

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

December 4, 2023



Hobbs City Commission

Regular Meeting

City Hall, City Commission Chamber

200 E. Broadway, 1st Floor Annex, Hobbs, New Mexico

Monday, December 4, 2023 - 6:00 p.m.

Sam D. Cobb, Mayor

R. Finn Smith
Commissioner – District 1

Joseph D. Calderón
Commissioner – District 4

Christopher R. Mills
Commissioner – District 2

Dwayne Penick
Commissioner – District 5

Larron B. Fields
Commissioner – District 3

Don R. Gerth
Commissioner – District 6

A G E N D A

City Commission Meetings are
Broadcast Live on KHBX FM 99.3 Radio and
Available via Livestream at www.hobbsnm.org

CALL TO ORDER AND ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes of the November 20, 2023, Regular Commission Meeting (*Jan Fletcher, City Clerk*)
2. Minutes of the November 28, 2023, Special Commission Meeting (*Jan Fletcher, City Clerk*)

PROCLAMATIONS AND AWARDS OF MERIT

3. Proclamation Proclaiming *Monday, December 4, 2023*, as "Hobbs Eagles Varsity Soccer Day" and Honoring the Hobbs High School Boys Soccer Team for Winning the 2023 5A New Mexico State Soccer Championship

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. 7427 – Approving the City of Hobbs 2023 Fiscal Year Capital Asset Inventory *(Toby Spears, Finance Director)*

DISCUSSION

None

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

5. Resolution No. 7428 – Approving a Development Agreement with Stuard Homes, LLC, Concerning the Development of Market Rate Single-Family Housing *(Kevin Robinson, Development Director)*
6. Resolution No. 7429 – Authorizing Grant Amendment No. 1 with the New Mexico Department of Transportation Extending the Expiration Date of the Grant to December 31, 2024, for Miscellaneous Improvements and Traffic Signal Construction at the Intersections of Marland/Clinton and Bender/Brazos *(Todd Randall, City Engineer)*

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

7. Next Meeting Date:
 - City Commission Regular Meeting:
 - **Monday, December 18, 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: December 4, 2023

SUBJECT: City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: December 1, 2023
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The following minutes are submitted for approval:

- Regular City Commission meeting held on November 20, 2023
- Special City Commission meeting held on November 28, 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, November 20, 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

Due to the absence of Mayor Sam Cobb and Mayor Pro Tem Joseph Calderón, Commissioner Penick moved that Commissioner Smith serve as Temporary Mayor Pro Tem of the meeting. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Fields yes, Penick yes, Gerth yes. The motion carried.

Mayor Pro Tem Smith called the meeting to order at 6:05 p.m. and welcomed everyone to the meeting. The Deputy City Clerk called the roll and the following answered present:

Mayor Pro Tem Joseph D. Calderón (*arrived at 6:35 p.m.*)
Commissioner R. Finn Smith
Commissioner Larron B. Fields
Commissioner Dwayne Penick
Commissioner Don Gerth

Absent: Mayor Sam D. Cobb
Commissioner Christopher Mills

Also present: Manny Gomez, City Manager
Valerie Chacon, Acting City Attorney
Bobby Arther, Municipal Court Judge
Mark Doporto, Fire Chief
Tony Alarcon, Fire Inspector
Shane Blevins, Deputy Police Chief
Danny Garrett, Police Captain
Ricky Guerrero, Police Captain
Marina Barrientes, Police Captain
Toby Spears, Finance Director
Bryan Wagner, Parks and Open Spaces Director
Doug McDaniel, Recreation Director
Tim Woomer, Utilities Director
Nicholas Goulet, Human Resources Director
Tracy South, Assistant Human Resources Director
Selena Estrada, Risk Management
Christa Belyeu, I.T. Director
Meghan Mooney, Communications Director
Amelia Maldonado, Deputy City Clerk
Rose Galavez, Assistant Deputy City Clerk
20 citizens

Invocation and Pledge of Allegiance

Commissioner Penick delivered the invocation and Commissioner Penick led the Pledge of Allegiance.

Approval of Minutes

Commissioner Gerth moved the minutes of the regular meeting of November 6, 2023, be approved as written. Commissioner Fields seconded the motion and the vote was recorded as follows: Smith yes, Fields yes, Penick yes, Gerth yes. The motion carried.

Proclamations and Awards of Merit

Mayor Pro Tem Smith proclaimed the week of November 25, 2023, as "*Small Business Saturday*". He presented the proclamation to Mr. Aaron Ward and Mr. Richard Martin as representatives of small businesses that create jobs and boost our local economy.

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

- 5 years – Saundra Cook, Recreation Department
- 5 years – Caleb Schmitz, General Services Department
- 10 years – Brandon Marinovich, Hobbs Police Department
- 10 years – Reanna Alarcon, Hobbs Police 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

Ms. Becca Titus of the United Way of Lea County presented a check to the City of Hobbs' employees for the pledge of \$52,000.00 to the United Way Campaign. She stated this has been the largest pledge ever recorded by the City's employees. Ms. Titus expressed gratitude and appreciation to all of the employees for their contribution to the campaign.

Mr. Joe Imbriale addressed several comments to the Commission regarding the rise in crime and the need to be tougher on criminals.

Consent Agenda

None

Discussion

Ms. Rachel Slade, Chief Administrative Officer of Covenant Health Hobbs Hospital, presented an overview and request regarding a gross receipts tax (GRT) deduction from the State of New Mexico. Ms. Slade explained that when planning for the new Hospital, Hobbs Hospital did not know it would qualify for the "Sole Community Provider" GRT deduction offered by the State of New Mexico. Hobbs Hospital requests assistance from Lea County to enter into an agreement to meet the statutory requirements which will, in turn, allow Hobbs Hospital to request reimbursement of taxes paid by the contractor. Ms. Slade stated the benefits will allow Hobbs Hospital to continue to reinvest in the community in several ways. She stated the impact to the community is enhanced physician recruitment and enhanced medical procedures in Lea County at Covenant Health Hobbs Hospital.

Mayor Pro Tem Smith thanked Ms. Slade for her presentation.

Mayor Pro Tem Joseph Calderón arrived at the meeting at 6:35 p.m. and apologized for being late. Temporary Mayor Pro Tem Smith returned the gavel back to Mayor Pro Tem Calderón and the meeting continued.

Action Items

Resolution No. 7424 - Authorizing the City to Renew 2024 Benefit Plan Offerings

Mr. Nicholas Goulet, Human Resources Director, presented a resolution authorizing the City to renew 2024 Benefits Plan Offerings with Blue Cross Blue Shield (BCBS). Mr. Goulet explained that through a market search, United Health Care, Cigna and Presbyterian all declined to provide a quote to the City for health insurance coverage. The quote received from BCBS is higher than our current plan due to an increase in the cost of stop loss insurance, aggregate stop loss insurance, administrative fees, and projected increases in claims. In comparing the quotes from 2023 and 2024, the increase is approximately \$1.7 million.

Mr. Goulet described the benefits plan. He stated staff recommends continuation of BCBS as the medical insurance provider in the current self-funded program with no change to current cost structure (90%/85%/80%). He stated the City of Hobbs requests for continuation of the High Deductible Health plan option for a second choice for employees choosing health care. Mr. Goulet further requested to keep the individual stop loss at \$150,000.00. The initial increase in the renewal was a 54% increase to the City of Hobbs premiums. By transferring and using existing reserves in the active/retiree reserves (approximately \$2 million), staff was able to reduce the renewal cost to 21% for both employer and employee. While this is still a substantial increase in premium for employees, it is more manageable than the initial 54% projected increase.

Following a brief discussion, Commissioner Fields moved that Resolution No. 7424 be adopted as presented. Commissioner Penick seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Gerth yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Resolution No. 7425 – Ratifying Approval and Issuance of a Junk Yard License to JY Recycling, LLC, 1203 West Dunnam, Hobbs, New Mexico

Ms. Amelia Maldonado, Deputy City Clerk, presented a resolution ratifying approval and issuance of a Junk Yard license to JY Recycling, LLC. Ms. Maldonado stated an application for a junk yard license was received by the City Clerk's Office from JY Recycling, LLC, on October 3, 2023, for a business at 1203 West Dunnam. Pursuant to Section 5.24.020 of the Hobbs Municipal Code, formal consent of the City Commission is required for operation of a junk yard within the City limits. After approval of the application by the Fire Marshal and Building Official, and upon receipt of the State Recycling License, a junk yard license was issued to JY Recycling, LLC, on October 13, 2023, prior to action by this Commission. All licenses requirements have been met and the City Clerk's Office is requesting ratification and approval of issuance of license. Ms. Maldonado further stated she personally went to the location and took photographs of the property.

There being no discussion, Commissioner Smith moved that Resolution No. 7425 be adopted as presented. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Gerth 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 thanked City of Hobbs employees for giving monthly pledges to the United Way of Lea County Campaign.

Mr. Gomez announced there would be a Special Meeting held on November 28, 2023. He also wished everyone a Happy Thanksgiving.

Commissioner Fields thanked the Hobbs Police Department for all the hard work they are doing. He also commended Mr. Bryan Wagner and his staff for all the work being done on the Charlie Brown Park.

Commissioner Penick also recognized the Hobbs Police Department for their hard work and stated crime in our city would be much worse without the Police Department.

Commissioner Smith wished everyone a Happy Thanksgiving and stated we should all work together to keep our city safe.

Mayor Pro Tem Calderón stated we should all be aware of the homeless people in our community.

There being no further business or comments, Commissioner Smith 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, Gerth yes. The motion carried. The meeting adjourned at 7:56 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Minutes of the special meeting of the Hobbs City Commission held on Tuesday, November 28, 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 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, City Attorney
Tony Alarcon, Fire Inspector
August Fons, Police Chief
Shane Blevins, Deputy Police Chief
Toby Spears, Finance Director
Todd Randall, City Engineer
Bryan Wagner, Parks and Open Spaces Director
Matt Hughes, Rockwind Golf Course Superintendent
Doug McDaniel, Recreation Director
Bobby Arther, Municipal Judge
Nicholas Goulet, Human Resources Director
Nikki Lawless, Library Director
Shelia Baker, General Services Director
Christa Belyeu, I.T. Director
Meghan Mooney, Communications Director
Julie Nymeyer, Executive Assistant
Jan Fletcher, City Clerk
Amelia Maldonado, Deputy City Clerk
Rose Galavez, Assistant Deputy City Clerk
5 citizens

Invocation and Pledge of Allegiance

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

Public Comments

None

Action Items

Resolution No. 7426 – Authorizing an Approval from the City Commission Regarding a Written Agreement with Lea County and Covenant Hobbs for a Gross Receipts Tax Deduction on Construction Costs

Ms. Rachel Slade, Chief Executive Officer of Covenant Hobbs Hospital, reviewed the highlights of a request from Covenant Health Hobbs Hospital for a gross receipts tax (GRT) deduction on construction costs of the new hospital. She introduced two representatives who are present tonight from Ernst & Young. Ms. Slade stated a written agreement is required between Lea County and Covenant Hobbs Hospital on the GRT deduction request. Ms. Slade stated she is requesting approval from the City Commission of this concept and proposed agreement. Ms. Slade also brought forth some answers to inquiries from Commissioner Smith regarding charity care which was a topic of discussion at the prior Commission meeting on November 20, 2023.

A lengthy discussion was held on the history and timeline from the acquisition of Lea Regional Medical Center, design and construction of the new Covenant Hospital, designation of the hospital as a sole hospital provider and statute of limitations with the New Mexico Taxation and Revenue Department (NMTRD) for amendment of tax returns. Discussion was also held on how the City's estimated portion of the GRT deduction gets withheld from the City's future tax distributions by (NMTRD).

Following the lengthy discussion with many questions and answers, Commissioner Calderón moved that Resolution No. 7426 be adopted as presented. Commissioner Smith seconded the motion and the vote was recorded as follows: Smith yes, Penick yes, Calderón yes, Fields yes, Mills no, Gerth yes, Cobb yes. The motion carried. A copy of the resolution is attached and made a part of these minutes.

Comments by City Commissioners, City Manager

Mr. Manny Gomez, City Manager, announced that Ms. Valerie Chacon has been selected as the City Attorney for the City of Hobbs, replacing Mr. Efren Cortez who resigned after being appointed to serve as District Court Judge.

Commissioner Mills congratulated Ms. Chacon on her new position. He further explained his vote of "no" on the hospital resolution.

Commissioners Fields and Penick also congratulated Ms. Valerie Chacon on her new position.

Commissioner Smith wished Ms. Valerie Chacon well in her new position. He thanked Ms. Slade for providing answers to the questions he had asked at the meeting on November 20, 2023.

Mayor Cobb also congratulated Mr. Valerie Chacon on her new position as City Attorney.

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 6:40 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, the Hobbs Eagles Varsity Soccer Teams perfect 23-0 record and 2023 NMAA's 5A State Champions had a successful year representing Hobbs High School; and

WHEREAS, Coach Reyes Marquez and Assistant Coaches Esteban Sotelo, Chris Middleton, Melvon Anders and Louie Vega led this year's team to believe in themselves and instilled a high level of confidence that took their team to a State Championship victory over Atrisco Heritage after two sudden death overtimes; and

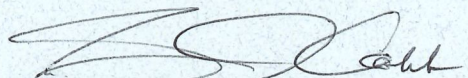
WHEREAS, the Hobbs Eagles Varsity Soccer Team member Jorge Martinez scored the Eagles game tying goal in regulation. Goalie Diego Castanon led the way in overtime with Josh Chavez, Jordan Barron and Eliud Hernandez scoring the Penalty Kicks for the win; and

NOW, THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim December 4, 2023, as

"HOBBS EAGLES VARSITY SOCCER DAY"

in recognition of their outstanding accomplishments for the 2023 Hobbs Eagles Varsity Soccer Team with congratulations for a job well done!

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December, 2023 and cause the seal of the City of Hobbs to be affixed hereto.


SAM D. COBB, Mayor

ATTEST:


JAN FLETCHER, City Clerk





CONSENT AGENDA



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: December 4, 2023

SUBJECT: Resolution approving FY2023 Capital Asset Inventory
DEPT. OF ORIGIN: Finance Department
DATE SUBMITTED: 11/27/2023
SUBMITTED BY: Deborah Corral, Assistant Finance Director

Summary:

The City Commission should certify the Capital Asset Inventory annually per Section 2.20.1.16.E NMAC which states "The results of the physical inventory shall be recorded in a written inventory report, certified as to correctness and signed by the governing authority of the agency." Amounts submitted for certification for the Fiscal Year ending June 30, 2023 are as follows:

- Governmental Fixed Assets \$386,647,342.62
- Business Type Activity Fixed Assets \$170,738,566.67

Each department has been provided a listing of the assets related to their various areas and have submitted a certification of correctness to the Finance Department.

Fiscal Impact:

No fiscal impact.

Reviewed By: 

Finance Department

Attachments:

- Resolution,
- A summary of capital assets detailing the beginning balance, additions, deletions and the FY23 ending balance.

Legal Review:

Approved As To Form: _____

Valerie S.
Chacon

Digitally signed by Valerie S. Chacon
DN: cn=Valerie S. Chacon, o=City of Hobbs, email=valerie.chacon@cityofhobbs.org, c=US
Date: 2023.11.27 17:15:15 -0700

City Attorney

Recommendation:

Approval of resolution.

Approved For Submittal By: _____


Department Director


City Manager

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

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

CITY OF HOBBS

RESOLUTION NO. 7427

A RESOLUTION APPROVING THE CITY OF
HOBBS 2023 FISCAL YEAR CAPITAL ASSET INVENTORY

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS,
NEW MEXICO that the City Commission hereby approves and certifies the City of
Hobbs Fiscal Year 2023 Capital Asset Inventory.

PASSED, ADOPTED AND APPROVED THIS 4th day of December, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Governmental Activities:

	Balance June 30, 2022	Additions	Conversions	Deletions	Balance June 30, 2023
Capital assets not being depreciated:					
Land	7,558,685.52				7,558,685.52
Construction in progress	1,652,399.40	1,312,013.12	1,933,125.30	-	1,031,287.22
	<u>9,211,084.92</u>	<u>1,312,013.12</u>	<u>1,933,125.30</u>	<u>-</u>	<u>8,589,972.74</u>
Capital assets being depreciated:					
Buildings	107,033,455.33	1,066,009.81		24,224.23	108,075,240.91
Equipment	59,445,253.89	1,777,822.40		3,338,748.14	57,884,328.15
Land improvements	75,098,719.47	538,855.24		83,705.65	75,553,869.06
Infrastructure	133,028,891.07	432,461.96		-	133,461,353.03
	<u>374,606,319.76</u>	<u>3,815,149.41</u>		<u>3,446,678.02</u>	<u>374,974,791.15</u>
Amortizable assets					
Intangible assets	2,851,230.24	600,005.96		368,657.47	3,082,578.73
Total amortizable assets	<u>2,851,230.24</u>	<u>600,005.96</u>		<u>368,657.47</u>	<u>3,082,578.73</u>
Total capital assets	<u>386,668,634.92</u>	<u>5,727,168.49</u>	<u>1,933,125.30</u>	<u>3,815,335.49</u>	<u>386,647,342.62</u>

Business-type Activities:

	Balance June 30, 2022	Additions	Conversions	Deletions	Balance June 30, 2023
Capital assets not being depreciated:					
Land	12,472.69	123,372.00			135,844.69
Construction in progress	2,911,566.14	1,019,602.96	3,401,835.05		529,334.05
	<u>2,924,038.83</u>	<u>1,142,974.96</u>	<u>3,401,835.05</u>	<u>-</u>	<u>665,178.74</u>
Capital assets being depreciated:					
Buildings	28,445,489.15	106,300.24		233,534.39	28,318,255.00
Equipment	45,494,194.88	2,697,039.53		1,862,799.32	46,328,435.09
Land improvements	2,341,196.73			24,843.28	2,316,353.45
Infrastructure	90,207,451.38	2,897,893.01			93,105,344.39
	<u>166,488,332.14</u>	<u>5,701,232.78</u>	<u>-</u>	<u>2,121,176.99</u>	<u>170,068,387.93</u>
Amortizable assets					
Intangible assets	<u>5,000.00</u>				<u>5,000.00</u>
Total amortizable assets	<u>5,000.00</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>5,000.00</u>
Total capital assets	<u>169,417,370.97</u>	<u>6,844,207.74</u>	<u>3,401,835.05</u>	<u>2,121,176.99</u>	<u>170,738,566.67</u>



ACTION ITEMS



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: December 4, 2023

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

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: November 27, 2023
SUBMITTED BY: Kevin Robinson – Planning Department

Summary: Stuard Homes LLC has requested a Development Agreement concerning the development of single-family housing units located within the municipal boundaries. The developer proposes to produce market rate single-family units and is requesting infrastructure incentives of \$100,000.00.

Fiscal Impact:

Reviewed By: _____

Finance Department

Budget Available \$311,381.00

Single Family Housing #010100-44901-170

Attachments: Developers Request and Development Agreement.

Legal Review:

Approved As To Form:

Valerie S.
Chacon

City Attorney

Recommendation:

Commission considers approval / denial of the attached Development Agreement.

Approved For Submittal By:


Department Director


City Manager

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

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

CITY OF HOBBS

RESOLUTION NO. 7428

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

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

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

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

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

PASSED, ADOPTED AND APPROVED this 4th day of December, 2023.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

MARKET RATE SINGLE FAMILY DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into on this 4th day of December 2023 by and between the City Of Hobbs, New Mexico, a municipal corporation (hereinafter "City"); and **Stuard Homes LLC, 4915 W. Steel Driver Rd., Hobbs, NM 88240**, (hereinafter "Developer") for the purpose of delivering Housing Developer Services to be provided to the City.

RECITALS:

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

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

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

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

A. Work To Be Performed.

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

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

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

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

- a. Incentive not to exceed per square footage basis:
 - i. \$5.00 per sq. ft. north of Sanger
 - ii. \$10.00 per sq. ft. south of Sanger
 - iii. Calculation based on living area only
- b. Incentive not to exceed per unit basis:
 - i. \$5,000.00 per single family unit
 - ii. \$2,500.00 per multi-family unit
- c. Incentive not to exceed fair share per linear foot of infrastructure basis:
 - i. \$90.00 per lineal front footage of complete public infrastructure, and further broken down as follows:
 1. **Water** (\$12.50 / lf):

- a. Twelve dollars fifty cents (\$12.50) per equivalent front foot of lot to which water service is provided (8" minimum service single family & 10" minimum service for multi-family);
2. **Sewer** (\$17.50 / lf):
 - a. Seventeen dollars fifty cents (\$17.50) per equivalent front foot of lot to which sewer service is provided (8" minimum service single family & 10" minimum service for multi-family);
3. **Street** (\$45/ lf):
 - a. Forty five dollars (\$45) per equivalent front foot of lot to which street is provided (built to Minor Residential standards as promulgated within the City of Hobbs Major Thoroughfare Plan);
4. **Sidewalk**:
 - a. Fifteen (\$15) per equivalent front foot of lot to which sidewalk (includes driveway with ADA accessible path) is provided;

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

B. Payment For Services.

- 1) The City shall pay for said services at the rates agreed to and as specified above in the Infrastructure details, as shown herein. Payment will not be made by the City for any unit until a certificate of occupancy is issued, based on this Agreement.
- 2) The total compensation to be paid to the Developer during the term of this Agreement shall not exceed One Hundred Thousand Dollars (\$100,000.00), unless the Agreement is amended by the City Commission.
- 3) City subsidy shall be paid when each individual single family unit is complete and certificate of occupancy is issued, provided the certificate of occupancy for the unit is issued after ratification of this agreement. Payment will be made within fifteen (15) days following a written request from the Developer and upon City inspection of project completion.
- 4) Produced Units receiving an infrastructure incentive reimbursement shall not now or in the future be utilized in a pecuniary manner by renting, leasing, exchanging or bartering habitation privileges to the property for a period of no less than 30 days at a time. Such usage either now or in the future, for a period not to exceed 10 years from date of issuance of a C.O., shall require

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

C. Construction Requirements.

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

D. Assignment of Agreement.

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

E. Insurance Requirements and Hold Harmless Provision.

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

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

F. Governing Law and Provisions.

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

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

G. Final Payment and Release of Claims.

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

H. Amendments.

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

I. Breach.

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

J. Remedies Upon Breach.

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

K. Termination.

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

L. Notice.

All notices given pursuant to or in connection with this Agreement shall be made in writing and

posted by regular mail, postage prepaid, to the City, ATTN: City Attorney, 200 E. Broadway, Hobbs, NM 88240; to Developer ATTN and **Stuard Homes LLC, 4915 W. Steel Driver Rd., Hobbs, NM 88240** and to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

M. Entire Agreement.

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

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

City of Hobbs

Developer

By: Sam D. Cobb, Mayor

By:

ATTEST:

APPROVED AS TO FORM:

JAN FLETCHER, City Clerk

Valerie Chacon, City Attorney



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: December 4th, 2023

SUBJECT: Local Government Road Fund (LGRF) Cooperative Agreement Amendment No. 1

DEPT. OF ORIGIN: Engineering Department
DATE SUBMITTED: November 28th, 2023
SUBMITTED BY: Todd Randall, City Engineer

Summary:

A grant application for LGRF was submitted on March 15th, 2022. The City received the executed grant in September of 2022 for \$266,667 Project total (\$200,000 NMDOT / \$66,667 City Match) for planning, design, construction, reconstruction, drainage improvements, pavement, rehabilitation/improvements, blading, and shaping, conduits, traffic signal improvements, concrete and miscellaneous improvements. The intersection locations for scope of work include Marland Blvd. /Clinton St. and Bender Blvd. /Brazos Ave.

The grant agreement will expire on December 31, 2023 and attached is a resolution for Amendment No. 1 to the grant agreement to extend the termination to December 31, 2024. Design is complete and the City Commission approved the equipment purchase on August 21, 2023. Delivery is not anticipated to be received until the second quarter of 2024.

Fiscal Impact:

Reviewed By:

Digitally signed by Toby Spears, CFE, CPA
DN: cn=Toby Spears, CFE, CPA, o=City of Hobbs, ou=Finance
Director, email=tspears@hobbsnm.org, c=US
Date: 2023.11.28 14:55:38 -0700

Finance Department

Grant Amount: \$266,667
Local Match: \$66,667
State Match: \$200,000
Budget Line: 48-4048-44901-00284
Budget Amnt: \$586,862.82

Note: Staff is working with Hobbs Municipal Schools for capital contribution towards the project

Attachments:

Resolution, Grant Agreement

Legal Review:

Approved As To Form:

Digitally signed by Valerie S. Chacon
DN: cn=Valerie S. Chacon, o=City of Hobbs, ou=City Attorney
Director, email=vchacon@hobbsnm.org, c=US
Date: 2023.11.28 15:04:00 -0700
Valerie S. Chacon
City Attorney

Recommendation:

Consider and approve the Resolution for the Mayor to execute resolution and grant amendment

Approved For Submittal By:

TODD RANDALL

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. 7429

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
GRANT AGREEMENT AMENDMENT No. 1 WITH THE STATE
OF NEW MEXICO DEPARTMENT OF TRANSPORTATION
FOR CN: L200567

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is, authorized and directed to execute on behalf of the City of Hobbs a grant agreement amendment no. 1 with the State of New Mexico Department of Transportation for Control No. L200567; in the amount of \$266,667 (75%/25% share) and any certification or supporting documentation for the implementation of the grant agreement requirements. The scope of the work includes Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage, Misc. Improvements and Traffic Signal Construction at the intersection of Marland Blvd. and Clinton St. and Bender Blvd. and Brazos Ave. The Grant Amendment No. 1 revises expiration of grant to December 31, 2024. A copy of the Grant Amendment No. 1 is attached hereto and made a part hereof by reference.

PASSED, ADOPTED AND APPROVED this 4th day of December, 2023.

SAM D COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Contract No.	<u>D19480</u>
Vendor No.	<u>54339</u>
Project No.	<u></u>
Control No.	<u>L200567</u>

**FIRST AMENDMENT TO
LOCAL GOVERNMENT ROAD FUND
COOPERATIVE AGREEMENT**

This **First Amendment** is to the Agreement entered into between the New Mexico Department of Transportation (Department) and the City of Hobbs (Public Entity). This Amendment is effective as of the date of the last party to sign on the signature page.

RECITALS

Whereas, the Department and the Public Entity entered into an Agreement, Contact No. D19480 on 09/17/2022 and,

Whereas Section 19 allows for modification of the Agreement by an instrument in writing executed by the parties; and,

Whereas the Department and the Public Entity want to extend the term of the Agreement to allow for Project completion; and,

Whereas the parties agree to modify this Agreement.

Now, therefore, the Department and the Public Entity agree as follows:

1. Section 6, Term, is deleted and replaced with the following.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on December 31, 2024. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

The remainder of this page is intentionally left blank.

In Witness Whereof, each party is signing this Agreement on the date stated opposite that party's signature.

New Mexico Department of Transportation

By: _____
Cabinet Secretary or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

City of Hobbs

By: _____

Date: _____

Name: _____

Title: _____

ATTEST:

By: _____
City of Hobbs Clerk

Date: _____

Form No. A-110
Rev. 02/13



Intra-Departmental Correspondence

Date: 11/28/2023
TO: Louis Matta – Clarissa Martinez
From: Libby Coslin, LGRF Coordinator
Subject: City of Hobbs

The City of Hobbs has forwarded a request for time extension on **L200567**; the reasons are very reasonable. (See attached). I have the time extension amendment and request filled out.

Mr. Matta: I would like your permission to proceed with this extension.

Respectfully,

Libby Coslin

Libby Coslin

Concurrence

DocuSigned by:

B441F2D42E6B408...

Louis Matta P.E.
ADE Design Oversight
District 2



ENGINEERING DEPARTMENT

200 E. Broadway
Hobbs, NM 88240

575-397-9232 bus
575-397-9227 fax

November 27th, 2023

NMDOT – District Two
Libby Coslin, T/LPA Coordinator
P.O Box 1457
Roswell, NM 88201

Emailed: Libby.Coslin2@dot.nm.gov

**RE: Local Government Road Fund Cooperative Agreement – Amendment No. 1
Project Control No. L200567**

Dear Libby Coslin:

The City of Hobbs desires to request a grant amendment for a time extension of one year, which would change the termination date from Dec. 31, 2023 to Dec. 31, 2024. The Scope of Work will remain the same and project has been delayed due delays in material delivery for the traffic signal equipment.

- Design 100% complete
 - \$38,967.20 expended to Lee Engineering
- Equipment Purchase
 - \$182,831.79 purchase order issued 8-21-2023 to Iteris, Inc. by City of Hobbs
 - Vendor expressed there would be delays in receiving equipment
 - Estimated Delivery is second quarter of 2024
- Equipment installation is anticipated to be approximately \$200,000

The City allocated additional funding for the increased costs above the required City Match to ensure the project is completed and currently obtaining quotes to have preliminary construction work start prior to delivery of equipment. A draft resolution is attached for review and the City Commission will be taking action on December 4th.

The City of Hobbs is committed to ensure this project is completed within the requested time extension. Thank you in advance for your assistance. If you have any questions, don't hesitate to contact me at 575-397-9237 bus or 575-318-4205 cell.

Sincerely,
THE CITY OF HOBBS

A blue ink signature of Todd Randall, written in a cursive style.

Todd Randall, PE
Engineering Dept
trandall@hobbsnm.org

RECEIVED

By Libby Coslin at 2:45 pm, Nov 28, 2023

Attach: Draft Resolution
xc: Manny Gomez, City Manager

Contract No.	<u>D19480</u>
Vendor No.	<u>54339</u>
Control No.	<u>L200567</u>

LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and City of Hobbs (Public Entity), collectively referred as the “parties.” This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the planning, design, construction, reconstruction, drainage improvements, pavement rehabilitation/improvements, blading, shaping, conduits, traffic signal improvements, concrete, and miscellaneous, as described in Control No. L200567, and the Public Entity’s resolution attached as **Exhibit C** (Project). The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. For purpose stated above, the estimated total cost for the Project is Two hundred sixty six thousand six hundred sixty seven dollars (**\$266,667.00**) to be funded in proportional share by the parties as follows:

1. Department’s share shall be 75%: \$200,000

planning, design, construction, reconstruction, drainage improvements, pavement rehabilitation/improvements, blading, shaping, conduits, traffic signal improvements, concrete, and miscellaneous

2. Public Entity’s required proportional matching share shall be 25%: 66,667

3. Total Project Cost: 266,667

- b. The Public Entity shall pay all Project costs, which exceed the total amount of Two hundred sixty six thousand six hundred sixty seven dollars (**\$266,667.00**).

- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a cover letter requesting funds;
- b. Receipt of a Notice of Award and Notice to Proceed;
- c. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2; and
- d. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) calendar days of execution of this Agreement, or as otherwise agreed to in writing by the parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- f. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for providing local matching funds; environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
- j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
- k. Within thirty (30) calendar days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund

projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.

- l. Within thirty (30) calendar days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost** form.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) calendar days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
- e. The provisions of the Local Government Road Fund Project Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on December 31, 2023. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) calendar days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.

- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public 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.

9. Liability.

As between the Department and Public Entity, 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, NMSA 1978, Sections 41-4-1, *et seq.*, and any other applicable law.

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates all 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 agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless included in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) calendar days of written notification.

17. Severability.

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

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: Justin Reese Date: 9/17/2022
7985F2DB5F72463...
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

DocuSigned by:
By: [Signature] Date: 9/16/2022
3B493BB37F8C44A...
Assistant General Counsel

Mayor – City of Hobbs

By: [Signature] Date: 6-21-22

Title: Mayor, City of Hobbs

Attest: [Signature], deputy City Clerk
for Jan Fletcher, City Clerk



EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____ state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Local Government Road Fund Project Handbook (Current Edition);
2. Construction of the project was performed in accordance with standards and specifications set forth in:

_____ and completed on _____, 20____; and
3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name

Date

Print Name

Title

ENTITY: _____ No.: _____ CN: _____

PROJECT No.: _____

TERMINI: _____

SCOPE OF
WORK:

[illegible]

CITY OF HOBBS


RESOLUTION NO. 7216

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
GRANT AGREEMENT WITH THE STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION FOR CN: L200567

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is, authorized and directed to execute on behalf of the City of Hobbs a grant agreement with the State of New Mexico Department of Transportation for Control No. L200567; in the amount of **\$266,667 (75%/25% share)** and any certification or supporting documentation for the implementation of the grant agreement requirements. The scope of the work includes Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage, Misc. Improvements and Traffic Signal Construction at the intersection of Marland Blvd. and Clinton St. and Bender Blvd. and Brazos Ave. With an expiration of 12/31/2023 A copy of the grant agreement is attached hereto


and made a part hereof by reference.

PASSED, ADOPTED AND APPROVED this 21st day of June, 2022.



SAM D COBB, Mayor

ATTEST:



for JAN FLETCHER, City Clerk

