. TAM reporting requires participants to maintain updated asset/facility inventories and condition assessments in BlackCat.

The Department may withhold payment of monthly invoices if reports are not submitted in a timely manner, are incorrect and/or incomplete. The Subrecipient's failure to submit reports in a timely manner on the dates specified shall be a material breach of this Agreement and shall be subject to termination as provided in *Section 7. Termination for Cause*.

21. Retention of Records.

The Subrecipient shall maintain all books, documents, papers, accounting records, reports and other evidence pertaining to costs incurred in the Program for three (3) years after the date of termination or expiration of this Agreement.

22. Access to Records.

The Subrecipient shall grant authorized representatives of the Department, the State, and the federal government access to books, documents, papers, reports, and records of the Subrecipient or its contractors or subcontractors, which are directly pertinent to this Agreement, for the purpose of making audits, examination excerpts, and transcriptions. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Subrecipient shall reimburse the Department for any expenditure for which it received payment or reimbursement, as applicable, which is disallowed by an audit exception by the Department, the State or federal government.

23. Audit.

Pursuant to New Mexico administrative code 2.2.2.8(D), all governmental agencies are required to have their financial affairs thoroughly examined and audited each year by the Office of the State Auditor or independent auditors approved by the Office of the State Auditor. The list of approved auditors can be found [here](#).

The Subrecipient shall ensure that an annual audit of the Program based on the Subrecipient's fiscal year shall be conducted pursuant to 2 CFR Parts 200 and 1201.

24. Audit Exceptions.

If federal or State audit exceptions are made, the Subrecipient shall reimburse all costs incurred by the State and the Department associated with defending against the exceptions, which includes but is not limited to costs of performing a new audit or a follow-up audit, court costs, attorneys' fees, travel costs, penalty assessments.

Immediately upon notification from the Department, the Subrecipient shall reimburse the amount of the audit exception and any other related costs directly to the Department. In the notification, the Department may inform the Subrecipient of the Department's election to withhold an amount equal to the payment owed under this Section from any future distribution owed to Subrecipient under this Agreement.

25. Third Party Beneficiaries.

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

26. Contracting and Assignment.

The Subrecipient shall not contract or permit to have subcontracted any portion of this Agreement without prior written approval of the Department. No such contracting or subcontracting shall relieve the Subrecipient from its obligations and liabilities under this Agreement, nor shall any contracting or subcontracting obligate payment from the Department.

Except to a successor in kind, the Subrecipient shall not assign or transfer any interest in this Agreement or assign any claim for money due or to become due under this Agreement without the prior written approval of the Department.

Should contract(s), subcontract(s) or an assignment be authorized by the Department, the contractor(s), subcontractor(s) and assignor(s) shall be subject to all provisions of this Agreement. It shall be the Subrecipient's responsibility to duly inform the contractor(s), subcontractor(s) and assignor(s) by means of a contract or other legally binding document stipulating responsibility to this Agreement.

27. Training.

The Subrecipient shall ensure that all drivers described in the Operations Profile are trained in accordance with the Department's Training Standard Operating Procedures. The Subrecipient should refer to the Training Procedures in the Global Resources section of BlackCat. Should the Subrecipient fail to satisfy the terms and conditions as outlined, the Subrecipient may be found to be in breach of contract and subject to the provisions of *Section 7. Termination for Cause*.

28. No Federal Government Obligation to Third Parties.

- A. The Department and Subrecipient acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the federal government, the federal government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Department, Subrecipient, or any other party (whether or not a party to the Agreement or any contract or subcontract) pertaining to any matter resulting from the Agreement.
- B. The Subrecipient agrees to include the above clause in each contract or subcontract financed in whole or in part with federal assistance provided by FTA. It further agrees that the clause shall not be modified, except to identify the contractor or subcontractor who will be subject to its provisions.

29. Drug and Alcohol Testing.

- A. The Subrecipient will implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655, produce documentation necessary to establish its compliance, permit authorized representatives of the U.S. DOT or the Department to inspect the facilities and records associated with the drug and alcohol testing program, and review the testing process.
- B. The Subrecipient will submit for review and approval a copy of its Policy Statement developed to implement its drug and alcohol testing program.
- C. The Subrecipient agrees to participate in the Department's consortium.
- D. The Subrecipient agrees to develop a drug and alcohol program standard operating procedures desk manual.
- E. The Subrecipient will participate in Department-provided training opportunities.

30. Labor Warranty.

The Section 5311 Subrecipient agrees to comply with the terms and conditions of the Special 49 U.S.C. Section 5333(B) Labor Protection Warranty. The Subrecipient will assume all legal and financial responsibility relative to compliance with the terms and conditions of the Warranty.

31. Transit Employee Protection Guidelines.

The Section 5307 Subrecipient agrees to protect transit employees pursuant to Section 5333(b) of Title 49 U.S. Code. The Subrecipient shall provide for the preservation of rights and benefits of employees under existing collective bargaining agreements, continuation of collective bargaining rights, and protection of individual employees against a worsening of their positions in relation to their employment, assurances of employment to employees of acquired transit systems, priority of reemployment, and paid training or retraining programs.

32. Civil Rights Laws and Regulations Compliance.

The Subrecipient shall comply with all federal, State, and local laws and ordinances applicable to the work called for under this Agreement.

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, disability, or other protected class. The Subrecipient shall comply with applicable Federal implementing regulations and such other implementing requirements FTA may issue. The Nondiscrimination Assurance is attached as **Assurance 3**.
- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Agreement:
1. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, 42 U.S.C. Section 2000e, and Federal transit laws at 49 U.S.C. Section 5332, the Subrecipient agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Part 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. Section 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The Subrecipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including gender identity and sexual orientation). Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the awarded contractor shall comply with any implementing requirements FTA may issue.
 2. **Age.** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 623 and Federal transit law at 49 U.S.C. Section 5332, the Subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Subrecipient shall comply with any implementing requirements FTA may issue.
 3. **Disabilities.** In accordance with Section 102 of the Americans with Disabilities Act, 42 U.S.C. Section 12112, the Subrecipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the awarded contractor shall comply with any implementing requirements FTA may issue.
- C. The Subrecipient shall include these requirements in each contract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- D. The Subrecipient also agrees to ensure that these requirements are included in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.

33. DBE Policy.

- A. This Agreement is subject to the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The Department's proposed overall goal for FTA participation for the 2023 fiscal year is 21.3%, through race-neutral means.
- B. The Subrecipient shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the performance of the Agreement. The Subrecipient shall carry out applicable requirements of 49 CFR Part 26 in the administration of the Program. Failure by the Subrecipient to carry out these requirements is a material breach of the Agreement, which may result in the termination or other such remedy as the Department deems appropriate. Each contract the Subrecipient signs with a contractor shall include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. The Subrecipient agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of Contracts and subcontracts financed in whole or in part with Federal funds. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the award and performance of U.S. DOT assisted contracts. The Subrecipient will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- D. The Subrecipient is required to pay its contractors performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the awarded contractor's receipt of payment for that work from the Department.
- E. The Subrecipient shall promptly notify the Department, whenever a DBE contractor is terminated or fails to complete its work and shall make good faith efforts to engage another DBE contractor to perform at least the same amount of work. The Subrecipient may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Department.

A subrecipient of FTA funds shall meet applicable DBE requirements when funds are used in whole or in part to finance procurements of and contracts for applicable products and services. A subrecipient with contracting opportunities shall sign and submit a *Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for Federal Transit Administration Subrecipients*, which is attached as **Certification 1**.

34. ADA Access.

The Subrecipient shall comply with 49 U.S.C. Section 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for seniors and individuals with disabilities. The Subrecipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973; with 29 U.S.C. Section 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA); 42 U.S.C. Sections 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, 42 U.S.C. Sections 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities.

35. Program Fraud and False or Fraudulent Statements or Related Acts.

- A. The Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. Sections 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this program. The Subrecipient certifies or affirms the truthfulness and accuracy of any statement it makes pertaining to the resultant Agreement or the FTA assisted program for which this work is being performed. The Subrecipient further acknowledges that if it makes, or causes to be

made, a false, fictitious or fraudulent claim, statement, submission or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the federal government deems appropriate.

- B. The Subrecipient also acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification to the federal government under a contract connected with a program that is financed in whole or in part with federal assistance originally awarded by FTA, the federal government reserves the right to impose the penalties of 18 U.S.C. Section 1001 on the Subrecipient to the extent the federal government deems appropriate.
- C. The Subrecipient certifies to abide by these clauses and include the clauses in each subcontract financed in whole or in part with Federal Transit Administration funds. The Subrecipient further agrees that these clauses shall not be modified, except to identify the contractor or subcontractor subject to its provisions.
- D. All claims for compensation reimbursement and payment of any amounts due pursuant to this Agreement are governed by the Fraud Against Taxpayers Act, NMSA 1978, Sections 44-9-1 through 44-9-14.

36. Lobbying.

A subrecipient receiving \$100,000 or more of 49 U.S.C. Section 5311 funds shall file the Lobbying Certification required by 49 C.F.R. Part 20, "New Restrictions on Lobbying" with the application. The Subrecipient shall certify that it has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. Section 1352.

Before awarding a third-party contract exceeding \$100,000, the Subrecipient shall obtain a signed Lobbying Certification from the contractor. Each tier below the contractor awarded a subcontract exceeding \$100,000 shall also provide a Lobbying Certification. Such disclosures are forwarded from tier to tier up to the Subrecipient.

37. Officials Not to Benefit.

Neither any member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom. The provisions of this clause shall be extended to all public employees, officers, or tribal council members.

38. Clean Water and Air Requirements.

- A. The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, 33U.S.C. Sections 1251 *et seq.*, and the Clean Air Act, 42 U.S.C. Sections 7401 *et seq.* The Subrecipient agrees to report each violation to the Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate United States Environmental Protection Agency Regional Office.
- B. The Subrecipient agrees to include these requirements in each contract or subcontract exceeding \$150,000.00 and financed in whole or in part with federal assistance provided by the FTA.

39. Energy Conservation

The Subrecipient agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

40. Debarment and Suspension.

Executive Order No. 12549, "Debarment and Suspension of Participants in Federal Programs," February 18, 1986, 31 U.S.C. Section 6101 note, as amended by Executive Order No. 12689, "Debarment and Suspension," August 16, 1989 31 U.S.C. Section 6101 note, as implemented by 2 C.F.R. Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200 prohibits FTA subrecipients from contracting for goods and services from organizations that have been suspended or debarred from receiving federally-assisted contracts. Subrecipients shall include the certification and instruction language contained at 2 C.F.R. Part 1200 in all Invitations for Bids and Requests for Proposals (for inclusion by contractors and subcontractors in their bids or proposals) for all contracts expected to equal or exceed \$25,000.00, regardless of the type of contract to be awarded.

The Subrecipient is required to verify that none of the Subrecipient's principals or affiliates are excluded or disqualified as defined, as defined by 2 C.F.R. Part 1200. By signing and submitting this Agreement, the Subrecipient certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined that the bidder/Subrecipient or proposer/Subrecipient knowingly rendered an erroneous certification, in addition to remedies available to the Department, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder/Subrecipient or proposer/Subrecipient agrees to comply with the requirements of 2 C.F.R. Part 1200 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder/Subrecipient or proposer/Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions.

41. Notification Related to Fraud, Waste, Abuse, or Other Legal Matters

If a current or prospective legal matter that may affect the Federal Government emerges, the Subrecipient shall promptly notify the Department so that it can notify the Federal Government. The Subrecipient shall include a similar notification requirement in its third-party agreements and shall require each third-party participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.230 and 1200.230. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

42. Seat Belt Use

The Subrecipient agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by: 90 (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.

43. Safe Operation of Motor Vehicles

The Subrecipient agrees to comply with: (1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); (2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and (3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

(i) Safety. The Subrecipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Subrecipient owns, leases, or rents, or a

privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award;

(ii) Recipient Size. The Subrecipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and

(iii) Extension of Provision. The Subrecipient agrees to encourage its contractors to comply with this Special Provision and include this Special Provision in each third-party contract at each tier supported with federal assistance.

44. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

[Public Law 115-232](#), section 889, prohibits entering into a contract (or extending or renewing a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) 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).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the 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 government of a covered foreign country.

45. Central Contractor Registration Requirements.

Prior to payment of invoices and receipt of vehicles and equipment, the Subrecipient shall register and maintain current registration in the Central Contractor Registration website, <http://www.sam.gov>. Registration requires having a Dun and Bradstreet Data Universal Number (DUNS), see <http://www.dnb.com>. The Department will not provide vehicles, or make payments, until the Subrecipient demonstrates that it is registered with the System for Award Management (SAM) website.

46. Federal Grant Reporting Requirements.

Under the Federal Funding Accountability and Transparency Act, the Department is required to report on projects or activities, which are awarded federal grants of \$25,000 or more. This information will be made available to the public on www.USAspending.gov.

The type of information the Department is required to report includes:

- Name of Subrecipient receiving the award,
- Amount of Award,
- Funding Agency,
- NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants,
- Program source,
- Award title descriptive of the purpose of the funding action,
- Location of the Subrecipient, which includes the Congressional District,

- Place of performance of the program or activity, which includes the Congressional District,
- Unique Entity Identifier of the Subrecipient and its parent organization, if one exists, and
- Total compensation and names of the top five executives of the Subrecipient. This information is required, if the Subrecipient in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds \$25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code.

The Department will extract as much information as possible from the Subrecipient's grant application and standard reports. However, the Subrecipient will be required to provide additional information, which includes the total compensation and names of the Subrecipient's top five executives, if applicable. As specified earlier in Section 42, "Central Contractor Registration Requirements," of this Agreement, the Subrecipient shall register with SAM.gov and provide that information to the Department.

47. Severability.

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

48. Scope of Agreement.

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

49. Applicable Law and Venue; Federal Changes.

The Subrecipient shall comply with all federal, State, and local laws, ordinances, rules, warranties, assurances, and regulations applicable to the performance of this Agreement. This includes all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current year's Master Agreement between the Department and the FTA. The Subrecipient shall make as part of this Agreement between the Department and the Subrecipient the assurances and warranties which were signed as part of the grant award. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

50. Incorporation of FTA Terms.

Provisions of this Agreement include, in part, certain Standard Terms and Conditions required by the U.S. DOT. All contractual provisions required by the U.S. DOT, as set forth in FTA Circulars 4230.1F, and 9040.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any Department request, which would cause the Department to be in violation of FTA terms and conditions, as referenced in the current Federal Transit Administration Master Agreement shall prevail and be the instrument governing the receipt of Federal assistance from the Federal Transit Administration. The Master Agreement can be viewed on the web at <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>.

51. Amendment.

The terms of this Agreement may be altered, modified or amended by an instrument in writing executed by the parties. Specifically excluded from this requirement are revisions to transportation services and fare schedules identified in the Operations Profile. *Section 1. Scope of Program, Paragraphs C and E*, details how such changes are to be approved and documented.

In witness whereof, each party is signing this Agreement on the date stated below that party's signature. This Agreement becomes effective on the date the last party signed the Agreement.

New Mexico Department of Transportation

CITY OF HOBBS

NMDOT Cabinet Secretary or Designate


Signature

Name/Title (please print)

Date

Date

Approved as to Form and Legal Sufficiency by the Department's Office of General Counsel.

DocuSigned by:

Julia Newell
Assistant General Counsel
C750CEC1625D488...

NMDOT Assistant General Counsel

9/29/2023

Date

ATTACHMENT A

§200.331 Requirements for pass-through entities.

All pass-through entities must:

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.

ATTACHMENT A-1

§200.331 Requirements for pass-through entities.

All pass-through entities must:

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	Hobbs, City of
(ii) Subrecipient's unique entity ID;	T6JWFF1SWNW3
(iii) Federal Award Identification Number (FAIN);	NM-2023-027
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	4/28/2022
(v) Subaward Period of Performance Start and End Date;	10-01-2023 thru 09-30-2024
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	Administrative \$77,515.80 Operating \$525,207.28
(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;	Administrative \$77,515.80 Operating \$525,207.28
(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;	Administrative \$77,515.80 Operating \$525,207.28
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	FY22 5311 Rural Transit Appropriation for FY24 Program Funding Award
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	Federal Transit Administration, New Mexico Department of Transportation David Harris - 505 -699-4350, DavidC.Harris@dot.nm.gov, P.O. Box 1149 Santa Fe, NM 87501-1149
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	20.509
(xii) Identification of whether the award is R&D; and	No R&D
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

ATTACHMENT A-2

§200.331 Requirements for pass-through entities.

All pass-through entities must:

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	Hobbs, City of
(ii) Subrecipient's unique entity ID;	T6JWFF1SWNW3
(iii) Federal Award Identification Number (FAIN);	NM-2023-XXX
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	4/28/2022
(v) Subaward Period of Performance Start and End Date;	10-01-2023 thru 08-31-2025
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	Capital \$191,348.51
(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;	Capital \$191,348.51
(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;	Capital \$191,348.51
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	FY22 5339(a) Buses and Bus Facilities Formula Appropriation for FY24 Program Funding Award
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	Federal Transit Administration, New Mexico Department of Transportation David Harris - 505 -699-4350, DavidC.Harris@dot.nm.gov, P.O. Box 1149 Santa Fe, NM 87501-1149
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	20.526
(xii) Identification of whether the award is R&D; and	No R&D
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

**NEW MEXICO DEPARTMENT OF TRANSPORTATION
TRANSIT AND RAIL DIVISION**

**NONDISCRIMINATION ASSURANCE AGREEMENT
FOR
FEDERAL TRANSIT ADMINISTRATION SUBRECIPIENTS**

INTRODUCTION AND INSTRUCTIONS:

Please read the entire Agreement before completing, and do not change or add to the wording of the Agreement. The Agreement is incorporated into and becomes a material part of your contract with NMDOT, and Subrecipients are responsible for complying with the requirements contained therein.

On behalf of this Agreement, the **CITY OF HOBBS**; hereinafter referred to as "**Subrecipient**" assures that:

1. Subrecipient will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) based on race, color, national origin, religion, sex, disability, or age including:

- a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination based on race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
- b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
- c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (prohibiting discrimination based on race, color, religion, sex, (including gender identity and sexual orientation) or national origin,
- d. Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,
- g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, et seq.,
- h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq.,
- i. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
- j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
- k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.

2. Subrecipient will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.

NONDISCRIMINATION ASSURANCE 3

3. As required by 49 CFR § 21.7:

a. Subrecipient will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:

- (1) Subrecipient implements its Award,
- (2) Subrecipient undertakes property acquisitions, and
- (3) Subrecipient operates all parts of its facilities, as well as its facilities operated in connection with its Award.

b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.

c. Subrecipient will promptly take the necessary actions to carry out this assurance, including the following:

- (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and
- (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.

d. If Subrecipient transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:

- (1) While the property is used for the purpose that the federal assistance is extended, or
- (2) While the property is used for another purpose involving the provision of similar services or benefits.

e. The United States has a right to seek judicial enforcement of any matter arising under:

- (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
- (2) U.S. DOT regulations, 49 CFR part 21, or
- (3) This assurance.

f. Subrecipient will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:

- (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
- (2) U.S. DOT regulations, 49 CFR part 21, and
- (3) Federal transit law, 49 U.S.C. § 5332.

g. Subrecipient will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.

h. Subrecipient will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:

- (1) Subrecipient,
- (2) Transferee,
- (3) Third Party Contractor or Subcontractor at any tier,
- (4) Successor in Interest,
- (5) Lessee, or
- (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).

i. Subrecipient will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:

- (1) Subagreement at any tier,
- (2) Property transfer agreement,
- (3) Third party contract or subcontract at any tier,

NONDISCRIMINATION ASSURANCE 3

- (4) Lease, or
 - (5) Participation agreement.
- j. The assurances you have made on your behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
- (1) Federal assistance is provided for its Award,
 - (2) Subrecipient property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
 - (3) Subrecipient retains ownership or possession of its property acquired or improved with federal assistance provided for its Award,
 - (4) Subrecipient transfers property acquired or improved with federal assistance, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits, or
 - (5) FTA may otherwise determine in writing.

4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:

a. Subrecipient will comply with the following prohibitions against discrimination based on disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:

- (1) Construct any facility,
- (2) Obtain any rolling stock or other equipment,
- (3) Undertake studies,
- (4) Conduct research, or
- (5) Participate in any benefit or obtain any benefit from any FTA administered program.

b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability be:

- (1) Excluded from participation,
- (2) Denied benefits, or
- (3) Otherwise subjected to discrimination.

AFFIRMATION OF APPLICANT

Name of Applicant: _____

Printed Name of Authorized Representative: _____

Relationship of Authorized Representative: _____

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature: _____ Date: _____

Printed Name of Signing Official: _____

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

**NEW MEXICO DEPARTMENT OF TRANSPORTATION
TRANSIT AND RAIL DIVISION**

**DISADVANTAGED BUSINESS ENTERPRISE
RACE-NEUTRAL IMPLEMENTATION AGREEMENT
FOR
FEDERAL TRANSIT ADMINISTRATION SUBRECIPIENTS**

INTRODUCTION AND INSTRUCTIONS:

The New Mexico Department of Transportation (NMDOT) Transit and Rail Division, through the NMDOT Office of Equal Opportunity Programs (OEOP), must ensure that Subrecipient of Federal Transit Administration (FTA) funds meet applicable DBE requirements when funds are used in whole or in part to finance procurement and contracts of products and service(s). To that end, Subrecipient with contracting opportunities must submit a *Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for Federal Transit Administration Subrecipients* (Agreement).

Please read the entire Agreement before completing, and do not change or add to the wording of the Agreement. The Agreement is incorporated into and becomes a material part of your contract with NMDOT, and Subrecipients are responsible for complying with the requirements contained therein.

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION I

DISADVANTAGED BUSINESS ENTERPRISE RACE-NEUTRAL IMPLEMENTATION AGREEMENT for CITY OF HOBBS; hereinafter referred to as "Subrecipient."

I. Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR Part 26.5.

II. OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)

The Subrecipient intends to receive federal financial assistance from the U.S. Department of Transportation (USDOT) through the New Mexico Department of Transportation (NMDOT), and as a condition of receiving this assistance, the Subrecipient will sign the New Mexico Department of Transportation's Disadvantaged Business Enterprise Race Neutral Implementation Agreement (hereinafter referred to as Agreement).

The Subrecipient must implement a policy to ensure that DBEs, as defined in 49 CFR Part 26 (also referred to as the DBE Program), have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

To ensure nondiscrimination in the award and administration of DOT-assisted procurement and contracts of products and services contracts.

To create a level playing field on which DBE's can compete fairly for DOT-assisted procurement and contracts of products and services contracts.

To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.

To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.

To help remove barriers to the participation of DBEs in DOT-assisted procurement and contracts of products and services contracts.

To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III. Nondiscrimination (§26.7)

Subrecipient will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. Subrecipient will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

IV. Race-Neutral Means of Meeting the Annual DBE Goal (§26.51)

Subrecipient will assist NMDOT to achieve its Overall Statewide DBE Goal by race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has been historically low;
8. Ensuring distribution of the New Mexico DBE directory, through print and electronic means, to the widest feasible universe of potential contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Subrecipient will encourage utilization of DBE contractors whenever possible on its USDOT-assisted contracts. New Mexico Certified DBE firms and the fields of work in which they participate are listed in the electronic web-based DBE Directory located at <https://nmdot.dbesystem.com>

V. Quotas (§26.43)

Subrecipient will not use quotas or set-asides in any way in the administration of the DBE Program.

VI. DBE Liaison Officer (§26.25)

Subrecipient must designate a DBE Liaison Officer (DBELO). The DBELO is responsible for implementing the DBE Program as it pertains to the Subrecipient and ensures that the Subrecipient is fully and properly advised concerning DBE Program matters.

VII. Federal Financial Assistance Agreement Assurance (§26.13)

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

The Subrecipient will sign the following assurance, applicable to and to be included in all USDOT-assisted procurements and contracts for products and services:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII. Required Contract Clauses (§§26.13, 26.29)

Subrecipient assures that the following clauses will be included in each USDOT-assisted prime contract:

A. Contract Assurance

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted procurement and contracts of products and services contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

B. Prompt Payment

Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay to any subcontractor not later than 10 days of receipt of each progress payment. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the NMDOT's prior written approval. Any violation of this Section shall subject the violating contractor or subcontractor to penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Retainage

Subrecipient shall include either (1), (2), or (3) of the following provisions in their USDOT-assisted contracts to ensure prompt and full payment of retainage (withheld funds) to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION I

subcontractor to the penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

IX. Bidders List (§26.11)

The Subrecipient will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its USDOT-assisted procurement and contracts for products and services. The bidders list will include the name, address and telephone number of each quoting firm and whether the quoter is a New Mexico certified DBE. Subrecipient will include language in its procurement documents that requires each bidding Contractor, at the time that bids are submitted, to list the quotes received for the project as detailed above.

X. Reporting

Subrecipient will report bidders list and related DBE information to the NMDOT Transit and Rail Division or the NMDOT Office of Equal Opportunity Programs upon request.

Subrecipient will complete and submit annually to the NMDOT Office of Equal Opportunity Programs the NMDOT Annual Profile Registration Form. This Form will be mailed to Subrecipient.

Subrecipient will compile and provide such other information related to its procurements and the DBE Program as deemed necessary by the NMDOT Transit and Rail Division or the NMDOT Office of Equal Opportunity Programs.

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

XI. Incorporation of Agreement

This Agreement is incorporated into Subrecipient's financial assistance agreement with NMDOT by reference and made a part of that agreement.

Date:
Signature of Subrecipient Official:
Printed Name of Subrecipient Official:
Relationship of Subrecipient Official:



June 30, 2023

Jan Fletcher
Public Transportation Director
City of Hobbs
424 West Broadway
Hobbs, New Mexico 88240

Dear Ms. Fletcher,

The New Mexico Department of Transportation Transit and Rail Division has reviewed your Section 5311 Administrative/Operating and 5339 Capital budget requests for FY 2024. Your Administrative, Operating and Capital budget awards are as follows:

City of Hobbs	Total	Federal	Local
Administration (80/20) Section 5311	\$ 96,894.76	\$ 77,515.80	\$ 19,378.96
Operating (50/50) Section 5311	\$ 1,050,414.55	\$ 525,207.28	\$ 525,207.27
Capital to Sub-recipient (80/20) Section 5339	\$ 239,185.64	\$ 191,348.51	\$ 47,837.13
Total Administrative, Operating and Capital	\$ 1,386,494.95	\$ 794,071.59	\$ 592,423.36

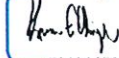
For more details and information about your award, please refer to the FY24 Budget Awards Packet on the Transit and Rail website using the following link:

[NMDOT FY2024 Statewide Transit Budget Award Packet](#)

Contact Deborah Bach at Deborah.bach@dot.nm.gov if you have any questions.

Sincerely,

DocuSigned by:


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Kevin Olinger,
Transit Bureau Chief

CC: Deborah Bach, Rural Transit Programs Supervisor

**Michelle Lujan
Grisham**
Governor

Ricky Serna
Cabinet Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
District 1

Gary Tonjes
Commissioner
District 2

Hilma E. Chynoweth
Commissioner
District 3

Walter G. Adams
Commissioner, Chairman
District 4

Thomas C. Taylor
Commissioner
District 5

Charles Lundstrom
Commissioner, Secretary
District 6