CITY COUNCIL
AGENDA

Mayor
Eric Enriquez

Mayor Pro Tem
John Munoz

Councilors
Cassie McClure
William Mattiace
Michael Harris
Johana Bencomo
Becky Corran

Monday, March 16, 2026 at 1:00 PM

Council Chambers

CITY OF LAS CRUCES

CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

700 N. Main St.
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CONSENT AGENDA

Minutes and Items on the Consent Agenda Are Considered Routine Items and Will Be Voted on with One Motion Unless a Councilor Requests That a Specific Item Be Removed. There Will Be No Discussion.

Page

1. OPENING CEREMONIES

1.1. Pledge of Allegiance - Councilor Corran.

1.2. Presentation of Certificates of Appreciation/Proclamations - Councilor Corran.

1.3. Departmental Highlights.

1.4. Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

3. PUBLIC PARTICIPATION

4. ACCEPTANCE OF AGENDA

5. CITY COUNCIL MINUTES

5.1. Work Session of February 9, 2026. 5 - 14
Work Session - Feb 09 2026 - Minutes - Pdf

5.2. Regular City Council Meeting of February 17, 2026. 15 - 44

City Council - Feb 17 2026 - Minutes - Pdf

6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

6.1. RESOLUTION NO. 26-111: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO PURCHASE A BRASSTRAX ACQUISITION STATION AND PAG 800 STEREO ZOOM MICROSCOPE FROM LEADSONLINE, OF PLANO, TEXAS FOR $269,189.26, PLUS APPLICABLE TAXES (PROCUREMENT NO. 25-26-091). 45 - 58

This resolution will authorize a one time purchase of a BrassTrax acquisition station and PAG 800 stereo zoom microscope to capture 2D and 3D images of cartridges and comparison of unique markings in the National Integrated Ballistic Information Network and Integrated Ballistic Identification System.

Resolution No. 26-111 - Pdf

6.2. RESOLUTION NO. 26-112: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET. 59 - 119

This resolution will approve three grants: to reduce the backlog of warrants; to plan, design, construct, equip, and furnish Sage Cafe; and to purchase and equip vehicles for Munson Senior Center.

Resolution No. 26-112 - Pdf

6.3. RESOLUTION NO. 26-113: A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM. 120 - 133

This resolution will approve adding the projects to the CIP from the grant agreements for Sage Cafe and Munson Center vehicles as noted in the previous resolution.

Resolution No. 26-113 - Pdf

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

7.1. RESOLUTION NO. 26-114: A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE EL PASEO AND SOUTH SOLANO METROPOLITAN REDEVELOPMENT AREA. 134 - 140

This resolution will approve a gross receipts tax (GRT) baseline for GRT increment financing in the El Paseo/South Solano MRA.

Resolution No. 26-114 - Pdf

7.2. RESOLUTION NO. 26-115: A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE WEST PICACHO AND MOTEL BOULEVARD METROPOLITAN REDEVELOPMENT AREA. 141 - 147

This resolution will approve a gross receipts tax (GRT) baseline for GRT

increment financing in the West Picacho/Motel Blvd MRA.
Resolution No. 26-115 - Pdf

7.3. RESOLUTION NO. 26-116: A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE APODACA AND LIFT UP METROPOLITAN REDEVELOPMENT AREA. 148 - 154

This resolution will approve a gross receipts tax (GRT) baseline for GRT increment financing in the Apodaca and Lift Up MRA.
Resolution No. 26-116 - Pdf

7.4. RESOLUTION NO. 26-117: A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE EAST OF SOLANO NEIGHBORHOOD METROPOLITAN REDEVELOPMENT AREA. 155 - 161

This resolution will approve a gross receipts tax (GRT) baseline for GRT increment financing in the East Solano MRA.
Resolution No. 26-117 - Pdf

7.5. RESOLUTION NO. 26-118: A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE MESQUITE METROPOLITAN REDEVELOPMENT AREA. 162 - 168

This resolution will approve a gross receipts tax (GRT) baseline for GRT increment financing in the Mesquite MRA.
Resolution No. 26-118 - Pdf

7.6. RESOLUTION NO. 26-119: A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE AMADOR PROXIMO AND SOUTH METROPOLITAN REDEVELOPMENT AREA. 169 - 175

This resolution will approve a gross receipts tax (GRT) baseline for GRT increment financing in the Amador Proximo and South MRA.
Resolution No. 26-119 - Pdf

8. BOARD APPOINTMENTS

9. NOTICE OF PROPOSED ORDINANCE(S)

1) There will be no public discussion.
2) A Councilor may ask staff for clarification on the proposed ordinance(s).

9.1. COUNCIL BILL NO. 26-017; ORDINANCE NO. 3109: AN ORDINANCE AMENDING CHAPTER 24, PROCUREMENT CODE, OF THE LAS CRUCES MUNICIPAL CODE. 176 - 277

This ordinance will amend the procurement code related to direct contact of city council and city staff during the bid/proposal process.
Ordinance No. 3109 - Pdf

9.2. COUNCIL BILL NO. 26-018; ORDINANCE NO. 3110: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS 278 - 309

CRUCES, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2026 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $22,150,000 FOR THE PURPOSE OF (1) CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING, MAKING ADDITIONS TO OR MAKING IMPROVEMENTS TO PUBLIC FACILITIES; (2) CONSTRUCTING, RECONSTRUCTING, RESURFACING, MAINTAINING, REPAIRING OR OTHERWISE IMPROVING STREETS OR ROADWAYS AND CONSTRUCTING DRAINAGE IMPROVEMENTS; (3) ACQUIRING AND EQUIPPING PUBLIC SAFETY VEHICLES; (4) FUNDING THE RESERVE FUND FOR THE SERIES 2026 BONDS; AND (5) PAYING THE EXPENSES RELATED TO THE ISSUANCE OF THE SERIES 2026 BONDS; PROVIDING THAT THE SERIES 2026 BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE REVENUES DERIVED FROM (1) A FIRST LIEN, BUT NOT AN EXCLUSIVE FIRST LIEN, ON THE 0.3250% MUNICIPAL GROSS RECEIPTS TAX IMPOSED PURSUANT TO ORDINANCE NO. 3072 AND (2) A SUBORDINATE LIEN, BUT NOT AN EXCLUSIVE SUBORDINATE LIEN, ON THE 0.50% MUNICIPAL GROSS RECEIPTS TAX REVENUES IMPOSED PURSUANT TO ORDINANCE NOS. 385 AND 427; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE AND BOND PURCHASE AGREEMENT FOR THE SALE OF THE SERIES 2026 BONDS TO THE PURCHASER.

This ordinance will authorize the execution and delivery of the GRT Improvement Revenue Bonds between the City and NMFA in an amount not to exceed $22.15 million. The purpose of financing capital improvements and maintenance of public safety, streets, parks, and other public facilities and critical infrastructure.

Ordinance No. 3110 - Pdf

10. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11. CITY MANAGER REPORT

12. ADJOURNMENT

MINUTES
Work Session
Monday, February 9, 2026 @ 1:00 PM
City Council Chambers, City Hall

PRESENT: City Councilor Johana Bencomo, City Councilor Becky Corran, Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor John Munoz, and City Councilor Michael Harris

ABSENT: City Councilor William Mattiace

1. ALLOW REMOTE PARTICIPATION

1.1

City Councilor Becky Corran moved, seconded by City Councilor Michael Harris, to allow Councilor Bencomo to attend the meeting via Zoom.

RESULT:	**Carried**
MOVER:	City Councilor Becky Corran
SECONDER:	City Councilor Michael Harris
AYES:	City Councilor Johana Bencomo, City Councilor Becky Corran, Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor John Munoz, and City Councilor Michael Harris
ABSENT:	City Councilor William Mattiace

2. JOBS OF THE WEEK

2.1

Sarah Raney, America's Job Centers presented the Jobs of the Week.

3. PETS OF THE WEEK

3.1

None.

4. AGENDA ITEM

4.1 PROPOSED GRT PRIORITY PROJECTS.

Chris Faivre, Community Development Director gave an overhead presentation.

Councilor McClure said I know at the budget retreat we talked a little bit about traffic calming and I felt like there were a couple of places where that might go if that is in new projects under road reconstruction or under streets maintenance but I think all of us kind of spoke to the need for traffic calming and where we can kind of enable that with either new funding. I think the muni court is important. I think parks design is important, and I also think closing out some of the current CIP things where we have projects where we can kind of do quickly kind of goes a long way with what I was saying at the budget retreat.

Councilor Harris said I would also like to make sure that we get something for parks on it. I think that was in the language of the measure to approve the GRT, and I'm also in favor of closing CIP gaps and also wanted to remind about traffic calming because that's a big important thing to me as well. And actually I guess if you could maybe remind us all and members of the public kind of what the language was when we approved this GRT increase.

Chris Faivre said I believe it was funds dedicated to capital improvements specific to parks, street improvements, public safety and other public facilities as well. So it was new capital and maintenance that kind of covered that broad range, not exactly the language but those were the major milestones within the verbiage.

Councilor Harris said I just want to make sure we're hitting all of those things, parks, public safety, street improvements, since that's what we asked people for that's what we said we'd get.

Councilor Corran said I also want to speak to the Bruins/Motel Road. I know that rec centers were a large overwhelmingly supported component of the public input sessions that we did as well as our commitment to focusing on things with youth. So for me, I really want to speak to the Bruins/Motel specific road improvements as they gesture toward the future of a rec center or significant park build up in that area, which I think is historically underserved with parks and recreation opportunities. I would also add the Engler extension I think is somewhat specific to my district but also a huge kind of demand and corresponding investment that the New Mexico Department of Transportation will be making related to the Engler interchange is supposed to start in 2027, and people in my district the single biggest thing aside from neighborhood traffic calming, which I would also say is the thing that folks are looking for the increasing danger of having a large population that has only one ingress and egress, and I think I've heard this from the fire department as well and they're thinking about the East Mesa specifically. So I just wanted to speak to that Engler gesture toward a large project that I think we should be investing in that we can magnify the money related to that. Other than that, I echo what a lot of my colleagues say but I do want to elevate rec centers as the thing that many, many people in the public mentioned and I think the Bruins and Motel Road improvements is where that appears in this new funding so I hope we can consider that public input.

Councilor Bencomo said are you asking for further guidance at this point because I can also share some thoughts. I just wanted to clarify what the ask if right now.

Chris Faivre said we're looking for further direction. If you have other items you would like to discuss as well, by all means. These were just recommendations based on some of the information we've pulled together during this process.

Councilor Bencomo said I've really appreciated that staff has taken from the budget retreat being open to the 60/40 switch for maintenance and existing infrastructure versus new infrastructure. I think from what I see certainly in the city I've said this before that there's a clear infrastructure emergency and so that needs to really be taken seriously and so I think I want to make sure that municipal court is on that list, that our road conditions are on that list, and that we're addressing the issues in parks and to me that's really critical and so I think the other part when we went to the public and said public safety. I also think that means traffic calming. We've seen the number of pedestrian accidents where our people have been injured or at least killed and so to me that also means public safety. Public safety also means our fire houses and I think those are really important pieces for us to continue to highlight. When it comes to some of the new infrastructure, for me it was very clear that actually back in the 60% of maintenance, the library obviously. That is a very clear ask from the community. In terms of new infrastructure, as Councilor Corran said, recreational centers were a really big ask and that was a very popular ask for our constituents, especially our constituents who don't have access to as many parks in their communities as potentially other neighborhoods in the city do. So yes, I'm going to continue to advocate for rec center on the west part of town and to make sure that moves forward. I think what I'm about to say now might be a little controversial and again I want to caveat that. I also want to note that the public safety building/complex that only one councilor during the budget session had that on their priority list and now I mean I know that if you ask for the consensus today you could potentially get a majority support for that but I did want to note that because I noticed that only one councilor had that on their list and obviously this is very much a staff priority but it was also not a priority largely by the public when we went out to the public and asked them to name their support systems. And then the last thing I'll say is that I think we want to make sure that whatever we can do to ensure our water, our utilities infrastructure, is taken care of. To me that is all very important. So I don't know if that's any more guidance. I just wanted to note that and I think if you say well, public safety we have to address something and we are. Like the racetrack. That has been clearly an urgent request that has been made and we have been making it to a legislator and we're making it through this process and that to me felt like the most clear. It has a plan. It's needed now. That can move forward and to me the public safety complex was just not there and again, I'm just one voice though naming that during the budget retreat that was not something highlighted by most folks. And thank you, Chris, and the whole staff for getting us here.

Councilor Munoz said I'm glad that the Engler Road extension is on there. I'm very close to Councilor Corran's district and so I travel out and about and we need some help there. Also happy to see the parks projects, road construction, road calming, and road repair on the list as well. For Chief Daniels and Chief Story, I know we talked about design along with training track for the joint public safety training facility. One thought that I do have in mind is could we, if it makes sense overall, and I would like my colleagues to weigh in as well, would it make sense to build now? And rather than design and take that further down years, does it make sense just to have a building now that is a training facility that would make sense to get to fruition sooner rather than later and probably save us some money in the long term. And Chris, you can weigh in as well if you want to but I really want to talk to the subject matter experts.

Chief Jeremy Story said I think that's a very good point. We have been dealing with a dilapidated doublewide for a long, long time. We're used to kind of begging and borrowing anything we can to accomplish training for so long that what we really want is a place to actually do the training. It doesn't have to be fancy. We don't need a Taj Mahal. It doesn't have to be bougie. We just want to get the training done. So, Chief Daniels and I were actually talking about this last weekend trying to find a way to take $3 million for design, which is a lot of money just for design. I admit that. I'd rather put that money into getting something that achieves a purpose now like a metal building, a modular building or prefabricated metal building that does what we need to do without all the bells and whistles, and I think I'll let Chief Daniels speak to it but fire has been leasing for a lot of money for a few years is essentially a metal building. And it's important the training building is not just meant to be a training building. It's meant to accomplish logistics piece especially for fire that they are using the other building for right now. So I would support that. I think that's a really good idea.

Chief Michael Daniels said I just wanted to echo Chief Story. I think naturally what we've seen and what we're learning with even our regular facilities, the cost of construction doesn't get any less and it seems to increase quite rapidly. Just the difference between Station 3 and Station 9 a few years apart, is in the millions in construction increases for a station that's not much bigger. So I think the more we continue to push it down, one we're continuing to invest $18,000 a month in a facility that we don't own that's our lease amount, which is up in July for renewal but we've been in the same boat. We've been picked out of some facilities that have other plans and we've been forced to lease buildings over the years. The first one was significantly smaller but still quite expensive and then we moved to Valley Drive as we were growing and our facility needs were growing and our fleet wasn't able to work on our vehicles in their facility so we look at it as very much not just police and fire but it is also solving a fleet problem and I agree that there is a mechanism that we can look at some fabricated buildings and maybe reduce the cost and get something functional, understanding that we may be able to add on the design side. Once we get it designed, it positions us well for being able to request capital outlay because we continue to be told shovel ready projects. So this may also be augmented by our ability to get legislative appropriations.

Councilor Munoz said so it sounds like it's doable since you're leasing the building now rather than the city owning it. Chris, Lesley, from your perspective, is that doable?

Chris Faivre said if one of the recommendations is for funding to go to that, we can certainly include that on the list here. We did discuss it as design specifically before but if there's conversations to do something different, staff direction would be all we would really need.

Mayor Enriquez said again something that I wanted to share was a thank you to the voters who voted for the GRT increase. It may seem like a list that seems picking and choosing can be problematic at times, difficult, but the truth of the matter is we have added value. We can add value to our community and that is something that speaks volumes, and again I thank the voters that said yes to this increase. It's not so much the projects; it's the value. I know there's bottlenecks at Engler and if we get a new rec there's going to be bottlenecks. I understand the traffic calming, so all those things need to take place. The library has been long overdue for being rehabilitated, fire station 1. But the training facility that to me has been something that was talked about back in 2007 that was going to get done, giving us as fire fighters and police officers there was this hope that someday we will get that training facility and here we are 2026 still talking about it. I think this is a great opportunity. As both chiefs have said, we get kicked around. We get moved around. Chief Story, I think we did our defensive tactics at Sisbarro's in a vacant building that they had available. So the fire department had Tea Time. We were booted out of that so that it could be sold. We still have that so I think it's very important that we look at this public safety training facility. However, we can get it started so that we can start looking at external funding, whether it's federal dollars, state dollars, any way that we can get some funding, some grants, anything that we can get to start building on once we get it started. All those other things I say they are priorities, they are important. That would be my priority and again to add value to our community.

Councilor Harris said I also really like the thought of maybe down scoping the training facility. I think the training facility itself is very important. Coming out of our budget retreat, it sounds like it's going to help a lot more departments than just the police department. They need the track urgently. Like the chiefs are saying, they need space and instead of spending $3 million to do a design and then waiting another couple of years to put together tens of millions of dollars to actually build some super fancy thing. And if you can throw a million bucks at it and get a giant steel building that's roughly equivalent to a little better than what they've got now, that sounds like excellent value for the money if that's something that would help on that one. So I guess I was just penciling things out here. I'm kind of seeing consensus on Bruins improvements because of the rec center, parks. Engler Road, I had a question about that. How much does a million bucks actually get us on that project?

Chris Faivre said I don't know specifically. I think it was more to show commitment from the city and try and advocate for funds for that project from the state level so if it was something that council wanted to put money towards and it didn't pan out, maybe we could redirect those funds. I think it was to kind of show them it is a high priority for the city.

Councilor Harris said so there's no concrete ask we're just saying we're willing to budget a million bucks of this towards this project and to match whatever. With those things and filling gaps in other CIP projects, which we're all for pushing things over the finish line. That is about eight million bucks. To that end, we're talking about traffic calming, those kind of projects probably would fit under maintenance or maintaining streets and traffic calming measures.

Chris Faivre said correct.

Councilor Corran said I just want to go back to the public safety training facility. I hear the idea of getting things done but I think on our CIP this has been somewhere between $40 and $60 million in its ultimate cost in the original draft of what this looked like. That's about the area, and I think the 20 was 2007 prices so I think the last I saw was somewhere in the realm of $40 to $60 million. And while I think thinking about it differently would be welcome, I think we should neither short it in a way that makes it not as useful as it's meant to be so for me the fact that we're not sure what exactly we need and what role that's filling sort of speaks to the need to have a robust planning component to it because I wouldn't want us to say oh can you get something for $3 million. I know we can't. That is not going to fill what the projected needs are that you're alluding to so I think generally what seemed to come out was a question of this seemed like a lot of money for planning, which is an abstract idea, but I do think that planning things is something that is best done thoughtfully and with a lot of input and communication in terms of it's not something that I think we could adequately do so I just want to sort of speak to when I look at this and I think about a $60 million project, I think we need to invest in planning and making sure we're serving the needs we say we were going to serve. My sense is it is north of $1 million and south of $60 million but we're not really sure what this will look like. From my perspective having seen this and seeing it on the CIP is about $40 million. I think I really would like to know more concretely what we're really talking about building and where there is room to change or do something different.

Councilor McClure said just to clarify a little bit on the public safety. Would this be on land we own? I keep getting confused about the driving track and the public safety building. Those are kind of adjacent to each other, am I correct about that? And then we would own that land and currently the training facility for fire we don't own? Is that right? So I would say scaling down would be a good one because we're already losing money by leasing so if we can put it on land we already own makes more sense to me.

Councilor Munoz said I think these are all valid points and my suggestion is not to short change the departments. I definitely believe that you should get what you deserve and what works well, right? If this is a start and we can start with a good strong solid foundation and a shell and it's still workable, then definitely I have consensus and I agree this is the route that we should take. So if it's land that we own and it's something that we can start with or even a shell with the knowledge that maybe we might need to upgrade in the future, I think it makes sense to go ahead and start that up now. So that would be my thought.

Mayor Enriquez said for some clarity on the land and what's already there, fire station 7 already has the training tower or things like that. Chief Story, do you have anything else to add on that?

Chief Story said the lot that's identified for the driving track would be the same lot that we would intend to put the training building on and that's just south of where fire station 7 and the training tower are so it's very convenient for both fire and us to have a training building out there. And just on the concept of the metal building, it definitely would be more than $3 million to Councilor Corran's point and it should definitely be less than what we're talking about with the traditional brick and mortar at $30 million plus. I think the goal would be if we could do it for $8 million or $10 million instead of $30 million that's a win for everybody, it could probably be done faster. One of the other reasons we're asking for the training building, and this is prior to 2007 that we've also been working on this I was talking to one of the retired lieutenants this week and he said I was working on that project since 2006. So it's been a long time coming. We are bursting at the seams of a station. A new station if we're trying to tackle that project is $60 to $80 million or maybe more. If we're able to build this facility where we can move our academy over there, that would free up space at the East Mesa station, which maybe buy us a couple of more years so we don't exceed the growth. We're just bursting at the seams already but that would relieve some of the pressure. And the metal building also can be expanded. So one of the things is we can get the bare, make it nice, make it useable but we're not trying to cut the corners. We want to be able to do the training but you can always add on to the metal building, which is a benefit to the future for other things that are needed but maybe not the things we need right this second. Hope that helps.

Mayor Enriquez asked Chief Daniels, what is the cost right now for the leasing of the facility on Valley Drive?

Chief Daniels said the current is $18,000 a month is what we're paying plus utilities.

Mayor Enriquez asked and is that scheduled to increase or is there tier rental?

Chief Daniels said we are getting ready to start having those conversations with the owner because the lease expires in six months. So we're in the process of getting that renegotiated. We would expect that it's going to increase though.

Councilor Harris said I wanted to clarify my position is basically exactly what Chief Story was saying. I am looking for an iterative approach to this project that gets us something now and then in the future we can add on to it to get us new things rather than saying we're going to spend $60 million on this great gleaming facility and it will be ready in 10 years. And in the meantime, we're stuck with what we've got. So, it sounds like the departments have a good idea of what they need right this second and direction on where they might upgrade in the future. So obviously building those into the plans seems very prudent. If we're going to get a metal building, we design it and put it on the land in such a way that it can be added onto later and get classrooms or put in plumbing fixtures and things where they can be added. So I just wanted to clarify that.

Councilor Munoz said on the parks projects, one of the themes or comments that I had at the budget retreat, and I know the team is doing a great job and I just want you to continue doing that, of making sure that those parks are accessible especially to our ADA residents. Roughly 9.8 to 11% of our kids in Las Cruces are ADA and would love to see more kids in the park regardless of their abilities and also grandparents and great grandparents that are able to traverse through parks would be my hope.

Steve Bingham, Parks and Rec Director said yes, every design we do, everything we look at complies with ADA law and accessibility and if anything we look to go to go above and beyond to make it accessible to all individuals.

Councilor Munoz said Chris mentioned wanting consensus. Is it a simple consensus? It's a work session so we don't necessarily vote on this so with the context that the councilors have provided and the staff goes forward and starts this up.

Chris Faivre said we can wrap up conversation on these new projects but I thought maybe we go back to the beginning and just make sure we're good on pay as you go recommendations, then the 60% and then we can kind of lock in final direction on the 40. So if you don't mind I'll take you guys back to pay as you go. If we're all good with this slide, then I will move on to the next slide.

Councilor Corran asked I'm not objecting to this but I'm hoping for the sake of people who weren't at the budget retreat, people who are listening, can you explain what you mean as pay as you go, please and sort of talk about what this means in the bigger context of how this is going and then also when will we have pay as you go this year, next year, what is the sort of cyclical nature of these too? If you could talk a little bit about that.

Lesley Doyle said there's really two pots of money that we're looking at because we have begun to collect before we had bonded. So the first pay as you go is going to be significantly more because we have and will continue to collect about 1.1 a month. So once that is spent and accounted for, then going forward beginning in 28, we will have 13.1 but 8.8 of that has to go to debt service so anything beyond that will be the pay as you go.

Councilor Corran said I don't know that I understood this prior to you explaining it so well at the budget meeting, exactly how this money is being divided and how some of it goes to debt and some of it goes to bonds and some of it we can spend as we're going along and we've been collecting it for a little while in the meantime so thank you for just making that a little bit more explicit.

Councilor Harris asked what you're looking for direction on today is direction for that $15 million pay as you go that is available right now because we've already got some that we have been collecting and haven't spent? So we have 15 now and next year we're going to have 4.

Lesley Doyle said yes, estimated.

Councilor McClure asked could you give us a little bit more on the deferred maintenance? Give us some project ideas so that people just basically know. I know it's going to be roofs.

Chris Faivre said it doesn't just have to be all roofs. There are a variety of things and there's a lot of things on the CIP. I don't want to put Cynthia on the spot but if she wants to come down and speak specifically to the wide range of projects on the CIP that would be under deferred maintenance she would probably be sort of the expert on that. Way more money needed than we have right now but it would be a good start.

Cynthia Alamillo, CIP Manager said we do have a vast number of projects that need funding, specifically talking about deferred maintenance we have a wide range of projects. As Chris mentioned, we have several reroofs that we need. We also have a couple of building infrastructure improvements that are needed but it goes from basic security improvements like fencing through actual improvements to some of the structural elements of the building. We know that fire stations are some of those elements. Bigger projects that go to the other extreme are municipal court but some of our utilities buildings also need improvements and I believe some internal city hall improvements in general. Then we also have the other end, parking lots that need repairs and then we have replacement of generators that it's just one element but it's quite costly and it's a significant project that we want to be considered.

Chris Faivre said moving into the 60% category, we're recommending improvements to fire station 1, putting money into the street maintenance, the fleet upkeep, and specific facility maintenance to ADA compliance.

Councilor Harris said it seems like there's a little less than 12 on these two slides?

Chris Faivre said right about 12. Lesley and I were trying to do some math while we were keeping up with the discussion. I think what we were seeing was Bruins Lane seemed to be high priority, the funding for gaps in current CIP projects seem to have some support, Engler Road, then the municipal court, and then if there was a conversation about putting a certain amount of money towards the public safety facility. So those were kind of the ones that we keyed in on. We can sort of work with staff to kind of finalize exactly what those amounts should be for each of those. Some of these were kind of just more estimates but if that's the consensus there we can take from there, refine that as we come back with budget adjustments and the ordinance for the bonding we'll have more specific numbers. So if that's the direction I will take that as a win.

Councilor McClure said I just want to say on the record that traffic calming is one of those things.

Councilor Bencomo said I completely agree with Councilor McClure, traffic calming. And Chris, I'm sorry if I missed this before but I know that it had been previously on the list, but is the traffic calming potentially a traffic light at Alameda and Hoagland. Has that been scrubbed? Because if it has I want to advocate to talk about one of those things that has been 20 years in the making that is one of them.

Chris Faivre said we have that as one of the priority projects for the pay as you go.

Councilor Harris said I also feel very strongly about making sure that we have traffic calming projects in there and some kind of way to make sure that those are able to be expended quickly on smaller projects to get good return.

5. ADJOURNMENT

5.1

City Councilor Michael Harris moved, seconded by City Councilor John Munoz, to Adjourn at 1:52 p.m.

RESULT:	**Carried**
MOVER:	City Councilor Michael Harris
SECONDER:	City Councilor John Munoz
AYES:	City Councilor Johana Bencomo, City Councilor Becky Corran, Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor John Munoz, and City Councilor Michael Harris
ABSENT:	City Councilor William Mattiace

Mayor

City Clerk

MINUTES
City Council
Tuesday, February 17, 2026 @ 1:00 PM
City Council Chambers, City Hall

PRESENT: Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor William Mattiace, City Councilor Michael Harris, and City Councilor John Munoz

ABSENT: City Councilor Johana Bencomo and City Councilor Becky Corran

1. OPENING CEREMONIES

1.1 PLEDGE OF ALLEGIANCE - COUNCILOR HARRIS.

1.2 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR HARRIS.

Councilor Harris presented David Franco, Emmett Rivera, and Fernando Vasquez with a proclamation for National Engineers Week.

Councilor Harris presented Joanne Turnbull with a proclamation for Support our Healthcare Providers Week.

Councilor Harris presented Savannah Montoya with a proclamation for Pioneer Bank Day.

Councilor Harris presented the CLC Communications Office with a proclamation for Government Communications Day.

Carl Clark, Assistant Utilities Director gave a presentation on the CCR.

Mayor Enriquez asked can you specify what the CCR is?

Carl Clark said yes, Consumer Confidence Report, EPA requirement.

Councilor Mattiace said in some of these homes that have been highlighted and we have had some questions about different homes having the galvanized, the old pipes.

Has their water been individually tested? I know they are private homes, but have they been tested by your department where it is mentioned, those specific homes?

Carl Clark said I can't state which ones you are talking about. I am not sure what address it is but when we do the sampling it is from the home so that sample is then sent to the state lab and then they test it. So, to say have we have done every home that we are talking about I am not sure what homes you are talking about, what the address is so I couldn't tell you and even if you spouted off an address I would have to go back to records to see.

Councilor Mattiace said the reason I bring this up is because of some of the comments and I have had some residents be concerned with of course the quality of the water and so if I give you a specific addresses can you do that for me? You could sample those?

Carl Clark said if you gave me the addresses we can look into that and see if that one has been specifically sampled. We have sampled so many throughout the city, the different zones or the different water systems we have. I believe we have five, so we have to pull water samples out of every five and there is just random samples inside that in each one.

Councilor Mattiace asked as far as specific addresses you would do that?

Carl Clark said we would have to go back and look at the records as to where they were pulled from. Also, the CCR, Consumer Confidence Report got started about 26 years ago. We have been meeting our requirements ever since then. We haven't had any actionable limits that I know about, and I have been with the city since 2003.

1.3 JOBS OF THE WEEK.

Sarah Raney, Americas Job Centers of New Mexico presented Jobs of the Week.

1.4 PETS OF THE WEEK.

Carol Nielson, Animal Services Center of the Mesilla Valley presented Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

2.1

None.

3. PUBLIC PARTICIPATION

3.1

Lynn Moorer, Member of the Public said I have new analysis related to the city's non-compliance with the Lead and Copper Rule and its failure to carry out its promises when applying for $15 million in funding. As you recall the amount of funding to be repaid relates to how disadvantaged the population is. The census tracked information the city uses to determine whether your neighborhood is disadvantaged is flawed. I will illustrate this regarding two neighborhoods with which I am familiar. The city has designated Cedardale Loop not far from where I live on Mondale Loop as disadvantaged. Cedardale has higher property valuations than Mondale yet Cedardale was disadvantaged and Mondale isn't. Cedardale has 54 properties on it, 42 have an estimated value of $300,000 or higher as Handout 1 indicates the median estimated value for all properties on Cedardale is $326,000. By contrast Mondale has 41 properties on it, only 2 have been estimated value of $300,000 or higher, see Handout 2. The median estimated value for all properties on Mondale is $276,000, $50,000 lower than Cedardale. Setting aside whether an 80% cutoff for the area median income the city uses is appropriate which is actually in supportable, the data are in accurate. The maps are not trustworthy. It is obvious that the median income for the folks living on Cedardale is manifestly higher than the median income for the folks living on Mondale. Nevertheless, Cedardale is classified as disadvantaged while Mondale isn't. A house two doors away from mine on Mondale Loop was until recently used as temporary Section 8 housing for low-income people, thus our lovely Mondale Loop neighborhood is unwealthy enough to be selected for such a house but we are not categorized as disadvantaged nor should we be. I will say it again, Mondale should not be designated disadvantaged more importantly neither should Cedardale with it's $50,000 higher median house valuation. When walking around Cedardale with my dog in addition to admiring their nice houses and yards we see the vehicles parked in their driveways. My dog would especially like to admire some of those vehicles up close. We have seen two or three Teslas, a couple of Lexus cars and a Porsch. All of these folks on Cedardale are likely good people. I know a couple of them. In no sense though are they disadvantaged. The point is that the census tracks the city is relying upon are inaccurate and filled with obvious errors. This means the city must rectify its analysis and give a more discerning look at the properties of each neighborhood before pronouncing any of them disadvantaged. The disparities between Cedardale and Mondale Loop are relatively small compared to many other neighborhoods that can be found. We will delineate some of those injustices for you at future meetings.

Liz Rodriguez-Johnson, Member of the Public said it continues to be extremely disappointing that Las Cruces Utilities is failing to comply with the federal Lead and Copper Rule which requires that disadvantaged neighborhoods be prioritized for pipe inspection and lead pipe removal if lead is found. Today we continue our efforts to stand up for the disadvantaged in our community, the ones that genuinely struggle and need help. We are endeavoring to help Las Cruces Utilities focus and actually inspect first the genuinely disadvantaged folks whose property's valuations are on the lowest end of the scale here in the city. Research indicates that property valuations should be considered when determining whether a neighborhood is disadvantaged. I don't think anyone can make a straight-faced argument that someone owning and living in a $300,000 house is disadvantaged. We are sharing our research to assist the city to do the right thing. Las Cruces Utilities should work on the following, first remove from the disadvantaged list all properties with high estimated valuations on the street. We have recently described that there are plainly not actually disadvantaged and whose designations are clearly based on incorrect data. Silverado Loop, Cortabella, and Cedardale Loop. There are many more high value properties that should also have no place on the disadvantaged list, but these three streets are a good place to start. Second, for the time being conduct inspections and investigations of only a genuinely disadvantaged properties absent and overrising reasons. Handout A is comprised of 10 properties with valuation estimates of less than $100,000. Handout B is a partial list of properties that estimated valuations of less than $200,000 organized by street. It has 42 properties listed which matches the number of inspections Utilities personnel conducted the first week of November 2025. We are passing these along to the Utilities Department so that we can get to work right away to help the truly disadvantaged. Third, at long last including the inventory and on the map all of the properties that have been left out starting with the mobile home communities that show no water hookups whatsoever on the map. Handout C is one example. These are probably the most disadvantaged properties in all of Las Cruces which Las Cruces Utilities has steadfastly ignored. Credibility is completely absent if the disadvantaged list does not include those mobile home properties while at the same time including properties valued at $300,000 and higher.

Israel Chavez, Member of the Public said I really never enjoy coming here because I always feel like it is to tell you on the things that I feel like you are doing wrong. I wish it was less things that you were doing wrong. I want to make sure that you know that Colonias Development Council versus Rhino Environmental Services is a Supreme Court Case in which the government was required to take public comment. Now again the city went around town and solicited public comment of members of the public and I showed up to that and the city seems to have decided that it is going to completely ignore that public comment. It is going to do an entirely new list of things it decided to do with the money that is basically stolen from the public in the increase of gross receipts. The proposed training center that you all want to do didn’t even make the top ten and all of the things that the public came out and asked for is not being prioritized. The city has to prioritize those things. So I am coming to request you do that but I am also coming to warn you that if you don’t that I have nothing better to do than to make your lives very difficult legally and I am sure I can find members of the public who will speak later who would like to hold the city accountable for not recognizing the public input that was put into those sessions. So just to take a little bit from that case that when New Mexico Governments when they are required to take public comments should closely consider that information and I quote from the case “Relating to the community’s quality of life”. That is what you ask for in your public comment. That is directly from the Rhino Services case. The community should always be afforded reasonable opportunity to provide its input in projects and what was required in the Rhino Environmental Services case, “that the community be given voice and the concerns of the community be considered in the final decision making”. It appears to me that the city has decided to bypass the final decision making. It is required to take that public comment and if it does not than there will be consequences and accountability because it appears to me that the legislative branch of this government is unwilling to hold accountable in my view feckless and somewhat useless executive branch of the city and if the council won’t do it, the council won’t hold its executive branch to account, either it is unable or it is unwilling then the public will, we have the means. Just because your third branch of government is a Municipal Court that you sort of shunt it off to upstairs doesn’t mean that we can’t use District Court and it would be my view that if the city continues to ignore the public and the public will take those actions needed.

Mary Ann Hendrickson, Member of the Public said I am a citizen of District 3. Almost exactly 20 years ago I moved here following 26 years of service in the United States Navy. Almost instantly I was embraced by my community. My neighbors brought me cookies, food, anything I needed, helped me with information. I was wrapped in Carino from the first day I walked here. However, I was surprised to recently learn that in early November of 2024, the City Manager signed direction for a new public facing equal opportunity statement that added TTY, which I think is great but yet it removed public mention of the following protected classes: color, national origin, sexual orientation, gender identity, and religion. I have communicated with the HR Department for almost a month and never have gotten an answer as to why the city removed those groups of protected classes and yet not others. What criteria was used to select those? So, with the change in statement the city has negated the contributions of me, my family members, friends, neighbors, probably the majority of the city. What I am asking from the city is fairly simple and easy to do. I am asking the Mayor and Council to direct the City Manager to restore the previously listed protected classes and keep the TTY statement. Let's restore the much-needed Carino to our city.

Donna Stryker, Member of the Public said the GRT was discussed at length. I was at most of those meetings. I also went to the meetings that the city held throughout the city, and I saw a lot of interesting things that happened there. I saw a lot of people that were not from those districts, and they went to every single meeting and in my humble opinion and that was to sway as the previous gentleman stated as public input. The GRT discussed at council, the GRT discussed at Work Sessions last year, what was that money to be used for? There was not one time that there was one single recipient. It was several different recipients. The Chief did a very good job of addressing and presenting on an academy that would not only benefit this city but would also benefit other agencies, law enforcement agencies and also help attract candidates. I don't remember hearing or seeing and watching in council and especially Work Sessions of a week ago that all the money was going to go to one place. Perhaps I am blind, deaf, and dumb but I did not see that. I apologize if I missed it somehow. I would like to ask the council to continue considering recipients for the GRT. One of which I would like to see an academy. I think that our community deserves it. I think candidates deserve it and if any of you have actually seen what the academy looked like you would probably not let your dog live there. I would also like to address something that has been weighing heavy on my mind. I am 70 years old and I have never come to council and sworn, or clicked my fingers, or snapped or been disrespectful, degrading, threatening, or slanderous towards anyone. I have also never had disruptive remarks, or gestures or noises from myself or the people that I am working with. We tend to act like adults, and I remember hearing one person saying well if the President can swear. What are you 12? Do you really need to act inappropriately because someone else did? This isn't high school. These are adults, these are professionals and these are politicians and I expect and I deserve to be treated kindly and respectfully by the audience as much as my council. People deserve and should expect to be treated appropriately. I am really glad I am not hearing any clicking or snapping because it only indicates your lack of intelligence as does swearing because you have nothing better to say than bad words.

Jose Carrera, Member of the Public said I am the President of Precision Technology. I moved to Las Cruces about 30 years ago. I came to visit a friend. I fell in love with this town, so I decided to start my business here. I started this business inside a friend's garage. The business I am in, I supply products to the automotive industry, and I export 100% of what I manufacture all over the world. I employ between 30 and 50 employees. In the past 25 years I have sold over $75 million worth of product. In the past 25 years I have generated over $40 million worth of payroll which of course everybody benefits of that especially because this is money that is coming from outside the country. I have never taken any special program where I am being financially assisted. None of that. So, this is strictly money that is from outside the country coming back to the country. I have been involved with NMSU helping programs working with them, hired engineers from NMSU. I have been recognized by you guys as a very important manufacturing facility. The reason I am speaking is because I have heard some very negative comments about our police force, specifically about Chief of the Police Story. It really bothers me because out of the 50 employees that I have basically it has a repercussion of 200 to 250 people. So, anything in this town that happens I get affected by it by a multiplication of 250 times. It is not like some people who complain and turns out that they just have a problem with Chief of Police or something insignificant like that. To me what our first responders do is with that many amount of employees I have problems. I have situations where I need them. Every single time that I have called for police officers to come in they come in they show up instantly and they are only assisting me. We need to appreciate what they do for us 100%.

Elaine Pricket, Member of the Public said I am with Rio Grande Honor Flight, and I wanted to come and share with the council today some of what we do. We are a 501(3) non-profit organization, and I know Councilman Mattiace is familiar with us, Chief Daniels is familiar with what we do and Mayor Enriquez. Honor Flight is an organization that takes World War II, Korean, and Vietnam Veterans to Washington DC to see the memorials that were built in their honor. Many of these Veterans will not have the opportunity due to financial and physical needs. That is not our goal is to give them a tour. Our goal is to bring them closure and healing. One of the Vets after being on this trip told me that I feel like I am part of American society again and in America we should never have a Veteran feel that way and so that is our goal to try to change that. Many of our Veterans find closure and healing on this trip and many of them have had their Honor Flight Mission engraved on the columbarium because it meant so much to them. Families have said that they are changed and we are changing families as well when we take them on this trip. Some of the things that we need help with is sustaining financial support and we also need help with volunteers. All of our Veterans that are taken to Washington DC have a guardian. Guardians pay their own way of $1,200 and so does the crew. We pay our own way. The Veteran goes absolutely free on this three-day trip to Washington. The guardian is there to push the wheelchair, carry their oxygen concentrator, help them in any way that they need. If they need help in the room, getting to the bathroom, we find guardians that are willing to do that. That is part of our mission, to take care of them. One of the big things that we are trying to do and it has been a goal of mine that I have a dream of is having a welcome home for our Veterans. Many of our Veterans never got the welcome home they deserved. They were spit on, had feces balloons thrown at them and were urinated on. That is not the way our warriors should be treated. We would like Honor Flight in Las Cruces to become a household name, that every year everyone is saying, when is the Honor Flight going out and when are we going to line the streets and welcome them home? One Veteran said, Elaine, all I ever wanted to hear was those two little words, welcome home. So, what I am asking for today is an opportunity to come back and do a formal presentation to this group so that we can determine how the City of Las Cruces may be able to help bring these Veterans home. One Veteran the night of the banquet came up to me in tears, he said I feel like a Mack Truck has been lifted from my chest and I can finally breathe again. I have not been able to breath since I came home from Vietnam.

Perry Ashby, Member of the Public said I was with the United States Air Force, retired. I am one of those Veterans she was talking about. They called us Yellow Jackets for some reason, I haven't figured that out yet. I was an 18-year-old child when I went to Vietnam. I enlisted when I was 17. I went to Vietnam and I thought hey this is going to be an exotic adventure, but it was far more than that. We worked 12 hours a day, 7 days a week for 353 days in a row and I worked in a photo reconnaissance outfit and body counts were a big deal back in those days and my job was to blow up the pictures so that they could count the pieces, parts and add up their body counts for the day. I had to see and experience death up close on a real way that I had never even experienced. I came from Anaheim, California, Disneyland. I was just a kid when I went there. I got to see more death and destruction and just inhumane things that a child should never have to see. If anyone ever goes to Washington DC, they have a monument there and the biggest number of people at that monument, 33,000 people died when they were 18 years old over there that out of 53,000 people. I came back from Vietnam and like she said there was no welcome home. There was no big surprise. There was nothing and I was just told don't wear my uniform off the base, keep your head down and don't brag about what you have been doing and I lived with that. I spent 20 years 3 months and 14 days in the Air Force, but who was counting? The day after that I got a job with Northrop Grrumman on the B2 Stealth Bomber and the F35 Aircraft and I also worked there for another 20 years. But I still had nightmares every night, afraid to go to sleep because that is when the bad guys came out. I have been in treatment for 15 years and then I heard about this thing called Honor Flight. Free trip to DC, I am in for it. When we got there it was much more than not just an adventure or tourist site but when we got to the Vietnam Memorial, I can't go down there. There is a lot of ghosts down there that I am still afraid of. This is the reason I can't sleep at night and they have little song that they sing about welcome home and each one of the staff members will come up and give you a hug and tell you welcome home. It took 52 years for someone just to come up and give me a hug and say welcome home and those words meant a lot and out of those 15 years of counseling that I have gone to that one weekend lifted up a big load off my chest. I came back and I told Ms. Elaine anything you need to have done, I am willing to do whatever it is and I have been a volunteer and one of the Board of Directors now and we thank you for your time.

Steve Montanez, Member of the Public said I want to use a few seconds of my time to tell the public and this council that if you have never had an opportunity to attend a welcome home ceremony at the airport or here in town, I highly recommend you do it. It is absolutely life changing. These Veterans, Elaine and the work that she does, they changed my life and I will tell you it is one of the most life-changing experiences and you will never forget it. What I want to talk a little bit about today and what you are going to hear a lot of later today is definitely going to come from a very well-organized group. A very well-organized group that just yesterday crashed a conservative group at the NMSU campus. Crashed a Border Patrol recruitment booth at a job fair and caused quite the scene at Dona Ana County when they didn't get their way. These special interest have received their share of funding. It is now time to look at other concepts that our city desperately needs, especially regarding public safety. I will say for the record, Chief Story I have never met you. There is no real influence here other than what I have seen and what I have observed. This is just coming from my observations. I did a little bit of research on the 2025 legislative priorities that our city lobbyist are up in Santa Fe working for. That includes renovation of the Branigan Library, legacy parks, Klein Park, a local solar access fund, Museum of Nature and Science redesign. These are all great priorities. They really are. In 2024, funded a lot of these were included in what I just mentioned regarding Branigan and a lot of public parks. There was no mention of Police or public safety in 2024 or 2025. Other expenditures, $60 million, downtown alone, pickleball courts, again Branigan. Regardless of where it is coming from, EV charging stations, the Amador, we can talk about expenditures to 828 Productions, to Film Las Cruces. The list can go on and on regarding what these special interests have asked for and what they received and I will say that I am also grateful for. In some cases, I may not agree but I am grateful for it. So, I am here just to tell you, just to advise stand your ground when it comes to public safety. Stand your ground when it comes to the public interest of our citizens and quite often if you ask them, is it public safety or is it what is on this list that I just read. Many of you will say it is public safety. Again, when they don't get their way, this is how they behave. Just be ready for it.

Eddie Thomas, Member of the Public said I am here to let you know that I am vehemently opposed to the Councilor Bencomo staying on the council. I respectfully ask for her resignation. She is heading up a group, and it is probably the reason she is not here. She is in Santa Fe I believe heading up a group that is a group of trial lawyers that are against SB 99, which you all know is the medical malpractice reform bill. My 87-year-old mother lives with me. Thank God she is in great health, but she has got doctors here and it seems like Councilor Bencomo's efforts, we are chasing the doctors away from the state of New Mexico. Pretty soon we are not going to have any doctors to go to. Luckily, we only live 40 miles away from El Paso where we can find doctors if so needed. That goes against everything that I stand. Another issue that I have with her is she either openly or behind the scenes oppose everything that Chief Story has stood for. Luckily, we won in several cases. One of them being the shopping cart ordinance that was passed. Another thing that goes against me is the abortion facility that was recently defeated. I don't know if you all noticed but there is a lot of Catholic Churches in this area okay last time, I checked the Pope is pro-life and so I believe that she is not with the people. She is tone deaf. She is not listening to her constituents and so I was very gladdened by the fact that none of the concrete contractors bid on that project and the abortion facility was defeated. So, I seem to find myself at odds with everything that she stands for. She is mostly pushing her radical leftist liberal agenda here and I totally oppose it and so I respectfully ask for her resignation.

Juan Garcia, Member of the Public said at the February 2 council meeting the attorney for 828 stated that he was limited to five minutes and not allowed a presentation while the city took nearly 24 minutes including a full presentation. There were contractual issues, I got it. But why was 828's request denied when the city faced no such restrictions. This inconsistency raises questions about transparency. Citizens deserve to hear both sides. The council owes the public an explanation, additionally and paraphrasing the 828 CEO comments, in just 18-24 months LCPD was called over 100 times. One employee was even chased by someone wielding a machete. It is no wonder many of our properties are too dangerous to develop. The bowling alley for example is impossible to keep secure. Every time we show it to an actor, producer or director we worry about running into an illegal camper. At this point councilor cut in. I knew where this was going, she stated. In other words, the elephant in the room, the city's crime problem was becoming impossible to ignore, and the CEO's comments were making that obvious. So then rather than address the crime issue and the impact to this business the blame shifted. Who interrupted? The same councilor who once said, "I have little sympathy for Walmart and their stolen property". That says everything about support for Las Cruces businesses. The latest scandal resembling ballot stuffing is troubling in a recent New Mexico in depth article. Representative Sarah Silva reported getting a barrage of emails from supposed constituents opposing medical malpractice reform. The odd part is that at least five people told her that they never sent the messages. Another lawmaker got a pile of 50 printed emails. She called every name and not a single person said they had sent one. Silva said the obvious of this the lobbyist for New Mexico for Safety Over Profit confirmed the email she received came from the group which opposed malpractice reform, New Mexico Safety Over Profit is at it again. This is a dark money group run by trial lawyer allies who oppose reform and their Executive Director is right here on this council. Councilor Bencomo who once said in this chambers and lied about a local resident dodging council members is the one running this group. I will not be threatening or rude like a previous speaker was but I ask the council to do the right thing. Please resign.

Yoli Diaz, Member of the Public said I have continued to send you emails to keep you informed of present and past issues that affect the present. I have provided solutions. Problems in accessing health care at Memorial Medical Center were exasperated per IPRA documents from Dona Ana County and from Memorial Medical Center to Dona Ana County in year 2014 when MMC CEO John Harrison forced an aggressive and immediate expense reduction in revenue enhancement which defines the opposite of quality patient care. In year 2015, MMC updated their Chat policy and discriminated against a group of Dona Ana County residents by following the current Memorial Medical Center upfront cash collection policy and as a last resort collect the Medicare reasonable and customary fee upfront before services are provided and in year 2016 by MMC updating the Chat policy again by removing cancer care regardless of cancer being included in the asset purchase agreement. You may recall my recent email request to MMC CEO Dennis Knox, he doesn't answer all of my questions but he does provide a bogus financial assistance policy. I let him know that he is required to post an annual report required by New Mexico statutes, the Patient's Debt Collection Protection Act which was enacted and effective July 2021. MMC CEO Dennis Knox notified me of the website changes January 29, 2025. MMC adds the statute required annual report, however, MMC leaves out the most pertinent section indigent care data. Was this accidental? Was this willful concealment? Being that MMC CEO Dennis Knox did not provide the details of my requested data, I believe it is willful concealment. I know MMC violated New Mexico Law when they did not have their annual report on their website for four years. Fiscal year 2024, being incomplete may still violate New Mexico Law. As MMC's half lessor please don't allow them to violate New Mexico Statues. By IPRA I requested annual reports from the state. MMC's fiscal year 2024 report shows 110 indigent claims. Fiscal year 2023, 103 indigent claims. Fiscal year 2022, 127 indigent patients and fiscal year 2021, 133 indigent patients. These numbers are per year and seem extremely low for a low income and high insured county. Let's compare other hospitals indigent claims and patient for fiscal year 2024. MountainView, right here in Las Cruces that has less than Memorial Medical Center beds of 199 with 168 has 4,152 indigent claims. Presbyterian Santa Fe, 3,665. Lincoln County Medical Center in Ruidoso 2,235. Plains Regional in Clovis 4,041. Socorro General 1,250, that is a population of 16,000 with 24 beds. Mimbres Memorial in Deming, 1,310. So, I really hope that you understand when I say terminate Life Point and bring in an operator that really cares about quality patient care to all Dona Ana County residents.

Trent Christopher, Member of the Public said I am from here. I work here. I work at Memorial Medical Center. I want to open by saying that we are all living in the same city. We are all seeing the same thing. I mention that I live here, not for sentimental reasons but so that you know that I have seen the development of the city over the past 20 years. The same as anyone else has. We are seeing the poverty, we are seeing the crime and as a result of that I was happy that the city came to the people and held votes all over town determining how the GRT money would be used. I attended in my district. I promise I just attended in my district. I don't think that election got stolen and unfortunately it seems like the priorities there have been largely ignored. There was at least when I went absolutely no stickers on the LCPD side of the board. People are wanting almost overwhelmingly wanting improvements to the Library, improvements to water infrastructure, improvements to the roads, community programs, for the youth. I believe that this is the priority of the people right now is to take actions against crime that are other than policing. LCPD receives $38 million of the budget in fiscal year 2025. This is by far the largest share of the budget that LCPD received. They haven't lost money ever. Every year getting more and more money. I think we should use the money from the GRT increase for what the people ask for. That seems simple. Anything other than that is circumventing the democratic process that you did. If we don't give the people what they clearly ask for then I would ask the council next time don't bother asking.

Linley Hornsby, Member of the Public said I am here to talk about the priorities that our community shared with you all for our GRT, the shared resource to improve our city and we saw priorities such as libraries, rec centers, water infrastructure support, road maintenance, restoration of the WIA Building, more support for senior centers and affordable housing and the common thread between a lot of those is where the community is asking to use our shared resources for more third spaces. Third spaces are community spaces outside of work, school, and home. I think some of what we saw in the data from the community feedback is that the community loves our city of Las Cruces libraries, parks and trails and the public voted for more of those for our growing city. Not funding for more police training. There was some support for some repair of the fire station but that doesn't necessarily have to relate to a public safety police training center. Police and Fire can be separate though they are often allied, the community certainly doesn't see it that way. We need more third spaces that will benefit all of the community and especially youth in our community who say there is not enough safe spaces for youth in our community. Youth continue to be scapegoated and criminalized in our community and we need more spaces for youth not incarceration. So really just encouraging this council to look closely at the data. The stickers were great. The community enjoyed participating that way. It is really clear to see what we are prioritizing here and I believe the public safety training facility didn't make the top ten, right? So that is significant so if that training facility comes up as a high priority in the budget that this council approves that means it is not coming from the community it is coming from somewhere else and our community is active and here today watching and really wanting to see you all make decisions that reflect what we want to see in our community. The resources that we are bringing together in our increased taxes.

Guillermo Canway, Member of the Public said I am here from Las Cruces and all of that. I did want to continue with what was said. I did want to pull up the specific information of what were the top ten most voted things that our community wanted and amongst that is water treatment, art spaces, rec centers, and all of these places that we are part of. Security is barely only making the top of the list. Primarily in maintaining the things that are already there, primarily vehicles and maintenance including for the fire station. But it seems for a great majority of people the care is to make spaces to be in and to exist in this town. I would like to see more people outside and about and being part of these spaces. We are lucky we have the parks. We have some of the few spaces. Heck even New Mexico State University in a way but we still need reasons to be outside. We still need reasons to be part of these communities and having safe places where we feel like we can all come to and there is always eyes around us not of security or police but of other people around us. One of the big concepts for keeping a safe city is to have a walkable and having eyes on the street. The more places we have to go and more places we can come together the more eyes we have on our spaces. We had an example brought up of a space that they could not even work on that was an abandoned space because it was the only place those people could go but if we have more spaces, more places where people are out we don't have to worry quite as much about the security. I do ask that we focus on making places too in some places secure that and work on making more security for the few places we have. I think we need places to exist. To be a community. To be a place as a whole and we already have stuff we still need to take care of. The library, the rec center. We still need more and still have to do better with the places we do have. So, I hope you guys will reconsider your decision into making this facility for the future.

Gabriel Visus, Member of the Public said I want to take this opportunity to number one, thank you for this forum and this venue. This is the very foundation that the American Constitution of the Republic was built on and this opportunity is critical both for our community and for the grass roots movement that keeps American way of life viable. I primarily want to start with a statement of support. Number one to Chief Story and the Las Cruces Police Department. Especially in the face of an environment that is not always supportive. Openly oppositional. These are not individuals who come from somewhere removed. They are our neighbors. They are our brothers and our sisters. They are individuals who shop at the same places we do, go to the same church we do, the children attend the same schools as ours. So, I think a big part of what we need to do is we need to take a step back and reassess this narrative we have built of us versus them. We are a community. We are one community. We are one people. We have to be in this together. Additionally, I would like to talk about the funding difference between the GRT and the GO Bond. The GRT is very specifically approved largely for public safety, whereas the GO Bond is general obligation funds that can be used for anything deemed necessary in the county. It is very important that we keep that delineation very clear. Funds that are obligated for public safety need to be used for public safety. The GRT proposal to build an improved facility for both the Fire Department and Police Office is not an ambiguous request for funds. It is very well articulated and very well planned. Number one, it will increase public safety by providing better training and better skills and better capability for our officers. This creates a safer environment for everyone. Number two, Chief Story talked about making this facility open to the public for recreation. That is a big morale boost. It also creates a safer environment to prevent some of the illegal activity that does make some of the racing environments a little less safe and number three he talked about opening this up to film or to other agencies who would pay to use that facility thus bringing in income to the city. Right now, we find ourselves in an environment that almost everyone here who has spoken and agreed is unaffordable, unsafe and unfree. Let’s fix that.

Lucas Herndon, Member of the Public said I attended last week’s Work Session and I was surprised to see the staff presentation indicating what the city’s priorities were based on GRT spending because I attended most of those public meetings that the city held last year and I attended the meetings before that where the community came and asked the city to hold those meetings because up until that point it wasn’t clear exactly how the process was going to go for the way the city was going to expend those funds. I attended the council meetings after those public meetings where staff presented the data in a raw form, albeit troubling form by clever use of statistics. I was surprised last week to come and see the priorities listed out by staff, not reflective of the community’s desires based on those community meetings or the staff’s initial presentation last fall. I am here today to follow through on that and re-up my commitment to remain vigilant and engaged as many of us are. It is ironic to be insinuated that I am somehow a part of something more organized than the people who are literally wearing little name badges on their shirts to their club that they meet every Thursday at Kitchen Kraft on Telshor just in case we want to talk about groups of people who are organized. This community continues to show up and show out for each other. We keep us safe and shared spaces are part of that. Arguably one of the most beautiful things of Las Cruces is the Farmer’s Market. It was when I was a kid, we didn’t have the Main Street back through town, it was covered. We had those brick planters. It was still a public space and in its own way wonderful. It is better now. Change can happen and we can make things better. Change doesn’t mean things are bad. I know that I often have a particular agenda that I come up here with and while I think there are a lot of things to be said about that right now I mostly want you to listen to the calls of this community, the calls that we went and sought and have the data to respond to that we want Parks & Rec Centers and safer roads and cleaner water and those are beautiful things and we can support those, thank you.

Spencer Taylor, Member of the Public said I am from District 2. I am a former NMSU professor and currently in my final semester of Master Social Work. I am also here to speak on the issue of GRT funds. So, the first thing is we need to listen to the community. I think it has been said many times and in many different ways. I think we understand what the community wants, resources, especially at a time when some of our higher levels of government like the federal government are taking resources away from us. It is really important that in our local level we get some of the resources back on our investment and these types of resources, we are looking for proactive resources. We are looking for things that give us third space like we said. We are also looking for Parks & Rec resources, improved water, things that the community sees directly. And then I think it is really important that we let go of this narrative of police equals safety. Police may be a part of what we put out for safety, but a lot of data shows that police don't inherently equal safety. Increase funding for police, increase training for police don't inherently equal safety. Actually, the resources that we are all calling for are the things that increase safety/decrease crime. When people have opportunities to engage in healthy ways, engage in ways that are creative, engage in ways that are connective to each other and the community then you see a decrease in crime. Then you see increase in safety because in situations like that you are essentially being proactive and you are not reacting. You have those situations where community members are building connections with each other. It is not as if people commit crimes just wake up one day and say I want to commit crime because I just feel like doing bad things. Usually, it is out of desperation. Usually, it is out of a situation where you are lacking something. Lacking connection to your community. Lacking positive outlets. Lacking basic resources, healthcare. Resources for food, access to food. These things are where we can really get to addressing improvements in our community in terms of safety in terms of connection and in terms of health and I think the community has spoken pretty clearly on that and how we would like our investments to be in those places so I am here to ask you all to follow through on that please.

Rose, Member of the Public said I live in District 2, and I am a lifelong resident here in Las Cruces and I am also here today to speak about the GRT fund priorities the community wanted in fall of 2025, which what was mentioned, libraries, parks, rec centers, and essential public infrastructure, maintenance and amenities. There has been a shift in what has been prioritized and these are things that was not in our demands like police training facility, which funding for police wasn't even in the top ten. The only funding that was on the list for police was fleet maintenance. The community has spoken and we want to invest in things that better the quality of life for everyone in every stage of life and since there has been an ongoing concern of youth in our community investments in spaces like parks, rec centers, libraries, and skate parks which the completion of that is long overdue. Things our youth deserve to have to grow and develop into well rounded adults in our community and personally if I ever decide to have a kid I would want them to live in a city that invests in public spaces that foster positive growth. And lastly as public officials it is your duty to follow through with what you and your constituents agreed upon and as your constituents, we will hold accountability. Investing in our community spaces over incarceration is what will make our city great.

Zach Egan, Member of the Public said I am in District 2. I am also here today to speak on the GRT spending proposal. The city of Las Cruces voted to increase our own taxes in order to improve our community and last year the city council asked for public input on how to best allocate that money. The community overwhelmingly spoke to put that money towards Public Works, building public spaces, improvements to existing public facilities and youth programing. Last week the city stated that they would be allocating about $4 million of those funds towards a police training center. This goes against what the public voted for and on several occasions the public services mentioned have been affirmed by Chief Story as means for reducing crime, especially juvenile crime in Las Cruces. When our citizens and kids have things to do it reduces crime and this is what the city has voted for. We want more things to do. We want more third spaces. I think it is inevitable that the city will allocate funds for a police training center and I recognize the need for more police training especially in deescalation and non-violent intervention. I also believe in transparency, accountability, and democracy. So, my ask is that you use the GRT money for what the public voted for and find another way to fund the training center. If you want to fund a police training facility and fund it through a tax increase why not put it on the ballot and let the people vote on what they want.

Dave Wilson, Member of the Public said I am from District 2. I would like to thank you all for your service. Especially Bill, who has been doing this for long time. He is my representative, my council member. I have not been up here in the 50 years I have lived in Las Cruces very much. Mostly on business I had a business here publication relations, an advertising firm for a number of years. City has been our client, State of New Mexico has been our client. I have been involved from the Jemez/Anthony Casino Project to the monument representing the Farm and Ranch Community and the monument process. I just want to tell you guys that I am very familiar with these public hearing meetings, and I have been a part of them. I have helped organize them from different sides from Native Americans to ranchers. I am going to tell you, and I am going to warn you that there are highly organized groups that put together efforts to stack the influence of these meetings. On the monument valley, Lucas is involved in that. We had a big public meeting, Secretary of Interior came and Secretary was to hear public input at the Ramada, capacity of 275 people and Lucas's group bused in five buses, 50 passenger buses. One from Silver City, two from El Paso and a couple from Albuquerque. The capacity was 375, 250 people were bused in. I have run sustainability meetings for the county. I have been in charge of the communications for that stuff and there is traveling groups that come. Nobody shows up to these things and because we are ordered to hold the campaigns after 4th of July, during back to school when people are at their busiest times so that the general public doesn't show up so these groups can manipulate and send their emails. Two groups, they are highly organized activists by these public events. I mean it goes on and I have seen it for years guys. So, when you hear the helicopters flying people to El Paso in our medical system, which they go over my house every day and we use to never hear those helicopters. When you hear that the public is outraged and we don't have enough doctors it is because government is failing us. I support our Police Chief Story and what he is trying to do, his public safety role is number one. The money needs to go to public safety.

Dolores Lucero, Member of the Public said Mayor I owe you an apology, last year on March 14th, I sat with you in the back room here and I told you I would never show up to another council meeting because nobody listens. Because nothing was getting done and over this past year of having many people approach me and go, Dolores, why did you shut up? Don't let anybody shut you up. The reason you listen to people is because you get involved and I listened to a lot of people. Sitting here at city council years ago and there weren't a lot of young people in the chambers. They were working. I don't know where everybody is working these days. That is what you should be working on. Secondly, I would like to say that there was never two seats empty at this council and when I walked in today, which is totally spontaneous for me today I was not planned on being here. I am surprised that there are other businesses more important than the citizens of Las Cruces that elected them to be here. In eight years, I missed two meetings. One for my brother's death and one for my mother's death and that was it. Now there is things that come up and I understand that, but I think there is reason for absentee today to say that I don't want to listen to the public. I am going to be five years old, and I am going to put my hands over my ears and shake my head. That is what I see at this council right now over the last year. I see a lot of disrespect. I see a lot of people that don't understand the system. Do I support Chief Story, of course I do. I worked with three different police chiefs, and they were all outstanding, but you know what is outstanding about Las Cruces PD is that the other officers that he is leading down a track to make this better. We want to talk about parks. What happened to Apodaca Park? Closed down the pool, didn't replace it. We don't have anything there. What happened to Branigan Park? Donated by Mr. Branigan. Not there, it is because the city has failed with keeping up with what is happening in Las Cruces. There is no reason to build brand new everything. Think about what you already have and take care of it but it hasn't been taken care of because there is outside interest here and it is no longer nonpartisan. For those who don't understand what the public or the city council's role is or what the City Manager's role is? These few things, one, you are supposed to provide the best Fire and Police safety. So, you know what? That is going to cost a lot. Number two, you are supposed to provide the best utilities, water, gas, sewer, pick up trash, keep it clean. Number three, the best roads because that is how people move. Those are your priorities. Remember that.

Megan O'Leary, Member of the Public said I am a resident of Las Cruces. As a native New Mexican and former special education teacher for Albuquerque Public Schools I experienced firsthand the struggles New Mexico has faced in providing quality education, employment, and safety for its residents. Approximately 17% of the population lives in poverty and student proficiency in reading and math is among the lowest in the country. Therefore, utilizing most city funding to enhance and increase the training and militarization of the Las Cruces Police Department not only ignores the community's priority and needs but essentially provides a small band aid solution to a much larger structural wound. There is proof that investing in increased police presence, surveillance, and incarceration rates at the expense of community resources has devastating consequences including increased polarization, fear, and scapegoating. We should instead focus more funding on assisting community-based resources including the LIGHT team, which stands for Lessen the Incidents of Grief, Harm, and Trauma. LIGHT is a deescalation team consisting of firefighters, paramedics, and social workers who respond to 911 emergency mental health crisis. I urge you to honor the vision with investing in community mental health resources, public libraries, educational programs, and recreational centers that provide a stable lasting foundation so that the community of Las Cruces can truly live and thrive in peace and safety.

Ken Binkley, Member of the Public said I am a business owner here in the city of Las Cruces. I wanted to come and speak today. We did help with the 2024 gross receipts tax campaign. One of the primary things that we pushed in that radio script which many of the people in the county or city and county heard was that public safety would be a top priority and so many thousands of dollars were spent on that. This was a message that many people in Las Cruces heard. I know there were meetings. I am sure that these meetings had people that attended and I promise that the radio spot that went out to the voters had much higher numbers than the folks that attended these meetings. Additionally, I give my support to Chief Story. As a business owner I had been concerned about break-ins and other types of crime at our office located by the Casa Autoplex now, formally the Borman Autoplex. We had good policing in that area and I feel like that is to the credit of him and his police force. I am not a friend of Chief Story. I have met him a couple of times at presentations, but we don't do things socially. If I see him in public, I say hello, but I am not influenced by personal standards here. The last thing I heard from instructor Taylor, I believe he is a professor at the University or teaching, and he was talking about needs and some of the basic needs. As we know from some of our marketing classes that we all took in college Maslow's hierarchy of needs, safety is one of those key components so that people can enjoy open spaces and other things like being self-actualized. So, I hope that the city will continue to focus on Public Safety since the campaign's goals were set forth, that would be one of the key items.

Vic Villalobos, Member of the Public said I honestly don't know where to start. These meetings are just always so exciting all of the different ways they go but I think we stick with what we know which is public safety. You know I think when we talk about public safety, it is what your constituents want. You know I personally did not have time to make to go to some of your meetings that you had and stuff and I can tell you that people that I know who voted and when they voted public safety was the reason they voted for that money and I don't think anybody not one of us is asking that you don't spend money in other places we need improvement in other areas. We know that we need improvement in other areas, but it has to start with public safety. I know that there are people in this crowd that think that we can do without the police that we don't need to further train our police that we can somehow or another manage things on our own. Trust me, you don't want me managing that for you. That is not the outcome that this city probably wants. But I can tell you, I listened to Chief Story this morning when he had his new conference and I can tell you that the shooting at Walmart from a known gang person in Las Cruces with a long criminal history. No creative outlet you give that person would have made a difference that day on whether he was shooting police or not. But what did make a difference was that the police were trained to handle that situation and you think about the fact that I have a friend that has their daughter living in the neighborhood there and they were the first call I made that morning when I knew what was going on because the police were able to hold that perimeter nothing else had to happen. Those trained officers and the training they get at work were able to hold that perimeter and stop that threat from going out. That only comes from training and from knowing what they are doing and how to work together and we have got to continue that and so you need to spend that money for training facilities for both the police and the fire and continue your support as I know you do for Chief Story because it is truly what is working in this city right now and we need all the help we can get.

Connie Chapman, Member of the Public said I am here mostly today because the police held their press conference this morning on the shooting from February 8th, that I had been waiting to hear about and I am very disturbed not necessarily about how it all came down other than the amount of force used to pursue a shoplifter. I don't know all the rules and regulations around such things. I am just thrilled that it was just a very quiet morning in that Walmart parking lot as that officer sped off to pursue a shoplifter. There could have been a child running out from between cars we would have lost that child. I think that needs to be reviewed. The amount of force used to pursue a shoplifter. That's an issue. On top of that, all this talk about the GRT money, I also watched the Work Session last week and was a little bit amazed at the presentation. It did seem to skew the results I heard at the October 17th presentation by your staff. Just make sure we take the time to review it all and I also want to say that public safety does not equate to police. That is just the way people assume it means it but if I say public safety that is not my definition and it is not always the definition of anybody else. So, we need to work on that definition of public safety. Also, some of that GRT money went to us old folks and I would like to make sure that those senior centers get the money they need.

Derrick Pacheco, Member of the Public said I wanted the additional minute to start this meeting by thanking and showing some love. I would like to start things a little different and start with some love, but I am going to need everyone's undivided attention. Chief, thank you very much from the bottom of my heart. You have always been very approachable, very respectful and a welcome change from Chief Dominguez. Mr. Daniels, I understand that fires are out of control in this county, thank you for your service and your team. I know it is a thankless job. Mr. Sedillo, thank you for your continued service. Ms. Delgado, thank you. Ms. McClure, I didn't realize that you were such an accomplished author. Thank you for bringing your talents to this city. Mr. Mattiace, for your continued service as a business leader and a thoughtful pragmatic thinker on the bench. Mr. Harris, I can't thank you enough for your presence on the bench. Your demeanor is much welcome. Your attention to detail and the way that you respectfully with all your body pay attention to constituents is noted. Mr. Munoz, glad to have you. Thank you for taking diligent notes. I noticed that. Mr. Enriquez, thank you for your prior service on the fire team here and I appreciate you as Mayor. Ikani, I can't say your name as well as everyone else's yet, but I am working on it. Thank you for sticking around, coming in from Utah while others bounced around and you stuck around I appreciate that. Mr. Douglas thank you for your work. Ms. Rivera, thank you today for giving me extra attention. With that being said this city and this county is in shambles, and it is really heartbreaking. We have a great divide here from the county to the city to the constituents. I feel so blessed to be amongst my peers that are so very smart and very caring and they show up time and time to voice their concerns with their heart on their chest knowing very well that they could be doxed or otherwise pointed at when they are the grocery store or giggled at by the ladies in the back row. In regard to the county being divided by the city and vice versa Project Jupiter comes to mind real quick. I don't think once we have heard any testimony regarding water restrictions here in the city. We are not allowed to water on Mondays. We are only allowed to water our tomato gardens every other day yet we bring in major projects without consulting the other team. We are all working in silos and vacuums and not together and I think that if we work together and took a more humanistic approach to things we would figure this out in a heartbeat, in an LA minute. Most of our problems locally would be fixed. It really would. Very disappointing that my Councilor McClure told me that she isn't allowed to bring forth resolutions for discussion or for consideration. That is just untrue. That was you not wanting to bring forth a resolution. That was you not wanting to rock the boat. That was you not wanting to engage with the constituent that has a real concern about Flock. Mr. Mattiace, thank you for your phone call but you didn't answer my questions on email like you said you would. I would appreciate some answers.

Shannon Murray, Member of the Public said I manage a small business in District 4, which is one of the most poorly run districts. It is a shame Ms. Bencomo isn't here. I do pay my GRT, but I live in the county, so I do feel like I have a little bit of taxation without representation, but I am just here to say that I am for a training center for first responders, police, fire. Nothing makes people better than training. I tell people that with their dogs at the dog facility I have, you have to train those dogs. I am all for building awesome places for people to hang out and you know inspire children and be with your families but if they are not safe nobody is going to go. So, think about that.

Chris Apodaca, Member of the Public said you all have my resume up there. I was here a couple of weeks ago and everything on that paper is basically my life. Forty years of my professional life in Hollywood. There are things that I know that they don't teach people in colleges as far as how the business really works. Relationships, respect is very important. What I would like to see happen, you know I have been watching Film Las Cruces in the city, eight years living in Hollywood and then moving back here to be with my mother five years ago and the only thing that I looking at the 14 years, Ross finally got his sound stage there at New Mexico State which is good. There is a film office and a nice website. They offer different services but there isn't anybody bringing, Mayor you said Las Cruces is ready for business. We are now open for business, I believe is what you said and from my experience and you know I am working on some things in Las Vegas now, Summerland Studios and also working on some projects in Los Angeles. I am trying to get connected here, it just doesn't seem like they like Hollywood people. They like Hollywood money but not Hollywood experience. It is kind of how I feel about everything, which is fine. If I am such a big shot, why am I here in Las Cruces? I am here because of my family. I came here to be with my mom. She has since passed. I have two older brothers and an older sister and most likely I wouldn't be here if they weren't here. I would like to be able to do something for the film community here. You have got to treat the city like an agent would treat a client. You need to get out there. It is about relationships. Relationships and deal making.

Gilbert Amezquita, Member of the Public said for the record I just want to say this is my first time attending the City Council meeting. As such this is my first time coming up here to speak but I just felt compelled after hearing some of the individuals give their opinion. I was not born but I was born in El Paso, but I don't claim it. I grew up here in Cruces, my childhood from elementary to high school, went on to NMSU and then after I graduated, I joined the Air Force. So, I was away from Las Cruces for several years, but I have seen it grow and become a larger city. No doubt with all of the inherent problems that cities have. I wanted to speak because I felt compelled that

I agree with the lady, one of the ladies that spoke earlier about putting down definitions because public safety does mean different things to different people and someone eluded to the Maslow's hierarchy of needs, you know if anybody remembers going through some of the courses that you help meet the basic needs first before you're going to be interested in self-actualization. You which is the top level there whatever that really means. It means different things to different people. But for me public safety is about security. It is about having a safe place to live and work and play. Having parks, I am all for parks and recreation centers and all of that. I am totally for that but unless you have a safe environment and I am sorry to say this but I don't agree that if you throw enough money at some institution and you will turn criminals and bad people into good people. Police are required and their training is critical. I was a security police in the first part of my tenure in serving the Air Force and I will tell you this, it was the training that we received in knowing how to respond to incidences that was able to mitigate and solve those from becoming escalated so I am all for the police training facility, totally support it.

Jeff Jorgensen, Member of the Public said I am in District 6. John, congratulations in your new position. Mayor, council members, Police Chief, Fire Chief, I was public safety when there wasn't public safety. As a public safety officer in the state of Illinois and back then it was unheard of. Police and Fire, the amount of training that firefighter goes through and a police officer goes through is just uncomprehensible. This city, I am all for it. So are my neighbors. I represent about half a dozen neighbors on my block in District 6 and they are in full agreement. We have to have a public safety center to maintain the professionalism that we expect in the city of Las Cruces. I go around, I look at the low-income housing being built, the amount of apartments alone, God forbid if any of those ever caught on fire. I look at what is going on in our city with the homeless. The drug addiction problem. What happened the other day, the shooting at Walmart and excuse me it wasn't just a shoplifter. It was a shoplifter with a gun. You fire at the police expect to get fired back upon. It was handled professionally and I cannot tell you how much respect I have for both our Police and our Fire Chief. I served all my life in public safety. When the Fire Department has to go to the park to retrieve a young infant out of a latrine, a firefighter takes that lifeless body out of the blue fluid, that scars a man for eternal. I have seen things with my eyes that no one should have seen and these gentleman have too. Respect them. They need a new public safety facility that has been talked about since 2016. Let's do it folks. Let's do it folks and I love each and every one of you and I can't say enough about my city of Las Cruces. I moved here in July of 2022, and I love this city and you folks do an outstanding job, thank you.

Jim Hoerst, Member of the Public said what part of inalienable rights, certain inalienable rights do you not understand? You know certain inalienable rights. As in we hold these truths to be self-evident that all men are created equal and endowed by their creator with certain inalienable rights. Among these are life, liberty and the pursuit of happiness. What does the pursuit of happiness mean if it does not mean the right to migrate. The right to flee persecution, oppression or poverty and settle in a country where you can hope to breathe free and prosper. The Trump Administration does not recognize this right. They don't recognize that humans have rights by virtue of being born into the human race. Jefferson called them certain inalienable rights. He declared that we created our government to protect those certain inalienable rights.

Not to take them away. The founding of our nation depended on a compromise. The northern states would allow slavery, and the slave owners would agree to a national creed that declares all men are created equal. Thus, making slavery and tyrannical government forever illegitimate. It took a bloody civil war and centuries of racial prejudice before the compromise paid off but that compromise has paid off. Our society rejects tyranny and tyrants. We consider them illegitimate. It was reported in the New York Times that the Department of Justice is tracking those who make negative comments about ICE. Well track this Mr. President. ICE is illegitimate because it has become an instrument of tyranny. ICE has no respect for due process of law and our certain inalienable rights. The best way to fix ICE is to eliminate it. Americans want a President and a government that will champion our certain inalienable rights. We reject any agency of government that does not. Las Cruces is right to oppose ICE by whatever authority you have. Thank you for doing so and please don’t stop.

Jennifer Kreie, Member of the Public said I think the budgeting process is incredibly difficult. I am so glad I am not in your shoes, but I am going to give you some input. So, you have a certain amount of money, and you have a lot of demands. So, you are going to support the police, of course. Who wouldn’t? Parks & Recreation, I think tennis courts come in here. You got roads, or transportation, broaden it a little bit. Then you have more police and then you have Fire Department, very important. I agree. We all need to have these services. And then you have general maintenance. Also, important. Not terribly exciting but it is important and then you have more police. And then you have other but there is no library support, and I am not just talking about the GRT. That just happened to be the topic last week. Branigan Library provides a tremendously valuable service to the community, and it reaches a range in age and socioeconomic status that nothing else does. So, I just wanted to say as a tennis player the library is more important than the tennis courts but that is just between you and me. Please support the library.

Liz Bennett, Member of the Public said I am a public health social worker. I want to start by thanking the staff and council and community for all of your effort in moving GRT funded projects forward. It is not a simple or easy task. I also want to thank Councilor Corran and Bencomo for their effort to elevate community voices during the GRT Work Session and as a community member I wanted to shar my disappointment that there was not more genuine consideration of investing in recreation centers as it was an overwhelmingly supported project and it is an intervention that responds to the immediate needs expressed by the young people in our community. To me public safety means affordable housing, youth centered spaces, economic opportunities that allow families to feed their children and community based therapeutic services that support people’s recovery from generational trauma, violence, and poverty. From the Work Session I understand that road construction is considered a gesture towards the intention to perhaps build a recreational center in that area at a later date. So, I have a few follow up questions from that Work Session. One, how long would road construction take? Is there a plan to invest in developing a plan for that recreational center? Does a plan already exist? Is the unfinished skate park one of the unfinished projects mentioned in the GRT plan? I am considered about the lack of real investment required to meet the current needs of young people and their families. The kinds of investments that research demonstrates make a difference in young people’s lives compared to the systems of incarceration that research demonstrates contributes to increased risks to future recidivism. In addition to recreational infrastructure, I recommend that the city invest in expanding the youth development and diversion program, increasing the rate of pay for their staff and creating opportunities for young people who have graduated from that program to return as paid mentors as credible messengers to share their experiences of recovery. We are going to continue to see this same challenges in future generations unless we address root causes of these issues. So, I look forward to hearing more about how this council plans to make serious investments in positive youth development.

Fred Huff, Member of the Public said at the last two city council meetings that I spoke at I talked with gratitude about the new park rangers trying to make our parks safer for regular citizens to use. When I first spotted the cadet rangers working with their LCPD mentors on January 12th there was 11 illegal encampments in the Burn Lake area. One of those illegal encampments had been there for over a year and nothing had been done about it. When I talked to the officers that day, I asked them why so many illegal encampments popped up recently. They told me that the people in the illegal encampments had told them that the Community of Hope had told them to come to this location. Who gave the Community of Hope the authority to tell people to trespass wherever they want on city property? During the next few weeks while the park ranger cadets finished their training nine of those illegal encampments were removed and cleaned up with the help of Mano y Mano. When the park rangers were officially on their own as of February 1st there was still three illegal encampments in the lakebed that refuse to vacate. With the daily visits from the park rangers and the placing of their orange no trespassing tag at the illegal encampments sites they were finally vacated on February 6th. So today is the 11th day without any illegal encampments in the Burn Lake city park area. Thank you park rangers for stepping up to make our community better. Today the Progress New Mexico activists spoke in favor of spending the taxpayer money raised with the recent GRT increase on more recreation centers and safe spaces. I am going to assume that it is parks. When the GRT tax was being promoted it was public safety, public safety, public safety. Now these people are wanting our GRT tax dollars to be spent on recreation and pleasure. That is not what the citizens of Las Cruces voted for. The city already has 90 parks or public safety areas. Now while all of these parks are not the same. Some are small and others are large there are still 90 parks within the city of Las Cruces. The city Police Department is comprised of 200 commissioned officers. So, we have almost half the number of parks as the number of police officers. Recently our safe spaces have been the location of a mass shooting. We saw how well that worked out on a safe space and also the murder of a baby in Burn Lake. Please support public safety.

Tim Jenkins, Member of the Public said I can guarantee with 100% certainty that I have never in the history of my life had to call LCPD 26 times in 7 days until this last week. This tells me we have a major problem here in Cruces and we should seriously consider supporting public safety over parks and recreation. I had to call LCPD 26 times this last week all concerning issues with the unhoused community setting fires, vandalizing property, blocking fire hydrants, etcetera. Not sure what has changed this last month, but this issue seems to have absolutely exploded here recently. I would like to make not only city council but the public aware of an issue. The Mayor of Rio Rancho is visiting Portland, Oregon a few months back and across the street from his hotel was a Starbucks. He went to grab a quick coffee when at the entrance of the store he noticed an unhoused individual wrapped in a blanket shivering. He asked her, if I buy you a coffee and a Danish would you be willing to have a conversation? Her reply was yes. He asked her point blank, what is it that you are doing here in this freezing cold, wet, dark, snowy place? Here reply was that her family fell on hard times and she lost everything. He asked her, “What are your long-term goals?” She said, “I am trying to gather enough money to get out of here”. He said, “Where are you trying to get to?” Her reply was I am trying to get to Albuquerque, not knowing that Albuquerque is basically his backyard. He said, “Why Albuquerque?” And her answer should shock every last one of you. She said, “It is known nationwide through the entire unhoused community that New Mexico is the place to go”. He said,“Why New Mexico?” She said, “Number one it is warmer down there and number two, we are basically handed everything for free”. He was absolutely shellshocked and said to himself you have got to be kidding me. New Mexico is not only inviting the entire nation here but also breeding and mutating this culture here in New Mexico and I know Mr. Mayor when you were first elected this was a major concern and question to you. My question is, what are we doing today to support public safety and to give our officers the tools they need to combat this monster that has been created by our own legislators and policies in place? Compassion does not mean lawlessness. Grace does not cancel justice. Mercy does not require abandoning borders. New Mexico deserves leadership that supports faith, order, public safety, and the rule of law. Not policies that enable chaos while claiming compassion.

4. ACCEPTANCE OF AGENDA

City Councilor Michael Harris moved, seconded by City Councilor John Munoz, to accept the agenda as presented.

RESULT:	**Carried**
MOVER:	City Councilor Michael Harris
SECONDER:	City Councilor John Munoz
AYES:	Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor William Mattiace, City Councilor Michael Harris, and City Councilor John Munoz
ABSENT:	City Councilor Johana Bencomo and City Councilor Becky Corran

5. CITY COUNCIL MINUTES

5.1 REGULAR CITY COUNCIL MEETING OF JANUARY 20, 2026.

6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

7.1 RESOLUTION NO. 26-102: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2026 BUDGET.

Gaby Prats, Grant Manager gave the overhead presentation.

Councilor Harris asked on slide 4 you mentioned specifically that this was for construction, do you have more info for specific projects that are planned for this?

Gaby Prats said this one specifically is for the lead service line replacement project that the water utilities undertaken so once they have completed the survey and the identification of lines that are lead and then these funds will come in to finish up the work to do the actual construction or rather replacement of the lines.

Councilor Mattiace asked on page 3, that is a lot of rehabilitation and is that tank very old with most of the work that is being done?

Carl Clark, Assistant Utilities Director said yes it does look good on the outside. It is always on the inside that is the troublesome when you take a look at it. We have seen a huge increase in cost for rehabs with tanks. Our last tank, the Missouri tank, was $2.1 million. That dollar amount is pretty close, we will end up replacing the fencing because it is in very bad condition and doing some grading work on site and then we will get inside the tank and there will be interior and exterior work that we will be doing.

Councilor Mattiace asked will that tank have to be emptied to do the work inside?

Carl Clark said yes.

Councilor Mattiace asked I live in that area, will I still get pressure for flushing?

Carl Clark said yes you will still get water pressure in the area. That tank has been rehabbed once before and from what I recall it was pretty hot at that time. I don't think we had any issues at that time. We have boosters that are going to pressurize those areas, and you should be fine.

City Councilor Cassie McClure moved, seconded by City Councilor William Mattiace, to Approve Resolution No. 26-102.

RESULT:	**Carried**
MOVER:	City Councilor Cassie McClure
SECONDER:	City Councilor William Mattiace
AYES:	Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor William Mattiace, City Councilor Michael Harris, and City Councilor John Munoz
ABSENT:	City Councilor Johana Bencomo and City Councilor Becky Corran

7.2 RESOLUTION NO. 26-103: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT SECOND QUARTER BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FISCAL YEAR (FY) 2025-26 BUDGET.

Vanessa Perez, Budget Analyst gave the overhead presentation.

Councilor Harris asked on slide 9, can you go into a little more detail on prisoner care? Are we arresting a lot more people?

Vanessa Perez said it is my understanding that we hold more prisoners and the cost of it has become more expensive.

Josie Trevino, Comptroller said a few years ago I want to say about two or three years ago the county had over billed us on some prisoner care. We then were applying those overpayments to credits. Those credits are not fully paid so this is just used to get back on track to start paying prisoner care invoices.

Councilor Harris said this year we are not incarcerating $600,000 more dollars' worth of people, it is just we had a bunch of credit and hadn't been paying that yet.

Josie Trevino said that is correct. We have not done a transfer this year. This is just the first one. We are not short on funds, it is just to pay for the fees but this is the first time this year.

Councilor Harris asked for the public's benefit, how much does it cost per day to house somebody?

Lesley Doyle, Finance Director said it is about $120 a day.

Councilor Mattiace asked on slide 8 I believe, the Telshor Facility, what does that represent? Is that the Telshor Fund?

Vanessa Perez said yes that is correct. That is the Telshor Fund. Both of these initiatives were approved one or two budget cycles ago and it was intended to improve all of our parks. We just haven't fully expended all of that money it has been rolling over.

Councilor Mattiace said I was used to see that as Telshor Fund but now it is called Telshor Facility.

Vanessa Perez said the full name is Telshor Facility Fund. I don't put the word fund in there because the word fund is already at the top.

Councilor Munoz said page 3, the Quality of Life increase to senior meals program, totally agree that is important and we have to take care of our seniors as they took care of us when we were younger. That is an adjustment, is that because of cuts somewhere, federal or state funding or was that a change to the forecast?

Carol Brey, Quality of Life Director said yes, essentially that is one of the reasons we are asking for this increase. We did see a decrease to the NSIP, Nutrition Services Incentive Program this year. I believe it was about $123,465 decrease in that and so that is part of this is going to be a total of $165,000 that we will need over two quarters. We are asking for $82,500 this quarter and we will ask for the remainder next quarter most likely and then also increases in attendance of meals as well as increase in food costs, which I believe we are all experiencing.

City Councilor John Munoz moved, seconded by City Councilor Michael Harris,

to Approve Resolution No. 26-103.

RESULT:	**Carried**
MOVER:	City Councilor John Munoz
SECONDER:	City Councilor Michael Harris
AYES:	Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor William Mattiace, City Councilor Michael Harris, and City Councilor John Munoz
ABSENT:	City Councilor Johana Bencomo and City Councilor Becky Corran

7.3 COUNCIL BILL NO. 26-016; ORDINANCE NO. 3108: AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, DIVISION 3, SUBDIVISION XIV. VETERANS ADVISORY BOARD OF THE LAS CRUCES MUNICIPAL CODE (LCMC) REGARDING MEMBERSHIP.

Christine Rivera, City Clerk gave the overhead presentation.

City Councilor John Munoz moved, seconded by City Councilor Michael Harris, to Approve Ordinance No. 3108.

RESULT:	**Carried**
MOVER:	City Councilor John Munoz
SECONDER:	City Councilor Michael Harris
AYES:	Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor Michael Harris, and City Councilor John Munoz
ABSENT:	City Councilor William Mattiace, City Councilor Johana Bencomo, and City Councilor Becky Corran

8. BOARD APPOINTMENTS

8.1 JACOB KIDD

City Councilor John Munoz moved, seconded by City Councilor Michael Harris, to appoint Jacob Kidd to the CIAC.

RESULT:	**Carried**
MOVER:	City Councilor John Munoz
SECONDER:	City Councilor Michael Harris
AYES:	Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor William Mattiace, City Councilor Michael Harris, and City Councilor John Munoz
ABSENT:	City Councilor Johana Bencomo and City Councilor Becky Corran

9. NOTICE OF PROPOSED ORDINANCE(S)

1) There will be no public discussion.
2) A Councilor may ask staff for clarification on the proposed ordinance(s).

9.1

None.

10. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

10.1 COUNCILOR MCCLURE

I am wondering coming out of the conversation today if we should talk a little bit more, this is more towards City Manager about strategy, and I don't think the public does have an awareness of how we strategize to try and get the most bang for our buck in terms of leverage. As I understand it we are not going to finalize this GRT until April so a lot of this back and forth might still happen based on what we are getting from the state to a large degree. I think and I don't want to spoil anybody news but I think we did okay this year but if we didn't do okay in some of the things that we still value that we go back and think about how we can kind of pepper that into our ask and that is something that is hard to explain to people just in general. I am also one to be like let's do the thing. Let's take $500,000 you all have it in accounts. We can just throw it at the thing. Then there is all this slow your roll we have all these processes. And let me give you an example. I want to give a shoutout to Youth Development and Diversion and they are going to be doing some of their life skills work at the County Detention for some of the kiddos and they are really excited for that. We toured that facility in August of last year. It took a long time to get all the emails back and forth to make sure everybody had their contracts together that they could go do this, so it is one of those things that took a really long time but talking about what that strategy looks like is sometimes people just don't understand, right? And I guess I will harp again on my drainage ponds in terms of yea, I would love to get you lights in a street, but we have to do the drainage ponds first and those are not as cool, I am sorry. Which I did actually reach out to the gentleman, and he was what about the lights. Maybe next year we will try. It is really dependent on how we have to process some of the things so putting things together I really do appreciate speaking to people and getting more information and everybody on staff. Chief Story has been really helpful talking about Flock and talk about that again. Walking through the process and what does that actually look like and sometimes it is not automatic. It is not overnight. That said, maybe we can be more explicit with it. I don't know what that looks like especially for the library folks in which I include myself.

The other shoutout I want to give is to Community Schools. I went to the first meeting, and they were like you are Chair. They said how about Vice Chair, and I am like slightly better. I guess they are coming at the end of February to try and give us an idea of key practices that are happening at community schools. Thank you, Councilor Harris, for also responding to the call and it will be interesting to see what kind of opportunities we can leverage from the city also to the school system. We are different entities, but we have common goals when we figure that out. Looking forward to being more involved. Mayor had asked please adopt a school, Booker T is now my school too. So, what does that look like in terms of how we can help those processes happen faster.

Lastly, I was also really worried about the Ren Fair with the closure of the Arts Council. I only asked Visit Las Cruces to do it, Community Development maybe also a lot. Can we consider helping that along a little bit? I would be interested in seeing. Same as Mayor does a pitch for the Whole Enchilada. The Ren Fair meant a lot to the nerdier kids.

10.2 COUNCILOR MATTIACE

I just want to accent something that has been happening over the last couple of months. I want to thank the Mayor for prioritizing the after-school programing. We have quite a movement coming but I think a very big meeting on March 11th and I want to thank Carol Brey and the parks, Steven. We had quite a turn out that attended that first initial meeting to expand and approve our afterschool programs and our youth programs and to include career training and so when I think we look at how we spend the money from the GRT and/or the general fund or other revenues we do spread it to all good programs, are not just priorities in certain programs and we are trying to reach many of the youth in Las Cruces through the schools and I want to thank Steve and Carol Brey and others, Cassie I think attended that second meeting and invited Councilor Harris and I know John Munoz is interested in developing the afterschool program. I think that we have a good consensus to move forward and make those programs better and actually attract youth into viable good programs and thank you.

10.3 COUNCILOR HARRIS

The main thing I wanted to highlight is last week Councilor McClure and I, and Chief Story, and Brad, and Deputy Chief Daniels had a good meeting with Flock and to answer some of our own questions and some of the questions that have been posed by members of the public. So, I just wanted to give kind of a briefing on what we heard there. In no particular order, the main thing that we have deployed from Flock in this town are license plate reader cameras, LPRs, automated license plate readers. Their primary job is to just look at license plates and detect the license plate of the car and put it in a database that can be searched. They also have the capability to do vehicle fingerprinting so if somebody is witnessing a crime and they say it was a white truck with a rack on the back and a green door or something, you can put that in and it will try to find vehicle characteristics as well not just the license plate number. We were told in no uncertain terms, and I just bring this statement as I was told that Flock has never and will never integrate facial recognition into its product. I make no judgment on that statement. I am just throwing it out, that is what they said. A couple of things that the city can do to address some of our concerns. We can opt out of provisions in the contract that allow our data to be sent up for training of their machine learning model. We can also opt out of certain sharing procedures. There is an overwriting provision that they have in a lot of contracts that allows them to share data in emergency situations and what defines that and who defines that is kind of unclear and that is a provision that other cities have opted out of and I think that Brad is looking into that as well. They will not of course let us audit their source code. I think I knew the answer to that going into the meeting, but I did ask. They do have an external security audit, and they have offered to let us see the results of that but we wouldn’t be allowed to do our own because they are not actually things that we own. They have no plans to integrate an on-premises storage option so if we continue to use the system from that specific company, we use it on their terms and we are just leasing it from them. We have as much control as they claim that we do in their contract and to that end I did ask, the incident was not too recent but the reporting on it is recent. In Mountainview, California people might have heard that despite the city’s wishes Flock shared their data with other people in the nationwide, not a surveillance network. But their response to that was well, the city wasn’t actually a client at the time and so it was a demo system, and they didn’t have contract we can do whatever we want. That plus some of the other vibes of the meeting left me feeling uncomfortable. I am a technology person. I am very pro-applying technology to community safety and doing so responsibly but I will say that I did come out of this meeting not entirely comforted. I do appreciate everyone’s time who put it together and for the representatives from Flock for coming out, over the Zoom meeting to help us answer these questions.

All that said it think another thing that came up a lot today that I just wanted to reiterate is that I also see community safety in those kind of more holistic sense and I want to make sure as how we are doing projects we are doing things to lift up the community, fix as much as we can, sources and problems associated with poverty, addressing root sources of crime to that end and part of that is also police and enforcement. That is definitely not be all end all. It is something that I do take very seriously is the holistic nature of that.

Finally, completely different and much more positive, from the Art Board meeting last week I mentioned the call for artists from before, the Chalk Walk is happening March 14th at 10 a.m. to 1 p.m. between the Branigan Center and Museum. If you have time come out and see what our local artists are up to that day and support them and see the cool stuff that they are up to.

10.4 COUNCILOR MUNOZ

I want to take this time to thank everyone who came out and provided feedback. I think that is important. When we talk about things going into discussions with an open mind and a mind of curiosity. I think we learn from those conversations. I have had thousands of employees from before and I got feedback almost every 30 minutes and that’s important. Sometimes we change our mind, sometimes it invalidates what we decided. When I look at the GRT discussion I look at how we provide value. The Mayor often talks about value from a constituent perspective and so I am looking at how we provide the best value to our constituents and so I am looking forward to additional discussions. I appreciate again the staff who is still here and hanging with us and those citizens that came out and provided various feedback on various topics that you bravely the wind out there as you know we have five seasons in New Mexico, summer, fall, spring, winter, and wind.

The other piece I want to do is thank Christine and the staff, everyone who contributed to the visit to the legislature as it wraps up, seems like we are getting some really good traction. The preparation, the contributions that you made to the organization. The timing of it was very positive. There is about 106 municipalities, 33 different counties, and other groups. We are all competing for much needed funding for our city, for Las Cruces. I think you all that prepared and provided information for those who attended was very well appreciated and very well received. Thank you to Christine and everyone who organized that and the staff. I also wanted to express my gratitude and appreciation as the event at the Walmart happened, I definitely feel for the family of the person who was terminated. At the same time, I also am grateful that the police officer who was shot at came out of that situation safely as well as well as no other innocent citizens or bystanders were injured. I also wanted to thank and please share this Chief Daniels with your firefighters, two firefighters who were injured as we have had a rash of fires recently and hope for their speedy recovery and thank them for their service.

10.5 MAYOR ENRIQUEZ

I want to say thank you to everybody that came out today and spoke on behalf of GRT and I said from the get-go that it was going to be challenging but it is a good thing and again thank you to the voters who said yes. That was first and foremost. I should say that was second. The first thing we did was we sent out a survey to see if that would be something that we would move forward with and a lot of that survey came back with what everybody is talking about. It was about public safety. It was about parks, infrastructure, our roads, quality of life and that is why we proceeded with putting that question on the ballot for an increase on the GRT. So, we had a survey, we had the ballot. We had some public meetings, and I want to say we also have calls. The police calls that they respond to. The fire calls that they respond to, so we have got over 200,000 calls. That's a voice in itself of what is needed in this community. So, we are looking for safety. We are looking for the infrastructure, and we are looking for a quality of place. Trying to balance that out with state funding, with federal funding with now the increase in the GRT and our general obligation bond, it is a challenge. We are not going to make everybody happy, but we are listening. We are taking care of the things that have been neglected and we are looking forward to have a better quality of life. That is where we are headed and I say this as we all agreed on one thing and we hear it from constituents all the time is what are we doing for our youth in our community, they are our future and we are working towards that and I think myself and all of council agreed that we need to put more efforts, more energy in and even more money towards things for our youth and our community. So, we will keep working at that and we will keep listening.

11. CITY MANAGER REPORT

11.1 IKANI TAUMOEPEAU

I want to thank Audit for managing our contract with OIR. They just wanted to make an announcement that OIR Group will be here on Monday, February 23rd to present their 9th Semi Annual Police Audit Report to council.

Parks & Rec's update, the department will be offering a one-week spring break camp during upcoming LCPS intersession running from Monday, March 16th through Friday, March 20th to accommodate as many families as possible we will operate at two locations. Jornada Elementary and Frank O'Brien Papen Community Center. The camp is open to children in kindergarten to fifth grade and offers a full day of engagement from 7:30 a.m. till 5:30 p.m. I thank staff for managing that, at affordable prices, $20 per child. Participants will enjoy indoor and outdoor play, arts and crafts, games and daily breakfast and lunch. Registration officially opens at 8 a.m., February 17th and will conclude at 5 p.m., Friday, March 6th. So just wanted to say kudos to our Parks & Rec staff for making that happen. We have had the opportunity to visit with them just a bit and it is just magic what they do. Thank you, staff and Parks & Rec, for keeping up with the great work. I would like to highlight the ongoing efforts of our Community Forestry and Park's staff who are hard at work for several tree planting initiatives aimed at increasing shade and beautification throughout our city within the last three weeks staff has successfully planted 100 trees. Building on that momentum staff is currently in the process of planting an additional 40 trees along Northrise. These efforts remain a vital part of our commitment to enhancing the city's canopy and improving the quality of life for our residents in these high traffic corridors.

Economic Development, yesterday NMEDD, New Mexico Economic Development Department announced Las Cruces Innovation and Industrial Park as one of its first five strategic development sites to be designated throughout the state site readiness program marking a milestone in statewide efforts to prepare competitive investments ready locations for economic growth. Each site was assessed for infrastructure, utility access, workforce considerations, development capacity and alignment with long term economic priorities. This designation allows the city to be eligible for predevelopment funding, and now can I get a drumroll please? Today the industrial park was given a platinum designation through the Ready Sites Program. This is the first standardized nationwide way to evaluate how prepared property is for development with five different levels ranging from emerging to platinum our industrial park is the first designation in New Mexico and the only fourth platinum designation nationwide. In the designation it was stated that Las Cruces has set a high bar for New Mexico. Great job Elizabeth Teeters to you and your staff, please pass along our appreciation.

Last announcement, you may see that Brad Douglas looks a bit different today. Brad is actually in federal court handling a high priority case for us and we have Michael Reyes. He is an Assistant Attorney, one of our Assistant Attorneys and he has been with us for months and I would like you to know him a bit more so if that is okay Michael share a little bit about yourself.

Michael Reyes, Assistant City Attorney said I have had the pleasure of working for the City's Legal Department now for four months led by the great Attorney Brad Douglas and also Henry Becker as well. It has been a really easy transition working with these fine gentlemen because I see a progress right now where they are making the office very strong and I am just happy to be a part of that as well. I am not from Las Cruces, but my wife is. She is born and raised. I have lived here now for four years, and it is really an honor for me to live in this city and work for the city so thank you everybody.

12. ADJOURNMENT

12.1

City Councilor John Munoz moved, seconded by City Councilor Michael Harris, to adjourn at 4:00 p.m.

RESULT:	**Carried**
MOVER:	City Councilor John Munoz
SECONDER:	City Councilor Michael Harris
AYES:	Mayor Eric Enriquez, City Councilor Cassie McClure, City Councilor William Mattiace, City Councilor Michael Harris, and City Councilor John Munoz
ABSENT:	City Councilor Johana Bencomo and City Councilor Becky Corran

Mayor

City Clerk

26-111

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

City Council Action and Executive Summary

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Virginia Barela	**Department:**	Financial Services

Title:	**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO PURCHASE A BRASSTRAX ACQUISITION STATION AND PAG 800 STEREO ZOOM MICROSCOPE FROM LEADSONLINE, OF PLANO, TEXAS FOR $269,189.26, PLUS APPLICABLE TAXES (PROCUREMENT NO. 25-26-091).**

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
Authorize the purchase of BrassTrax Acquisition Station and PAG800 Stereo Zoom Microscope.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
To identify, connect, and reduce violent crime by linking shootings across jurisdictions throughout the country, the Las Cruces Police Department (LCPD) requires access to the National Integrated Ballistic Information Network (NIBIN), a database maintained by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). NIBIN captures, stores, and compares 3D digital images of fired cartridge casings. By analyzing the unique markings left on casings recovered at crime scenes, NIBIN can link a single firearm to multiple incidents across different locations. These comparisons provide valuable investigative leads and support law enforcement efforts in criminal investigations.

In February 2026, the ATF awarded Leadsonline, LLC a sole source contract for the continuation of NIBIN support providing a comprehensive solution to real-time direct access to nationwide data through February 14, 2031.

Las Cruces Municipal Code, Chapter 24, Section 24-7 Sole source procurement, authorizes the City of Las Cruces (City) to award a contract without competition when the purchasing manager determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, services, or construction item.

LCPD wishes to procure a BrassTrax acquisition station and PAG 800 stereo zoom microscope from Leadsonline, LLC of Plano, Texas, to capture 2D and 3D images of cartridges and comparison of unique markings in the NIBIN and Integrated Ballistic Identification System (IBIS) for a one-time purchase total of $269,189.26. These advanced forensic tools automate the capture of high-resolution 2D and 3D images suitable for detailed forensic examination comparison in the NIBIN and IBIS. Procurement of this equipment will allow access to NIBIN through December 31, 2032.

SUPPORT INFORMATION:
Exhibit "A" Leadsonline Order Summary

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the resolution authorizing the City to purchase a BrassTrax acquisition station and PAG 800 stereo zoom microscope from Leadsonline, LLC of Plano, Texas for a one-time total of $269,189.26.
2. Vote "No"; this will deny the purchase with Leadsonline, LLC.
3. Vote to "Amend"; this will modify the resolution and advise staff of necessary adjustments as deemed appropriate.
4. Vote to "Table"; this will delay the authorization to purchase a BrassTrax acquisition station and PAG 800 stereo zoom microscope from Leadsonline, LLC of Plano, Texas and may result in lost funding.

REFERENCE INFORMATION:

R26-100

RESOLUTION 26-111

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO PURCHASE A BRASSTRAX ACQUISITION STATION AND PAG 800 STEREO ZOOM MICROSCOPE FROM LEADSONLINE, OF PLANO, TEXAS FOR $269,189.26, PLUS APPLICABLE TAXES (PROCUREMENT NO. 25-26-091).

The City Council is informed that:

WHEREAS, the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has a National Integrated Ballistic Information Network (NIBIN) database which stores, captures, and compares 3D digital images of fired cartridge cases; and

WHEREAS, NIBIN allows law enforcement agencies throughout the country to connect firearms to multiple crime scenes, aiding in criminal investigations; and

WHEREAS, in February 2026, the ATF awarded Leadsonline, LLC of Plano, Texas, a sole source contract for the continuation of NIBIN support through February 14, 2031; and

WHEREAS, Las Cruces Municipal Code, Chapter 24, Section 24-7 Sole source procurement, authorizes the City of Las Cruces (City) to award a contract without competition when the purchasing manager determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, services, or construction item; and

WHEREAS, the Las Cruces Police Department wishes to procure a BrassTrax acquisition station and PAG 800 stereo zoom microscope from Leadsonline, to capture high-resolution 2D and 3D images of cartridges and comparison of unique markings in NIBIN.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT this Resolution authorizing the City to purchase a BrassTrax acquisition station and PAG 800 stereo zoom microscope from Leadsonline, LLC of Plano, Texas, as shown in Exhibit "A", attached hereto and made part of this resolution, is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

EXHIBIT "A"

LEADSONLINE

LEADSONLINE ORDER SUMMARY No. S-15148

LAS CRUCES POLICE DEPARTMENT, NEW MEXICO

AGENCY ID: 6355-BRX1 | ORDER TOTAL: $269,189.26

Non-Subscription Equipment *(Due Now)*

Due Date	Non-Subscription Equipment	Qty	Amount
01/01/2026	PAG800 Stereo Zoom Microscope	1	$8,600.00
		Total:	**$8,600.00**

Term One *(Due Now)*

Due Date	Scope of Services	Rate	Qty	Subtotal	Disc.%	Amount
01/01/2026	BrassTrax Acquisition Station	$278,830.51	1	$278,830.51	7%	$260,589.26
					Total:	**$260,589.26**

Payment Terms & Taxes

Unless otherwise specified on the Order Form(s), Customer must pay all fees within 30 days of each anniversary during the Initial Term and any subsequent Renewal Term. Eligible credits will be reviewed, assessed, and applied following the full execution of the Agreement and Order Form(s).

FEES ARE EXCLUSIVE OF SALES, USE, WITHHOLDING, VAT, AND OTHER SIMILAR TAXES, AND IF REQUIRED BY LAW CUSTOMER IS RESPONSIBLE FOR PAYMENT OF SUCH TAXES. ANY TAXES REFERENCED AND/OR QUOTED ARE ESTIMATES ONLY, AND NOT ALL SERVICES AND/OR HARDWARE MAY BE SUBJECT TO TAXATION. FINAL TAX AMOUNTS WILL BE DETERMINED BASED ON APPLICABLE LAWS AT THE TIME OF INVOICING.

CUSTOMER SHOULD PROVIDE A TAX EXEMPTION CERTIFICATE IF APPLICABLE.

Bundle Discounts

Bundle discounts are contingent on Customer's annual renewal of each Service qualifying Customer for each discount. Should the associated Agreement and/or this, or any other associated Order Form, terminate for any reason, all discounts granted will be immediately revoked.

Discounts Applied: *Two-Product Discount*

Subscription Services Agreement

This Subscription Services Agreement (**Agreement**) is between LeadsOnline, LLC, a Delaware limited liability company (**LeadsOnline**), City of Las Cruces, New Mexico (**Customer**), and is effective as of the date of the last signature below. This Agreement contemplates one or more Order Forms for Services, which are governed by the terms of this Agreement.

1. Service

a. This Agreement and the applicable Order Form provide Customer access to and usage of solution services involving hardware devices provided by LeadsOnline with accompanying software needed to operate such hardware and/or an Internet-based software service, including, without limitation, its features, functions, and user interface, and underlying software, which may be limited to a set number of Eligible Users, as defined and specified on an Order Form (**Service**).

2. Use of Service

a. **Customer Owned Data.** All data, information, images, and files uploaded or otherwise entered by Customer into the Service remains the property of Customer, as between LeadsOnline and Customer (**Customer Property**), unless otherwise specified in the applicable Order Form regarding licensing terms for the Service offered under said Order Form.

b. **Responsibilities for Customer Property.** Customer represents and warrants to LeadsOnline that Customer has provided all required notices and has obtained all required licenses, permissions, and consents regarding Customer Property for use within the Service under this Agreement. Customer grants LeadsOnline the right to use the Customer Property solely for Purposes of performing under this Agreement (which includes, without limitation, the right for LeadsOnline to enhance its technology and offerings). LeadsOnline will purge any or all Customer Property upon Customer's written request. Customer may export its Customer Property as allowed by functionality within the Service.

c. **General Responsibilities.** Customer must (i) ensure that access to Service and information produced by or derived from it is limited to the Purpose defined in the Order Form, (ii) maintain any data accessed, received or otherwise derived from Service according to all applicable statutes, laws and regulations for use and disclosure of non-public personal information, (iii) connect to Service only using devices and browsers with proper encryption, (iv) promptly notify LeadsOnline (within the Service or by email to support@leadsonline.com) when an Eligible User is no longer employed by Customer or is no longer authorized to access Service, (v) ensure that each Eligible User is acting within the bounds of their authority from Customer and within their legal rights to search, possess, enter, analyze and use, all information and data submitted to and received from the Service, (vi) refrain from any use, misuse or actions related to Service or Data that infringe, misappropriate, or otherwise violate any right of anyone, or that violate any applicable law, and ensure that any instructions or directives Customer gives to or regarding anyone do not conflict with applicable laws, (vii) use any hardware provided by LeadsOnline solely for the Purpose defined in the Order Form and in accordance with all applicable instructions, policies, and documentation provided by LeadsOnline, (viii) ensure that the hardware is used only by Eligible Users authorized under this Agreement and is not transferred, loaned, or sublicensed to any unauthorized person or entity, (ix) keep all hardware provided as part of the Service in good working condition, refrain from any unauthorized repairs, modifications, or tampering, and promptly notify LeadsOnline of any malfunction, damage, or loss, and (x) verify the accuracy, timeliness, context and relevance of information or communication from Service or personnel prior to taking action. Customer acknowledges that LeadsOnline does not enforce laws, does not provide legal advice, and does not claim to have authority or expertise in legal or law enforcement matters.

d. **Governmental Agency Public Records Clause**. If Customer is a government agency and is required by law to permit the inspection and copying of public records, Customer acknowledges the Service contains information protected by exemptions to public disclosure laws in many states, and if Customer searches the Service in response to a request for Public Records, Customer is acting on its own accord. LeadsOnline does not grant Customer access to the Service for the Purpose of searching for or creating records to respond to a public records request when Customer did not have the record in its possession at the time of the request.

e. **Customer Responsibilities.** Customer: (i) must keep its passwords secure and confidential and use industry-standard password management practices, and ensure that any credentials related to the hardware under the Service are protected from unauthorized access; (ii) is responsible for its access control policies and administration of access rights to its account within the Service, the acts and omissions of its users, and the legality and accuracy of any data submitted to the Service, may not share any access credentials and must also prevent unauthorized access, tampering, or misuse of any hardware provided under the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify LeadsOnline promptly of any such unauthorized access; (iv) may use the Service and any associated hardware only in accordance with the Service's technical documentation (including without limitation, video tutorials) and applicable law; and (v) must follow all provided guidelines for hardware setup, maintenance, and operation to ensure compliance and functionality under the Service.

f. **LeadsOnline Support.** Unless otherwise specified in the applicable Order Form, LeadsOnline must provide Customer support for the Service under the terms of LeadsOnline's Customer Support Policy (**Support**), which is located at leadsonline.com/customer-support.

3. Warranty Disclaimer

a. **THE SERVICE IS PROVIDED 'AS IS' WITHOUT WARRANTY. LEADSONLINE DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. WHILE LEADSONLINE TAKES REASONABLE PHYSICAL, TECHNICAL, AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, CUSTOMER UNDERSTANDS THAT THE SERVICE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED.**

b. While Customer acknowledges that the Service may not be error-free and may not fully meet Customer's expectations, LeadsOnline does warrant that the Service is free from defects that will substantially affect performance, and that it has used commercially available tools designed to discern that no viruses or other security defects are present. LeadsOnline further warrants that the Service will function substantially in accordance with the Order Form. LeadsOnline will not intentionally introduce any virus, Trojan horse, spyware, malware, or other malicious code designed to erase, damage, or unlawfully interfere with Customer's equipment, data, or other programs. Notwithstanding the foregoing, Customer acknowledges and agrees that the Service may contain functionality that allows LeadsOnline to remotely disable or limit the hardware's operation in accordance with this Agreement, including but not limited to instances of non-payment or material breach by Customer.

c. LeadsOnline cannot control the decisions and actions of Customer. LeadsOnline expressly disclaims and does not undertake or assume any duty, obligation or responsibility for any decisions, actions, reactions, responses, inaction by Customer or any other party as a result of or reliance on, in whole or in part, any use of the Service or information derived from it, or for any consequences or outcomes including death, injury, loss or damage to any property arising from or caused by any such actions decisions, reactions, responses, or inaction.

4. Payment

a. **Fees and Payment.** Customer must pay all fees as specified on the Order Form, but if not specified, then within 30 days of receipt of an invoice. The fees are exclusive of sales, use, withholding, VAT, and other similar taxes, and if required by law Customer is responsible for payment of such taxes.

b. **Nonpayment.** LeadsOnline will provide electronic notice (within the Service) and notice to the email registered with LeadsOnline (Customer is responsible for maintaining an updated email address with LeadsOnline) of the non-payment of an open invoice. If the payment is not made within 7 days of the first notice, then LeadsOnline may suspend Service and Support until the amount is paid in full or terminate the Service upon 30 days' notice under Section 9(c).

5. Mutual Confidentiality

a. **New Mexico Inspection of Public Records Act.** The parties acknowledge that confidentiality obligations of the Customer are limited by law, including the New Mexico Inspection of Public Records Act (IPRA).

b. **Definition of Confidential Information.** Confidential Information means all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). LeadsOnline's Confidential Information includes, without limitation, the Service. Customer's Confidential Information includes, without limitation, the Customer Property.

c. **Protection of Confidential Information.** Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (i) not use any Confidential Information of Discloser for any Purpose outside the scope of this Agreement; and (ii) limit access to Confidential Information of Discloser to those of its and its Affiliates' employees and contractors who need that access for Purposes consistent with this Agreement, and who have a legal obligation under law or policy regarding confidentiality or have signed confidentiality Agreements with Recipient containing protections not materially less protective of the Confidential Information than those in this Agreement.

d. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient before its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) is independently developed by the Recipient without use of or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order but will provide Discloser with advance notice to seek a protective order unless otherwise directed by the court.

6. Information Security

a. **Data Security Measures.** To protect Customer Property from unauthorized disclosure, alteration, or misuse, LeadsOnline shall:

i. Agree to the terms of the Federal Bureau of Investigation Criminal Justice Information Services (FBI CJIS) Security Addendum.

ii. Ensure that LeadsOnline personnel with unescorted access to unencrypted Customer Property and/or physically secure locations have:
- Completed CJIS Security Awareness Training and have passed the Level Four CJIS Security Test designed for Information technology personnel (system administrators, security administrators, network administrator).
- Submitted to and successfully passed state of residency and national fingerprint-based record checks.

iii. Apply appropriate controls according to the AICPA Trust Services Criteria for Security so as to maintain a secure environment for all Customer Property.

iv. Maintain proper encryption of data in transit using 256-Bit Transport Layer Security (TLS) and at rest using FIPS 140-2 standards.

v. Maintain advanced firewall and intrusion protection, database partitioning, patch management, account management, identification and authentication, configuration management and third-party application and network penetration tests.

vi. Log events relative to access and use of the Services; maintain and protect logs from disclosure, alteration, or misuse.

vii. Respond to security incidents; In the event of a data breach (as defined by applicable law), of Customer Property, LeadsOnline will act to eliminate the breach, preserve forensic evidence, and notify Customer without undue delay. LeadsOnline shall have no obligation to notify consumers or regulatory authorities of a breach of Customer data that was not the result of a data security incident experienced by LeadsOnline.

viii. Purge any Customer Property upon Customer's written request.

7. Insurance

a. **Insurance Policies.** LeadsOnline shall maintain insurance policies for property, general liability, auto, workers compensation, errors and omissions/cyber liability insurance.

b. **Additional Insured**. For the purposes of this Agreement, Customer, its officers, officials, employees, and volunteers shall be deemed additional insureds on the general liability policy with respect to liability arising out of work or operations performed by or on behalf of LeadsOnline. Additional insured coverage shall be evidenced in the form of Blanket Certificate of Endorsement upon Customer's request.

8. Property

a. **Reservation of Rights.** LeadsOnline and its licensors are the sole owners of the Service, including all associated intellectual property rights, and they remain only with LeadsOnline. Title to any hardware provided under this Agreement passes to Customer upon full payment as specified in the Order Form; however, LeadsOnline retains all intellectual property rights related to any software, firmware, or proprietary technology embedded in or used to operate the hardware. Customer may not remove or modify any proprietary marking or restrictive legends in the Service. LeadsOnline reserves all rights that are not expressly granted in this Agreement.

b. **Restrictions.** Customer *may not*: (i) share, provide, sell, resell, rent, or lease the Service or use it in a service-provider capacity or allow access to the Service, its output, or any associated hardware, software, firmware, or proprietary technology by a third party, except as expressly permitted in this Agreement; (ii) use the Service or any hardware provided as part of the Service, to store or transmit unsolicited marketing emails, libelous, or otherwise objectionable, unlawful, or tortious material, or to store or transmit infringing material in violation of third party rights; (iii) interfere with or disrupt the integrity or performance of the Service, including but not limited to tampering with, modifying, or attempting to bypass any security, tracking, or management features within any software or hardware provided as part of the Service; (iv) attempt to gain unauthorized access to the Service or its related systems or networks or use any automated means to monitor, access or copy any data from the Service; (v) reverse engineer, decompile, disassemble, or otherwise attempt to discover the underlying technology, software, or firmware of the Service or hardware, or modify, alter, or remove any proprietary markings or security features; (vi) resell, transfer, or dispose of the hardware in a manner inconsistent with this Agreement, including attempting to sublicense or lease it to a third party without LeadsOnline's prior written consent; the Service; or (vii) access the Service to build a competitive service or product, or copy any feature, function, or graphic. LeadsOnline may suspend Service to Customer if LeadsOnline believes in good faith that Customer's use of the Service poses threat to the security, availability, or legality of the Service; in such event, LeadsOnline will work with Customer to address the issue and restore Service as quickly as possible.

c. **Audit Information.** LeadsOnline logs events related to user registration, contacts, access, and use of the Services for legal, audit, security, and support Purposes (**Audit Information**). Audit Information is not Customer Property.

9. Term & Termination

a. **Term.** This Agreement continues until the 30th day after all Order Forms have expired or earlier terminated as provided below.

b. **Term of Order Forms.** The term of each Order Form is specified in the Order Form.

c. **Mutual Termination for Material Breach.** If either party is in material breach of this Agreement, the other party may terminate this Agreement at the end of a written 30-day (30) notice/cure period if the breach has not been cured.

d. **Termination by Mutual Consent.** This Agreement and/or any Order Form may be terminated by the mutual consent of both parties.

e. **Termination of an Order Form Due to Non-Appropriation of Funds.** Government Customers may terminate services in an Order Form by providing sixty (60) days' written notice to LeadsOnline prior to the next contract year if funding to make the next scheduled payment is not duly appropriated and authorized.

f. **Return of Customer Property:**

- Within sixty (60) days after termination, upon written or electronic request LeadsOnline will make the Service available for Customer to export Customer Property as provided in **Section 2(a)**.
- After such a sixty-day (60) period, LeadsOnline has no obligation to maintain the Customer Property and may destroy it.

10. Liability Limit

a. **Indemnification.** LeadsOnline agrees to defend, indemnify and hold harmless Customer.

b. **Indemnification for Third-Party Claims.** LeadsOnline will defend or settle any third-party claim against Customer to the extent that such claim alleges that the LeadsOnline technology used to provide the Service violates a copyright, patent, or trademark (**IP Indemnity Claim**), if Customer: promptly notifies LeadsOnline of the claim in writing; cooperates with LeadsOnline in the defense; and allows LeadsOnline to solely control the defense or settlement of the claim. Costs. LeadsOnline will pay infringement claim defense costs it incurs in defending Customer, and LeadsOnline-negotiated settlement amounts, and court awarded damages. Process. If such a claim appears likely, then LeadsOnline may modify the Service, procure the necessary rights, or replace it with the functional equivalent. If LeadsOnline determines that none of these are reasonably available, then LeadsOnline may terminate the Service and refund any prepaid and unused fees. Exclusions. LeadsOnline has no obligation for any claim arising from: Customer's misuse of the Services, LeadsOnline's compliance with Customer's designs, specification, instructions, or technical information; a combination of the Service with other technology or aspects where the infringement would not occur but for the combination; Customer's directives, access or use of, or laws or policies applicable to Customer regarding the information and sources thereof accessible via the Services including Customer Property; or technology or aspects not provided by LeadsOnline. **THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND LEADSONLINE'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.**

c. **EXCLUSION OF INDIRECT DAMAGES. TO THE MAXIMUM EXTENT ALLOWED BY LAW, LEADSONLINE IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF OR UNAUTHORIZED ACCESS TO DATA OR INFORMATION; AND LOST PROFITS, REVENUE, OR ANTICIPATED COST SAVINGS), EVEN IF IT KNOWS OF THE POSSIBILITY OR FORESEEABILITY OF SUCH DAMAGE OR LOSS.**

d. **TOTAL LIMIT ON LIABILITY. TO THE MAXIMUM EXTENT ALLOWED BY LAW, EXCEPT FOR LEADSONLINE'S INDEMNITY OBLIGATIONS RELATING TO IP INDEMNITY CLAIMS, LEADSONLINE'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT, OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12-MONTH PERIOD PRIOR TO THE EVENT THAT GAVE RISE TO THE LIABILITY, EXCEPT THAT THE ABOVE LIMITATION DOES NOT APPLY TO CUSTOMER'S PAYMENT OBLIGATIONS FOR THE SERVICE.**

11. Governing Law & Forum

a. **Government Customers.** This Agreement is governed by the laws of the State where Customer is located (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this Agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for the County where Customer is located, and each party submits to this personal jurisdiction and venue. Nothing in this Agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction.

12. Other Terms

a. **Entire Agreement and Changes.** This Agreement and the Order Form constitute the entire Agreement between the parties and supersede any prior or contemporaneous negotiations or Agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this Agreement. No representation, promise, or inducement not included in this Agreement is binding. No modification or waiver of any term of this Agreement is effective unless both parties sign an amendment to this Agreement.

b. **No Assignment.** Neither party may assign or transfer this Agreement to a third party, except that the Agreement and all Order Forms may be assigned without the consent of the other party as part of a merger or sale of all or substantially all a party's businesses, assets, not involving a competitor of the other party, or at any time to an Affiliate.

c. **Export Compliance.** The Service and Confidential Information may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Neither party will permit its personnel or representatives to access any Service in a U.S.-embargoed country or in violation of any applicable export law or regulation.

d. **Independent Contractors.** The parties are independent contractors with respect to each other, and neither party is an employee, or partner of the other party or the other party's Affiliates.

e. **Enforceability and Force Majeure.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect. Neither party is liable for its non-performance due to events beyond its reasonable control, including but not limited to natural weather events and disasters, labor disruptions, and disruptions in the supply of utilities.

f. **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach of this Agreement.

g. **No Additional Terms.** LeadsOnline rejects additional or conflicting terms of any Customer form-purchasing document.

h. **Order of Precedence.** If there is an inconsistency between this Agreement and an Order Form, the Order Form prevails.

i. **Survival of Terms.** All provisions of this Agreement regarding payment, confidentiality, indemnification, limitations of liability, proprietary rights, and such other provisions that by fair implication require performance beyond the term of this Agreement shall survive expiration or termination of this Agreement until fully performed or otherwise are inapplicable.

j. **Feedback.** If Customer provides feedback or suggestions about the Service, then LeadsOnline (and those it allows to use its technology) may use such information without obligation to Customer.

< < < SIGNATURE PAGE TO FOLLOW > > >

13. Signatures

a. Each representative identified below represents and warrants that it has the full power, right and authority to enter into this Agreement on behalf of its respective party.

LEADSONLINE, LLC (LEADSONLINE)
Signature:
Printed Name: Alexander Finley
Title: CEO
Date:
Address: 6900 Dallas Parkway, Suite 825, Plano, TX 75024, United States

CITY OF LAS CRUCES, NEW MEXICO (CUSTOMER)
Signature:
Printed Name:
Title:
Date:
Address: 217 East Picacho, Las Cruces, New Mexico 88001, United States

Approved as to Form:

03/02/26

CITY ATTORNEY
City of Las Cruces

LEADSONLINE IBIS® SOLUTION SUBSCRIPTION

ORDER FORM NO. Q-04375 | AGENCY ID: 6355-BRX1

CUSTOMER:	UNIT:
CITY OF LAS CRUCES, NEW MEXICO	POLICE DEPARTMENT

1. SERVICE

a. **Service.** LeadsOnline Integrated Ballistic Identification System (**IBIS®**) technology, which may include cartridge case acquisition units (**BrassTrax™ Acquisition Station** or **BrassTrax™**), and associated three dimensional imaging, comparison algorithm for ballistic evidence in large databases and data management infrastructure (collectively, the **Service**).

b. **Authority.** Customer represents that it is a law enforcement agency or governing body of a law enforcement agency, an entity duly authorized by municipal, state county or federal government to enforce laws or investigate crimes, or a criminal justice agency as defined under Federal law or regulation and the Eligible Users are employed by Customer in the Unit listed at the top of this Order Form.

2. PURPOSE

a. **Law Enforcement Use.** Exclusively for the official law enforcement activities of Customer's Unit. Hardware and software shall be used solely for firearms evidence acquisition, analysis, and reporting. Use must be in accordance with federal, state, or local laws, and any applicable National Integrated Ballistic Information Network (**NIBIN**) participation requirements.

3. TERM, SERVICE PERIODS AND SUBSCRIPTION FEES

a. **Order Term.** This Order Form will become effective as of the Effective Date and remain in effect through the Service Periods listed below (**Initial Term**) and any renewal Service Periods or until termination by LeadsOnline or Customer as described below. The Effective Date shall be defined as the date of the last signature below.

b. **Payment Terms.** Payment shall be made on or before each anniversary during the Initial Term and any renewal term thereafter.

IBIS® BRASSTRAX™ ACQUISITION STATION:

START DATE	END DATE	RATE	QTY	SUBTOTAL	DISC.%	TOTAL DUE
January 1, 2026	December 31, 2032	$278,830.51	1	$278,830.51	7%	**$260,589.26**

c. **Renewals.** Following the Initial Term, this Order Form will automatically renew for successive one-year terms unless either party provides written notice of non-renewal at least thirty (30) days prior to the end of the then-current term. Each renewal term will be invoiced by LeadsOnline according to then-current pricing, and continued use of the Service is subject to Customer's timely payment of such invoice.

d. **Applicable Taxes.** Fees are exclusive of sales, use, withholding, VAT, and other similar taxes, and if required by law Customer is responsible for payment of such taxes. Any taxes referenced and/or quoted are estimates only, and not all services and/or hardware may be subject to taxation. Final tax amounts will be determined based on applicable laws at the time of invoicing. Customer may provide a Tax Exemption Certificate if applicable.

4. BUNDLE DISCOUNTS

a. **Bundle Discounts.** Should bundle discounts (**Discounts**) be granted to Customer, said Discounts are contingent on Customer's annual renewal of each Service qualifying Customer for each Discount.

b. **Revocation Disclaimer.** Should the associated Agreement and/or this, or any other associated Order Form, terminate due to cancellation, expiration, mutual termination or breach, all Discounts granted under this, or any other associated Order Form, will be immediately revoked. Customer will no longer qualify for Discounts.

LEADSONLINE

5. Early Termination & Termination Fees

a. **Termination of an Order Form Due to Non-Appropriation of Funds.** Customer may terminate services in this Order Form by providing sixty (60) days' written notice to LeadsOnline prior to the next contract year if funding to make the next scheduled payment is not duly appropriated and authorized.

b. **Termination Fees.** In the event of termination under this paragraph, Customer shall be subject to an early termination fee equal to fifty percent (50%) of the remaining unbilled service periods as outlined above.

6. Features

BrassTrax™ Key Features and Characteristics	
BrassTrax™ Acquisition Station	**BrassTrax™** is the cartridge case imaging component of IBIS networks. It digitally captures the areas of interest from the head of a cartridge case in 3D, offering considerable impression detail and multiple viewing perspectives.
3D Imaging	Custom-designed non-linear photometric stereo 3D sensor. Automated acquisition reduces operator variability and ensures consistent image quality for optimal comparison performance. Automated 3D topography acquisition of the primer area, including breech face marks and centerfire firing pin impression. Semi-automated 3D topography acquisition of the ejector marks or rimfire firing pin impression. Automated 3D topography acquisition of the complete head stamp. Automated delimitation of regions of interest. Accommodates cartridge case with diameters ranging from 2 mm to 27 mm and lengths up to 78.5 mm.
Data Management	Management of case, cartridge case exhibit, and firearm exhibit information.
Quality Control	Automated self-test and adjustment.
General	Hands-off operation allows multitasking. Minimal user training and expertise to operate. Detailed user guide.

7. Onboarding, Training and Technical Support

a. LeadsOnline will coordinate on-site or remote installation and configuration. Initial training is included for up to two (2) designated personnel per system. Customer is responsible for preparing a compliant installation site.

8. Delivery, Shipping, Duties, Taxes and Fees

a. **Delivery.** The delivery of the equipment will be within one hundred and twenty (120) days after receipt of payment of the applicable fees and acceptance of the order.

b. **Shipping.** The equipment will be shipped FCA LeadsOnline's designated facility (Incoterms 2020). LeadsOnline will be responsible for export clearance. Risk of loss and responsibility for transportation, import clearance, duties, taxes, and final delivery shall transfer to the Customer upon transfer of the equipment to the carrier at the named place of delivery.

c. **Additional Charges.** LeadsOnline is responsible for any charges related to exportation and export customs clearance only. All import duties, customs clearance, taxes, and related charges are the sole responsibility of the Customer. The quoted price excludes income, withholding taxes, and any extraordinary storage or delivery costs.

9. Property Title and Risk Loss

a. Title to the equipment shall transfer to the Customer only upon LeadsOnline's receipt of full payment as specified in the Order Form, regardless of the completion of any on-site test procedure or other post-delivery services. Risk of loss transfers to the Customer at the point of delivery to the carrier at LeadsOnline's designated facility in accordance with FCA terms (Incoterms 2020).

10. Connection to the National Integrated Ballistic Information Network

a. The Bureau of Alcohol, Tobacco, Firearms and Explosives (**ATF**) has the authority to grant the Customer access to the National Integrated Ballistic Information Network (**NIBIN**), to include NIBIN-IBIS data concentrators and a NIBIN-IBIS correlation servers. LeadsOnline will provide reasonable assistance and coordination to facilitate the Customer's access to NIBIN from ATF. However, LeadsOnline is not responsible for ATF's decision regarding access, nor can it guarantee approval or the timing of such approval.

11. Device Control

a. Customer acknowledges and agrees that the hardware may include functionality permitting LeadsOnline to remotely disable or restrict access to the hardware in the event of non-payment, breach, or other conditions as provided in the Subscription Services Agreement.

12. Miscellaneous

a. This Order Form is attached to and incorporated into the Subscription Services Agreement between **Customer** and **LeadsOnline** dated (**Agreement**). This Order Form is governed by the terms of the Agreement between the parties. All terms not defined in this Order Form have the meanings ascribed to such terms in the Agreement. This Order Form and the Agreement constitute the entire agreement between the parties, and supersede all prior or contemporaneous negotiations, agreements, and representations, whether oral or written, related to this subject matter. No modification or waiver of any term of this Order Form is effective unless both parties sign an amendment to this Order Form. LeadsOnline may include a purchase order number on Customer's invoice solely for Customer's internal payment and record keeping processes, but any terms within any purchase order in response to a quote, order form or invoice will not modify or enlarge the obligations or liabilities of either party even if the parties sign it.

13. Signatures

a. Each representative identified below represents and warrants that it has the full power, right and authority to enter into this Agreement on behalf of its respective party.

LEADSONLINE, LLC (LEADSONLINE)	CITY OF LAS CRUCES, NEW MEXICO (CUSTOMER)
Signature:	Signature:
Printed Name: Alexander Finley	Printed Name:
Title: CEO	Title:
Date:	Date:
Address: 6900 Dallas Parkway, Suite 825, Plano, Texas 75024, United States	Address: 217 East Picacho, Las Cruces, New Mexico 88001, United States

26-112

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

City Council Action and Executive Summary

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Gaby Prats	**Department:**	Financial Services

Title:	**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET.**

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
To accept grant awards and amend the FY26 budget.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing.

Per the City's Grants Administration Program Policy, the City Manager, or his designee, may execute grant agreements with funding agencies. Upon receipt of the fully executed agreement from the funding agency, the Council may adjust the budget.

The request for City Council is to accept the budget adjustments to be used by the departments for the scope of work as defined by each grant agreement.

SUPPORT INFORMATION:
Exhibit "A" - 03-16-26 Fund Summaries
Attachment "A" - PD - FY26 Third Judicial District Attorney Warrant Grant Executed Agreement
Attachment "B" - QOL - SFY24 IGA A24-I5331 Agreement Fully Executed
Attachment "C" - QOL - SFY24 IGA A24-I5332 Agreement Fully Executed

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☒ Yes
☐ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT: Various **AVAILABLE AMOUNT:** Various **EXPENDITURE AMOUNT:** Various

Funding Source(s):
Various

Overall Budget Impact:
Please refer to Exhibit "A" Fund Summaries

Does this action amend the Capital Improvement Plan (CIP)?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept the grant awards as presented and amend the City's FY2026 Budget.
2. Vote "No"; this will not approve the Resolution to accept the grant awards as presented and amend the City's FY2026 Budget.
3. Vote to "Amend"; this could delay the Resolution and the process of spending the grant funds within the predetermined grant schedule and require direction to staff.
4. Vote to "Table"; this will delay the Resolution and will impact the implementation of the grant agreement, the City department's ability to utilize the funds and return the grant funds to the granting agency.

RESOLUTION 26-112

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2026 BUDGET.

The City Council is informed that:

WHEREAS, the City has received notice of grant awards for various City departments; and

WHEREAS, the grants will be used as designated in the scope of work and within the specified time period as shown in the grant agreements executed by the City Manager, or his designee; and

WHEREAS, the grant agreements that are the subject of this budget adjustment will be attached to the Resolution starting as Attachment "A" and each additional agreement will be attached as subsequent attachments.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the City hereby amends the FY2026 City Budget and accepts all grant awards as shown in the Fund Summary, Exhibit "A", attached hereto and made part of this Resolution, are hereby approved.

(II)

THAT the City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

CITY OF LAS CRUCES

Exhibit "A"

BUDGET ADJUSTMENT REQUEST

BUDGET FISCAL YEAR 2025-26

	2100 SPL REV GT 2025-26			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	$ 249,231	277,288	0	277,288
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cannabis Excise Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	182,000	207,500	0	207,500
Federal Grants	9,229,523	5,674,433	0	5,674,433
State Grants	4,573,536	18,269,064	610,000	18,879,064
Local Grants	0	805,000	0	805,000
Debt Service	0	0	0	0
Total Revenues	**13,985,059**	**24,955,997**	**610,000**	**25,565,997**
TOTAL RESOURCES	**$ 14,234,290**	**25,233,285**	**610,000**	**25,843,285**
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager-300	5,768,725	13,198,539	0	13,198,539
Legal	0	0	0	0
Las Cruces Police Department	1,581,852	1,454,661	300,000	1,754,661
Las Cruces Fire Department	568,628	1,769,942	0	1,769,942
Utilities	194,431	0	0	0
Economic Development	2,869,028	2,969,028	0	2,969,028
Assistant City Manager-400	0	0	0	0
Human Resources	0	0	0	0
Financial Services	144,821	1,157,615	0	1,157,615
Information Technology	0	0	0	0
Assistant City Manager-500	512,694	1,148,866	0	1,148,866
Parks & Recreation	446,219	928,555	0	928,555
Community Development	400,000	400,000	0	400,000
Quality of Life	1,447,022	1,877,153	310,000	2,187,153
Public Works	51,638	51,638	0	51,638
Legislative Reserve	0	0	0	0
Total Expenditures	**$ 13,985,058**	**24,955,997**	**610,000**	**25,565,997**
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	0	(277,288)	0	(277,288)
Total Other Resources	**$ 0**	**(277,288)**	**0**	**(277,288)**
Accrual Adjustments	0	0	0	0
ENDING BALANCE	**$ 249,232**	**(0)**	**0**	**(0)**

CITY OF LAS CRUCES

Exhibit "A"

BUDGET ADJUSTMENT REQUEST

BUDGET FISCAL YEAR 2025-26

	4100 CAP PRJ GT 2025-26 Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	$ 0	(0)	0	(0)
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cannabis Excise Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	3,733,291	11,622,748	0	11,622,748
State Grants	21,868,274	36,678,551	3,052,170	39,730,721
Local Grants	0	107,777	0	107,777
Debt Service	0	0	0	0
Total Revenues	**25,601,565**	**48,409,076**	**3,052,170**	**51,461,246**
TOTAL RESOURCES	**$ 25,601,565**	**48,409,076**	**3,052,170**	**51,461,246**
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager-300	6,212,832	9,801,607	0	9,801,607
Legal	0	0	0	0
Las Cruces Police Department	154,751	2,702,182	0	2,702,182
Las Cruces Fire Department	159,338	3,085,444	0	3,085,444
Utilities	0	0	0	0
Economic Development	1,710,644	2,412,365	0	2,412,365
Assistant City Manager-400	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Assistant City Manager-500	0	522,420	0	522,420
Parks & Recreation	3,454,532	6,390,627	0	6,390,627
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	13,909,468	23,494,431	3,052,170	26,546,601
Legislative Reserve	0	0	0	0
Total Expenditures	**$ 25,601,565**	**48,409,076**	**3,052,170**	**51,461,246**
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	0	0	0	0
Total Other Resources	**$ 0**	**0**	**0**	**0**
Accrual Adjustments	0	0	0	0
ENDING BALANCE	**$ 0**	**(0)**	**0**	**(0)**

INTERGOVERNMENTAL AGREEMENT

Between the

Las Cruces Police Department

And the

Third Judicial District Attorney's Office
Recipient Agreement No. 24-ZH5048-3

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this 11th day of February 2026, by and between the Third Judicial District Attorney's Office ("District Attorney"), the Las Cruces Police Department ("LCPD") each organized and existing under the laws of the State of New Mexico.

DEFINITIONS

- **A.** "Confidential Information" means information that could reveal the identity of a confidential informant or jeopardize an ongoing law enforcement operation.
- **B.** "Law Enforcement Agency" or "LEA" means LCPD.
- **C.** "Parties" means the District Attorney, LCPD.
- **D.** "Target" and "Defendant" are used interchangeably in this agreement.

RECITALS

WHEREAS, as of February 2026, a backlog of approximately 985 outstanding warrants exists in the County of Dona Ana; and

WHEREAS the Department of Finance and Administration ("DFA") was appropriated funding under the General Appropriations Act of 2023 (HB2) to fund efforts to reduce the backlog of outstanding warrants within the County of Dona Ana; and

WHEREAS, DFA has delegated the disbursement of these funds to the District Attorney for outstanding warrants within the County of Dona Ana; and

WHEREAS, pursuant to NMSA 1978, Section 4-41-2, the Las Cruces Police Department shall have the following powers and perform the following duties:

1. They shall be conservators of the peace within the LEA.
2. They shall suppress assaults and batteries.
3. They shall apprehend and commit to jail, all felons, and traitors, and cause all offenders to keep the peace and to appear at the next term of the court and answer such charges as may be preferred against then; and

WHEREAS, pursuant to NMSA 1978, Section 35-15-4, LCPD may serve any process or make any arrests authorized to be made by any city or town officer; and

WHEREAS, pursuant to NMSA 1978, Section 31-3-2, LCPD shall apprehend any person in the act of violating the laws of the State or the ordinances of the municipality and bring them before competent authority for examination and trial. In the discharge of proper duties, LCPD shall have the same powers and be subject to the same responsibilities as sheriffs in similar cases; and

WHEREAS the above referenced public agencies desire to enter into the agreement to exercise their common powers to apprehend and prosecute the large number individuals within Dona Ana County that currently have active felony warrants. The allotted amount that shall be available to LCPD for this agreement is approximately $300,000.00.

NOW THEREFORE, in order to implement measures that will reduce the warrant backlog in Dona Ana County, the parties agree as follows:

1. **Scope of Work**

1.1. The District Attorney shall fund overtime compensation for operations aimed at reducing the warrant backlog and apprehending recently issued felony warrants within the Third Judicial District. Any overtime hours worked under this agreement shall adhere to the following:

1.1.1. Overtime hours worked shall be for the sole purpose of activities aimed at reducing the warrant backlog within Dona Ana County.

1.1.2. All overtime hours must be paid in accordance with the specific LEA 's overtime policies. The LEA must complete a certification indicating all overtime hours are paid in accordance with the Fair Labor Standards Act (FLSA) and their policies. The overtime Certification is incorporated into this agreement as **Attachment A-1.**

1.2 The parties to this agreement will each submit a list of who they consider to be priority targets to have been arrested on their outstanding felony warrant. The District Attorney will have final say over the contents of the list and who will be identified as a priority target. If a target has not been approved by the District Attorney for apprehension, then funds pursuant to this agreement will not be authorized. The parties may continue to send the District Attorney, via email to Lead Investigator Andy Sanchez and District Office Manager Yvette Lomeli, names of targets they believe to be a priority throughout the term of this agreement. The parties agree to prioritize the apprehension and prosecution of those targets approved by the District Attorney.

1.3. If the parties have a scheduled ops-plan (such as traffic enforcement or a tac-plan) and an officer comes upon a priority target, the District Attorney will not provide payment to the parties, unless the ops-plan was specifically scheduled to apprehend a target.

1.4. If a LEA is looking for a priority target and in the course of doing so, comes into contact with a person who has an outstanding felony warrant, the LEA may invoice the District Attorney for additional time needed to arrest and process that person.

1.5 If, upon apprehension of a priority target, a LEA identifies new criminal charges or the need to obtain a search warrant, the time spent completing those tasks will not be in voiced to the District Attorney.

1.6 The District Attorney will fund overtime specifically for CSO related to the administrative process related to removing the warrant from databases such as NCIC for any apprehended target.

1.7 As long as a planned and coordinated effort was established to search for a subject, man-hours will be paid to the LEA for the work performed, even if it does not lead to the apprehension of a target.

1.8 Reporting: To ensure this initiative results in reduction of outstanding warrants within the County of Dona Ana, the LEA's shall submit a detailed monthly report for their respective agency containing the following data for the previous reporting period and cumulative stats on the following:

1.8.1. The name of each defendant with corresponding case number(s) and case type or primary criminal charge.

1.8.2. The method(s) used to locate each defendant;

1.8.3. The total number of targets apprehended.

1.8.4. The name and man number of each and every officer or analyst that conducted work under this agreement.

1.8.5. Total number of overtime hours worked and the average overtime per officer or analyst; and

1.8.6. The name of the administrative personnel who removed the warrant from the system, the name of the target whose warrant was removed, the total number of overtimes hours worked.

2. **<u>Time of Performance and Term of Agreement</u>.** Performance of the identified Services begins as of the date shown above and ends **June 30, 2026.** The Services shall be performed in a manner and sequence that will assure their expeditious completion in consideration of the purposes of this Agreement but, in any event, the identified Services shall be completed by **June 30, 2026.**

3. **<u>Compensation & Method of Payment.</u>**

3.1. <u>Compensation.</u> For performance of the Services, the District Attorney agrees to pay the LEA overtime invoiced for man-hours worked to reduce the warrant backlog within the Third Judicial District. Such amount shall constitute full and complete overtime compensation for the LEA's Services under this Agreement. Payments will be made until funds have been fully expended. The District Attorney will report the fund balance to LEA's on a monthly basis.

3.1.1. The District Attorney agrees to pay the LEA's overtime for administrative personnel to complete the administrative process in removing warrant(s) from the system, in accordance with their existing procedures.

32 Method of Payment. The amount specified in Section 3.1 of this Agreement shall be paid in monthly installments payable following the execution of this Agreement and shall be based upon the actual expenditures for overtime. The District Attorney shall pay such amounts to the LEA as determined by the budgetary and fiscal guidelines of the District Attorney. Amounts shalt be paid to the LEA on a monthly basis following receipt, review, and approval by the District Attorney. Invoices and Monthly Activity Reports must be submitted no later than the 15 of every month as described in Section 1.3 above.

33 Invoices: Invoices shall be e-mailed monthly to: Chief Financial Officer Richard Aguilar at raguilar3@da.state.nm.us .

4. **Performance Monitoring:** The LEA will periodically provide assistance and information required by District Attorney staff to monitor and evaluate the performance of the above-mentioned Scope of Services. It is understood that the District Attorney's staff, at its discretion, may perform periodic fiscal and program monitoring reviews on dates to be arranged.

5. **Appropriations.** Notwithstanding any other provisions of this Agreement, the terms of this Agreement are contingent upon the State of New Mexico making appropriations necessary for the performance of this Agreement. Insufficient appropriations and authorizations are not made by the State of New Mexico, this Agreement may be terminated at the end of the District Attorney's then current fiscal year upon at least 30 days' written notice given by the District Attorney to the LEA. Such an event shall not constitute an event of default. All payment obligations of the District Attorney and its interest in this Agreement will cease upon the date of termination. The District Attorney's decision as to whether sufficient appropriations are available shall be accepted by the LEA and shall be final.

6. **Independent Contractor.** Neither the LEA nor its employees are considered to be employees of the District Attorney for any purpose whatsoever. The LEA agrees that neither it nor its employees are entitled to any benefits from the District Attorney under the provisions of the New Mexico Worker's Compensation Act, or to any of the benefits granted to employees of the District Attorney. The District Attorney shall provide no liability coverage to the LEA.

7. **Personnel:**

7.1. The LEA represents that it has, or will secure at its own expense, all personnel required in performing the Services required under the Agreement. Such personnel shall not be employees of or have any contractual relationships with the District Attorney.

72 All work required hereunder will be performed by the LEA or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized

or permitted under federal, state, and local laws to perform such work.

8. **Liability.** Any and all claims by third parties resulting from this Agreement are subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 *et seq.*, NMSA

1978, as amended. Neither of the Parties shall be considered liable for the acts or omissions of the other party, nor for those of the other party's employees.

9. **Equal Employment.** The LEA agrees to abide by all federal and state laws and regulations pertaining to equal employment opportunity. If the LEA is found to be not in compliance with these requirements during the life of this Agreement, the LEA agrees to take appropriate steps to correct these deficiencies.

10. **American Disabilities Act (ADA) Compliance.** The LEA agrees to meet all the requirements of the ADA and all ADA-related rules and regulations that apply to the District Attorney or the LEA as public entities. The LEA agrees to be responsible for any ADA violations solely, and directly, attributable to the LEA or any LEA employees performing the Services.

11. **Establishment and Maintenance of Records.** Records associated with this Agreement shall be maintained by the LEA in accordance with applicable laws and requirements prescribed by the District Attorney. Unless authorized by the District Attorney, such records shall be maintained and kept in compliance with the state records retention requirements and, in no event, less than three (3) years after receipt of final payment under this Agreement.

12. **Audits and Inspections.** At any time during the normal business hours of the LEA, the LEA shall make available, within a reasonable period, for the District Attorney's examination any LEA records associated with this Agreement. The LEA shall permit the District Attorney to audit, examine, and make excerpts, or transcripts, from such records and make audits of all contract invoices, materials, payrolls, records of personnel, conditions of employment or other data relating to any matters associated with this Agreement. Notwithstanding any other provisions of this Agreement, the LEA shall not be obligated to disclose any Confidential Information.

13. **Publications, Reproductions, and Use of Material.** No material produced in whole, or in part, pursuant to this Agreement shall be subject to any copyright protection under the laws of the United States, or the laws of any other country. Except for Confidential Information, or as otherwise limited by any other provisions of this Agreement, the District Attorney or the LEA shall have unrestricted authority to publish, disclose, distribute, and otherwise use in whole, or in part, any reports, data, or other materials prepared because of this Agreement.

14. **Compliance with Applicable Laws.** In performing the Services hereunder, the LEA shall comply with all applicable state and federal laws, rules, and ordinances.

15. **Applicable Law.** This Agreement shall be governed by the laws of the State of New Mexico.

16. **Changes and Amendments.** Either of the Parties may, during the term of this Agreement, propose changes in the nature or extent of the Services or amendments to the provisions of this Agreement. Any changes to the Services or amendments to this Agreement, including any increase or decrease in the amount of the LEA's compensation, shall be mutually agreed upon by the Parties made in writing, dated, and signed in advance by the Parties.

17. **Assignability.** The LEA shall not assign any interest in this Agreement or transfer any interest in this Agreement, whether by assignment or novation, without the prior written consent of the District Attorney.

18. **Termination for Cause.** If, for any cause, the LEA fails to fulfill in a timely and proper maimer its obligations under this Agreement, the District Attorney shall then have the right to terminate this Agreement, in whole or in part, by giving written notice to the LEA of such termination and specifying the date of termination at least ten (10) days before the date of such termination. In such event all finished or unfinished documents, data, and reports prepared by the LEA under this Agreement shall, at the option of the District Attorney, become its property. In any event, the LEA shall be entitled to receive just and equitable compensation for any work satisfactorily completed up to the date of te1mination.

19. **Termination for Convenience.** Either the District Attorney or the LEA may terminate this Agreement at any time by giving at least thirty (30) days advance written notice to the other Party. In such event all finished or unfinished documents, data, and reports prepared by the LEA under this Agreement shall, at the option of the District Attorney, become its property. In any event, the LEA shall be entitled to receive just and equitable compensation for any work satisfactorily completed up to the date of termination.

20. **Construction and Severability.** If any part of this Agreement is held to be invalid, or unenforceable, such a holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is understandable and reasonably capable of completion.

21. **Entire Agreement.** This Agreement contains the entire agreement between the Parties, and supersedes any, and all, of their other agreements, or understandings, oral or written, whether made contemporaneously with, or in advance of, the execution of this Agreement. Any changes, Including increases or decreases in the amount of the compensation, which are mutually agreed upon by and between the District Attorney and the LEA, shall be incorporated in written amendments to this Agreement. This Agreement shall not be altered, changed or amended except by an instrument, in writing, executed by parties hereto.

22. **Approval Required.** This Agreement shall not become effective, or binding, until approved and signed by the Third Judicial District Attorney and the Chief or Sheriff of the participating LEA.

23. **Facsimile/Electronic Signature.** A signature sent via facsimile/electronic shall have the same legal effect as if the Original has been signed in person.

24. **Force Majcure.** Neither party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, epidemics, quarantine restrictions, wars, civil disturbances, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the patty's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any govenm1ental body (whether civil or military, foreign or

domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost because of such delays. Neither party shall be liable to the other for any liability claims, damages or other loss caused by or resulting from a Force Majeure Occurrence.

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IN WITNESS WHEREOF, the Third Judicial District Attorney's Office and DASO have executed this Agreement as of the last date of execution shown below.

APPROVED BY:

THIRD JUDICIAL DISTRICT ATTORNEY'S OFFICE:

By: Fernando R. Macias Date: 2/17/26

Fernando R. Macias, Third Judicial District Attorney

By: Richard Aguilar Date: 2/17/26

Richard Aguilar, Chief Financial Officer

LAS CRUCES POLICE DEPARTMENT

By: Date: 2/17/26

Jeremy Story, LCPD Chief

By: Date: 2/17/26

Brad Douglas, City Attorney - Certifying legal sufficiency

NEW MEXICO CAPITAL OUTLAY GRANT AGREEMENT
CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, AGING AND LONG-TERM SERVICES DEPARTMENT, 2550 Cerrillos Road, Santa Fe, NM 87505, ("**Department**") and CITY OF LAS CRUCES, ("**Grantee**") (individually "**Party**" and collectively "**Parties**"). This Agreement shall be effective as of the date the Department executes it ("**Effective Date**").

WITNESSETH

WHEREAS, in the Laws of 2024, Chapter 64, Section 10, Subsection A, Paragraph 32, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of funds from this appropriation, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

AGREEMENT

I. PROJECT DESCRIPTION, GRANT AMOUNT, AND REVERSION

A. A24-I5331 ("**Project**") 06/30/2028 ("**Reversion Date**"). Laws of 2024, Chapter 64, Section 10, Subsection A, Paragraph 32, three million eighty-three thousand dollars, $3,083,000, to plan, design, construct, equip and furnish the East Mesa/ Sage Cafe Senior Center in the City of Las Cruces in Dona Ana County.

B. Grantee's total reimbursements shall not exceed three million eighty-three thousand dollars, $3,083,000 ("**Appropriation Amount**") minus the allocation for Art in Public Places ("**AIPP amount**"), if applicable, thirty thousand eight hundred thirty dollars, $30,830, which equals three million fifty-two thousand one hundred seventy dollars, $3,052,170 ("**Adjusted Appropriation Amount**").

C. In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I, the language of the laws cited herein shall control.

The information contained in Article I is referred to collectively as the "**Project Description.**"

II. DISBURSEMENT LIMITATION

A. Upon the Effective Date, the Grantee shall submit to the Department a comprehensive procurement plan and expenditure plan, detailing a Project timeline with milestones, required procurements, and identifying expected expenditures per milestone (collectively, "**Project Budget**"). The Department shall review and approve the Project Budget by issuing a Notice of Department's Obligation ("**Notice of Obligation**"), in accordance with the Project Description, a sample of which is attached hereto as **Exhibit A** and incorporated herein by reference. After receipt of a Notice of Obligation, the Grantee may be reimbursed for allowable costs up to the Adjusted Appropriation Amount. This Agreement and any reimbursements up to the Adjusted Appropriation Amount are expressly conditioned upon the following:

a. Irrespective of any Notice of Obligation, Grantee's expenditures shall be made in accordance with the Project Budget, on or before the Reversion Date and/or, if applicable, any Early Termination Date; and
b. The total amount received by Grantee shall not exceed the lesser of:
   i. the Adjusted Appropriation Amount identified in Article I (B) herein; or
   ii. the total of all amounts stated in the Notice(s) of Obligation evidencing the Department has received and accepted Grantee's Third-Party Obligation(s); and
c. Grantee's expenditures are made and accounted for pursuant to the State Procurement Code, State's Model Accounting Practices, and execution of binding written obligations or purchase orders with third-party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project ("**Third-Party Obligations**"); and
d. Grantee's submittal of timely Requests for Payment and supporting documentation in accordance with the procedures set forth in this Agreement; and
e. In the event capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
   i. must be approved by the applicable oversight entity (if any) in accordance with §§ 13-6-2, 13-6-2.1, and 13-6-3; or
   ii. If no oversight entity is required to approve the transaction, the Department of Finance and Administration's Infrastructure Planning Development Division (IPDD) must approve it as complying with the law.

B. Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(e)(i) or (ii) herein, the Department may, in its sole and absolute discretion, unless inconsistent with State Board of Finance imposed conditions, reimburse Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, limited to planning and design expenditures; and

C. Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third-Party Obligation, and request the Third-Party to begin work after issuance of a Notice of Obligation by the Department.
b. Grantee acknowledges and agrees that any Third-Party Obligations agreed to prior to receiving a Notice of Obligation are its sole responsibility.
c. Grantee shall submit to the Department one copy of all Third-Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third-Party but prior to execution by the Grantee.
d. Department may, in its sole and absolute discretion, issue a Notice of Obligation for the particular amount of a Third-Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is incorporated herein and attached hereto as Exhibit 2.

D. Grantee shall provide all necessary qualified personnel, materials, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

E. Prior to entering into this Agreement, the Department conducted a risk assessment on the Grantee and a project readiness review for the Project. In accordance with State Model Accounting Practices, FIN

9.2, if the Department determines that the expenditure of Project funds by the Grantee requires special conditions, those conditions are identified and listed in **Exhibit D**, which is attached and incorporated by reference. The Parties agree that, to the extent the Department, in its sole and absolute discretion, determines additional special conditions are necessary or that existing special conditions are no longer required, it may update **Exhibit D** from time to time without the need for a formal amendment of this Agreement.

F. Project funds shall not be used for purposes other than those authorized by the Department in accordance with the Project Description.

G. Project funds cannot be used to reimburse the Grantee for indirect Project costs unless specifically allowed by law.

III. NOTICES

The following provisions shall apply whenever written notices, including written decisions, are to be given or received related to this Agreement.

A. The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

a. Grantee:
   i. Name: Chuck De Varennes
   ii. Title: Senior Project Manager
   iii. Address: 700, N. Main St., City Hall, Suite 2100, Las Cruces, NM 88001
   iv. Email: cdevarennes@lascruces.gov
   v. Telephone: 575-528-3229

B. **[OPTIONAL]**The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

a. Grantee:
   i. Name: Gabriela M. Prats
   ii. Title: Grant Manager
   iii. Address: 700, N. Main St., City Hall, Suite 2100, Las Cruces, NM 88001
   iv. Email: gprats@lascruces.gov
   v. Telephone: 575-541-2430

C. The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

a. Department:
   i. Name: Tasha Martinez | Mehdi Pourali
   ii. Title: Bureau Chief | Project Coordinator
   iii. Address: 2550 Cerrillos Road, Santa Fe, NM 87505
   iv. Email: tasha.martinez@altsd.nm.gov | mehdi.pourali@altsd.nm.gov
   v. Telephone: 505.316.8900 | 505-946-8855

The Parties agree that all notices, including written decisions, related to this Agreement shall be sent to the persons named above by email or regular mail. For mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five (5) calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of the email.

IV. TERM & DEADLINE TO EXPEND FUNDS

A. The term of this Agreement shall begin on the Effective Date and terminate on the 30th day of June during the calendar year of the Reversion Date unless Terminated Before Reversion Date ("**Early Termination**") pursuant to Article V herein (collectively "**Term**").

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, the Early Termination Date of this Agreement.

a. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Reversion Date or Early Termination Date.
b. For purposes of this Agreement, an expenditure of funds has occurred on the date the particular quantity of goods is delivered to and received by the Grantee, title to the goods is transferred to the Grantee, and/or as of the date particular services are rendered to and accepted by the Grantee.
c. For purposes of this Agreement, an encumbrance of funds pursuant to a contract or purchase order with a third-party does not qualify as an expenditure.

V. EARLY TERMINATION

A. General Provision. The Department may terminate this Agreement before the Reversion Date based on the Completion of the Project, Complete Expenditure of the Adjusted Appropriation, and/or Violation of this Agreement. Early Termination hereunder includes:

a. Termination due to completion of the Project before the Reversion Date;
b. Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date;
c. Termination for violation of the terms of this Agreement; or
d. Termination for suspected mishandling of public funds, including but not limited to fraud, waste, abuse, and conflicts of interest.

B. Non-appropriation. This Agreement is expressly contingent upon the New Mexico State Legislature making sufficient appropriations and authorizations for the Project Description.

a. If the Legislature does not appropriate the Appropriation Amount, this Agreement shall terminate upon the Department giving the Grantee written notice of such termination. Such termination shall be effective as of the effective date of the law making the non-appropriation.
   i. The Department's decision as to whether sufficient appropriations or authorizations are available shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement.
b. As used herein, "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature:
   i. Deauthorization, reauthorization, or revocation of a prior authorization.

C. Grant Disbursements in the Event of Early Termination. In the event of Early Termination, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II above.

D. Notice. Either Party may terminate this Agreement prior to the Reversion Date by providing the other Party with a minimum of fifteen (15) days advance written notice of the Early Termination. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement by the Department.

VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. Department, in its sole and absolute discretion, may provide written notice to Grantee to suspend entering into further obligations. Upon the receipt of such written notice by the Grantee:

a. Grantee shall immediately suspend entering into new or further written obligations with third parties;
b. Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
c. Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for a Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension. Where the Department, in its sole and absolute discretion, directs Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension.

a. Such a corrective action plan must be approved by the Department and be signed by the Grantee.
b. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(c).
c. A corrective action plan shall be in addition to, and not in lieu of, any other equitable or legal remedy authorized hereunder or at law, including but not limited to Early Termination.

VII. AMENDMENTS

Unless expressly stated otherwise herein, this Agreement shall not be altered, changed, or amended except by an instrument in writing duly executed by both parties hereto with the same formalities as this agreement.

VIII. REPORTING

A. Database Reporting

a. Grantee shall provide the Department with quarterly reports of Project activity, entering the required Project information directly into a database required by the Department.
b. Additionally, Grantee shall certify on each Request for Payment form, attached hereto as **Exhibit B** and incorporated herein, that all information provided in the database is true and accurate, updates to the database have been maintained, and all Project activity complies with applicable law and the terms of this Agreement
c. Grantee hereby acknowledges that failure to perform and/or certify updates to the database will jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of fourteen (14) days' advance written notice of any changes to the information the Grantee is required to report.
d. At the Department's discretion, all reports required hereunder may be directed to and facilitated through an electronic database.
e. Quarterly reports shall be due on the last day of the month, that is, 30 days prior to the end of the quarter following the execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter. Quarterly reports shall be in the form required by **Exhibit C**, attached hereto and incorporated herein by reference.

B. Requests for Additional Information/Project Inspection

a. During the term of this Agreement and the Record Retention Period, the Department may:
   i. Request additional information regarding the Project as it deems necessary and
   ii. Conduct on-site inspections of the Project at reasonable times and upon reasonable notice.
b. Grantee shall respond to such requests for additional information within the time established by the Department.

IX. REQUEST FOR PAYMENT PROCEDURES

A. Grantee shall request payment by submitting the form attached hereto as **Exhibit B**. Payment requests are subject to the following procedures:

a. Each Request for Payment must be in accordance with the Project Budget and contain proof of payment by the Grantee or liabilities incurred by the Grantee.
   i. Proof of payment must demonstrate the validity of an expenditure or liabilities incurred by Grantee.
   ii. However, Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
b. Obligated but unpaid invoices received by Grantee from third-party contractors or vendors may be reimbursed if the invoices comply with the provisions of this Agreement.
   i. The Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or in a shorter period than the Department may prescribe in writing.
   ii. The Department reserves the right to make such payments directly to the contractors or vendors as a special condition under this Agreement.
   iii. The Grantee is required to certify to the Department proof of payment to the third-party contractor or vendor within five (5) business days from the date the Department reimburses the Grantee.

B. Until the Project is fully planned, designed, and all necessary procurements identified in the Project Budget are completed, Grantee's reimbursements will be limited to the planning, design, and procurement costs outlined in the Project Budget. Once the planning, designing, and procuring stages are complete, the Grantee must obligate at least ten percent (10%) of the Adjusted Appropriation Amount within one (1) year and must have utilized at least eighty-five percent (85%) of the Adjusted Appropriation Amount six (6) months before the reversion date.

C. Deadlines. Grantee shall submit requests for Payments to the Department on the earlier of:

a. Immediately as Grantee receives them, but at a maximum of thirty (30) days from when Grantee incurred the expenditure or liability; or
b. The date of Early Termination or Reversion Date for expenditures or liabilities incurred before the Early Termination date or Reversion Date.

D. Grantee's failure to abide by the requirements set forth in Article II and Article IX herein may result in the denial of its Request for Payment. Department reserves the right to reject a payment request for the Project unless and until it is satisfied that the expenditures or liabilities are for permissible purposes within the meaning of the Project Description, identified within the Project Budget, and that the Grantee is otherwise in compliance with this Agreement.

a. Department's authority to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department under this Agreement, at law, or in equity.

X. PROJECT CONDITIONS AND RESTRICTIONS

A. The following general conditions and restrictions shall apply to the Project:

a. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code.
b. The Project's expenditures and liabilities must be accounted for in accordance with the State's Model Accounting Practices, as amended from time to time.
c. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable.
d. The Project must provide a public benefit above and beyond any incidental benefit to private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico.
e. Without prior written approval from the Department and State Board of Finance, for the useful life of any asset purchased under this Agreement, Grantee shall not convert any property acquired, built, renovated, repaired, designed, or developed with Project funds to uses other than those specified in the Project Description.
f. In addition to other remedies available at law or in equity, any disposal or conversion of property acquired, built, renovated, repaired, designed, or developed with Project funds without the Department's and the Board of Finance's express written approval will trigger the Départment's right to reimbursement from Grantee of the Appropriated Amount, transfer proceeds from any disposition of property to the State, or otherwise provide consideration to the State for the Appropriated Amounts.
g. Grantee shall comply with all applicable federal and state laws, rules, and regulations pertaining to civil rights and equal employment opportunity.
h. In accordance with all such laws, rules, and regulations, the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age, or handicap, be excluded from participation in the Project, use of the Project, employment with Grantee, or

otherwise be denied benefits/subject to discrimination for any activity performed under this Agreement.

i. Where the Department, in its sole and absolute discretion, determines Grantee has failed to comply with the above conditions and restrictions, Grantee agrees to take appropriate steps to correct any deficiencies immediately. The Grantee's failure to implement such appropriate steps within a reasonable time, but no longer than thirty (30) days after notice from the Department, constitutes a breach of this Agreement and grounds for Early Termination.

XI. REPRESENTATIONS AND WARRANTIES

A. Reliance by Department.

a. Grantee expressly acknowledges that the Department relies on the representations and warranties made by Grantee in this Agreement. Grantee acknowledges that such representations and warranties are a material inducement for the Department to enter into this Agreement and provide the Appropriated Amount.

b. Grantee shall ensure all representations and warranties provided herein are true, accurate, and complete as of the date of the Effective Date and shall remain so throughout the Term of this Agreement. Grantee is responsible for promptly notifying the Department in writing of any changes or inaccuracies in the representations and warranties contained herein.

B. Grantee hereby represents and warrants the following:

a. Grantee has taken all necessary steps to attain the legal authority to receive and expend the Project's funds.

b. Grantee has duly authorized this Agreement, and the person executing it has authority to do so. Once executed by Grantee, this Agreement shall constitute a binding obligation of Grantee, enforceable according to its terms.

c. Grantee's obligations hereunder do not conflict with any law, ordinance, or resolution applicable to Grantee, Grantee's charter (if applicable), or any judgment or decree to which Grantee is subject.

d. Grantee has independently confirmed that the Project Description, including, but not limited to, the Appropriated Amount and Reversion Date, is consistent with the underlying appropriation in law.

e. Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign and submit Requests for Payment on behalf of Grantee.

f. Grantee will abide by New Mexico laws regarding conflicts of interest, governmental conduct, and whistleblower protection.

i. Grantee agrees explicitly none of its officers or employees or its designees or agents, no member of the governing body, and no other public official of Grantee who exercises any function or responsibility with respect to this Agreement, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for the Project.

ii. Further, Grantee will require all of its contractors to incorporate the language set forth in this paragraph prohibiting conflicts of interest in all subcontracts.

g. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of the State, any agency, or body in connection with the awarding of any Third-Party Obligation.

i. Grantee will require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans, and cooperative agreements.

C. Consequences of False or Misleading Representations. If any representation or warranty made by Grantee is found to be false or misleading, the Department shall have the right to exercise any or all of the following remedies:

a. **Termination of Agreement:** Department may terminate this Agreement immediately upon written notice to the Grantee.
b. **Repayment of Grant Funds:** Grantee shall repay all Appropriated Amounts disbursed under this Agreement, upon demand by the Department.
c. **Other Remedies:** Department may pursue any other remedies available at law or in equity.

D. Survival of Representations and Warranties. The representations and warranties made by the Grantee shall survive the Early Termination or expiration of this Agreement.

XII. PROJECT RECORDS

A. Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles and the State's Model Accounting Practices and, if feasible, maintain a separate bank account or fund with a separate organizational code to ensure separate budgeting and accounting of the funds.

B. For six (6) years following the Project's completion ("**Record Retention Period**"), Grantee shall maintain all Project-related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the Appropriated Amount from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department may prescribe.

C. Grantee shall make all Project records available to the Department, the Department's Independent Public Accountant, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department finds any funds were improperly expended, Grantee shall be required to reimburse the State all amounts found to be improperly expended.

XIII. IMPROPERLY REIMBURSED FUNDS

If the Department determines part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, after ten (10) days' notice to Grantee and the opportunity to return such funds to the Department, the Department may offset any funds due to Grantee from the State, until the Appropriation Amount is fully repaid.

XIV. LIABILITY

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 immunities and limitations of the New Mexico Tort Claims Act.

XV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Parties concerning the subject matter hereof. The Agreement supersedes all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

XVI. REQUIRED NON-APPROPRIATIONS CLAUSE

A. Grantee acknowledges and agrees to include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

a. "The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico ("**Legislature**") for the performance of this Agreement.
b. If the Legislature does not make sufficient appropriations and authorization, City of Las Cruces may immediately terminate this Agreement by giving Contractor written notice of such termination.
c. City of Las Cruces's decision as to whether sufficient appropriations are available shall be final and accepted by the Contractor. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Las Cruces or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Las Cruces or the State Department of Finance and Administration."

XVII. REQUIRED TERMINATION CLAUSE

A. Grantee acknowledges and agrees to include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

a. "This contract is funded in whole or in part by funds made available by the State of New Mexico ("**State**"). Should the State terminate its Agreement with City of Las Cruces, City of Las Cruces may terminate this contract immediately by providing Contractor written notice of such termination.
b. In the event of termination pursuant to this paragraph, City of Las Cruces's only liability to Contractor shall be for goods and services delivered and accepted prior to the termination date."

XVIII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

a. Submit all reports of annual audits and agreed-upon procedures required by § 12-6-3(A)-(B), NMSA 1978 by the due dates established in § 2.2.2 NMAC, reports of which must be a public record pursuant to § 12-6-5(A), NMSA 1978 within forty-five (45) days of delivery to the State Auditor;
b. Have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
c. Timely submit all required financial reports to its budgetary oversight agency (if any); and
d. Use accounting methods and procedures consistent with Generally Accepted Accounting Principles and the State's Model Accounting Principals to expend the Appropriated Amount in accordance with applicable law and account for and safeguard Project funds and assets acquired with Project funds.

B. In the event Grantee fails to comply with the requirements of subparagraph A of this Article XVIII, Department may take one or more of the following actions:

a. Suspend new or further obligations pursuant to Article VI(A) of this Agreement;

b. Require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
c. Impose special conditions to address the non-compliance by giving Grantee notice of such special conditions in accordance with Article III of this Agreement;
   i. The Parties agree that any special conditions imposed to address non-compliance shall be incorporated into this Agreement, through **Exhibit D**, upon notice to Grantee, without need for formal amendment of this Agreement;
   ii. Special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III or
d. Terminate this Agreement pursuant to Article V(A) of this Agreement.

XIX. SEVERANCE TAX AND GENERAL OBLIGATION BONDS

A. Grantee acknowledges and agrees that the underlying appropriation for the Project may originate from the issuance of tax-exempt severance tax bonds or general obligation bonds by the State. Proceeds from such bonds are administered by the New Mexico State Board of Finance ("**SBOF**"), an entity separate and distinct from the Department.

a. Grantee acknowledges and agrees:
   i. It is Grantee's responsibility to determine through SBOF what (if any) conditions are currently imposed on the Project;
   ii. Department's failure to inform Grantee of an SBOF-imposed condition does not affect the validity or enforceability of the condition;
   iii. The SBOF may in the future impose further or different conditions upon the Project;
   iv. All SBOF conditions are attached to the Project and Appropriation Amount without the need for formal amendment of this Agreement;
   v. All applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s) and
   vi. The Department's obligation to reimburse Grantee from the Project is expressly contingent upon the satisfaction of the then-current SBOF conditions.

B. Grantee acknowledges and agrees SBOF may, at its sole and absolute discretion, require reimbursement or remove eligibility for bond proceeds for the Project if the Project doesn't proceed sufficiently.

a. Grantee must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by Grantee in the Bond Questionnaire and Certification documents submitted to the SBOF.
b. Failure to comply may result in the reassignment of the bond proceeds. Upon reassignment of bond proceeds, this Agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, § 2.61.6, NMAC, as may be amended from time to time or re-codified.

XX. GENERAL PROVISIONS

A. Assignment: Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontractors: Grantee shall not enter any subgrant or subcontract in connection with its obligations under this Agreement without the prior written approval of the State. Upon request, Grantee shall submit to the Department a copy of each such subgrant or subcontract.

C. Binding Effect: Except as otherwise provided, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority: Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References: The captions and headings in this Agreement are for the convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts: This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute the same agreement.

G. Digital Signatures: If any signatory signs this agreement using a digital signature in accordance with the State Policies regarding the use of digital signatures, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

H. Modification: Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment, properly executed and approved in accordance with applicable New Mexico law and State fiscal policies and rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the State.

I. Statutes, Regulations, Fiscal Rules, and Other Authority: Any reference in this Agreement to a statute, regulation, policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended after the Effective Date of this Agreement.

J. External Terms and Conditions: Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

K. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

L. Survival of Certain Agreement Terms: Any provision of this Agreement that imposes an obligation on a Party after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

M. Third-Party Beneficiaries: Except for the Parties' respective successors and assigns described in this Agreement, it does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this Agreement are incidental to this Agreement and do not create any rights for such third parties.

N. Waiver: A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. Standard and Manner of Performance: Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in Grantee's industry, trade, or profession.

P. Licenses, Permits, and Other Authorizations: Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement and shall ensure that all employees, agents, and subcontractors secure and maintain at all times during the term of their employment, agency or subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

Q. Publicity: Any Publicity regarding the subject matter of this Agreement may not be released without prior written approval from the Department. For purposes of this agreement, "**Publicity**" means notices, informational pamphlets, press releases, email responses, research, reports, signs, and similar public notices prepared by or for the Grantee or jointly with others.

a. Grantee shall obtain written approval prior to issuing any press release or making any public announcement regarding this agreement. Grantee agrees to obtain approval of the Department in advance with respect to all Public Relations, all communications with media, or all communications with any other member of the public with respect to this agreement, except to acknowledge that an agreement does exist.
b. For purposes of this agreement, "Public Relations" includes community relations and means those activities dedicated to maintaining the Department's image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
c. Violations of either Article XX (Q)(a) or (b) shall constitute a material Breach of Agreement.

R. Data Sharing: The State intends to secure and collate specific data generated by Grantee under this Agreement to use in support of the State's organizational, policymaking, and management of public resource functions. State, in accordance with **Exhibit E**, attached hereto and incorporated herein by reference, reserves the right to require Grantee and/or its subcontractors to provide specific data relevant to the above-listed functions. Data provided by Grantee may be incorporated into existing or future developed State integrated analysis tools or databases, including but not limited to geographic information system (GIS) networks and databases accessible by the public. Dissemination of data collected may include historical data and projections based on such historical data.

a. To the extent any data transferred as part of this Agreement is legally determined to be the property of Subrecipient or its subcontractors, Subrecipient and/or its subcontractors grants State a nonexclusive, fully paid-up right and license to reproduce, use, distribute, do derivative works based on, and archive data transferred as part of this Agreement.

S. Venue and Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without regard to any conflict of law provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement shall be instituted exclusively in the district courts located in Santa Fe, New Mexico. The Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such suit, action, or proceeding. The Parties waive any objection to the laying of the venue of any such suit, action, or proceeding in the district courts of Santa Fe, New Mexico, and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]
[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Department's date of execution.

APPROVED BY AGING AND LONG-TERM DIVISION (ALTSD):

SPONSOR:
or Designee

By: Signed by: Tasha Martinez
CD28FF760BEC496...

Title: Capital Outlay Bureau Chief Date: 2/6/2026

Office of Secretary:
or Designee

By: DocuSigned by: Antoinette Vigil
B700305AB7474B3...

Title: Deputy Cabinet Secretary Date: 2/7/2026

Chief Financial Officer:
or Designee

By: DocuSigned by: Latishia Ortiz
10A0F739685045D...

Title: ASD Director Date: 2/6/2026

Chief Procurement Officer:
or Designee

By: Signed by: Marlene Acosta
839B647AA2804AF...

Title: Chief Procurement Officer Date: 2/6/2026

AS TO LEGAL FORM AND SUFFICIENCY (ALTSD)

General Counsel's Office:
or Designee

By: Signed by: Craig Hay
4953FF916CF2472...

Title: Acting General Counsel Date: 2/6/2026

APPROVED BY GRANTEE:

GRANTEE: Ikani Taumoepeau	By: ______ Title: City Manager	Date: 2/4/26
GRANTEE: Brad Douglas	By: ______ For/Brad Douglas Title: City Attorney	Date: 1/28/26

EXHIBIT A

Notice of Department's Obligation Form

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE

Notice of Obligation to Reimburse Grantee [# ______]

DATE: ___________

TO: Department Representative: **AGING & LONG-TERM SERVICES DEPARTMENT**

FROM: Grantee: ___________________________ Grantee Official Representative: _____________________

Grantee Address: ____

Name of Senior Center: ____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _______________________

Grant Termination Date: ________________

As the designated representative of the Department for Grant Agreement number ___________ entered into between the Grantee and the Department, I certify that the Grantee has submitted to the Department the following third-party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: ____

Third Party Obligation Amount: _____________________________________

Vendor or Contractor: ____

Third Party Obligation Amount: _____________________________________

Vendor or Contractor: ____

Third Party Obligation Amount: _____________________________________

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within The scope of the project description, subject to all the terms and conditions of the above-referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable):	$_____________
The Amount of this Notice of Obligation:	$_____________
The Total Amount of all Previously Issued Notices of Obligation:	$_____________
The Total Amount of all Notices of Obligation to Date:	$_____________

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: ____________________________ Title: ____________________________

Signature: ____ Date: ____________________________

Please ensure that all estimates and/or quotes are included with the Notice of Obligation (NOO).

Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

NOO Revised: 10-14-2025 PLEASE SUBMIT TO: capital.outlay@altsd.nm.gov

EXHIBIT B

Request for Payment Form and Certification

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information
(Make sure information is complete & accurate)

A. Grantee: ______________________

B. Senior Center (Name): ______________________

C. Street Address: ______________________
(Complete Mailing, including Suite, if applicable)

____
City State Zip

D. Phone No: ______________________

E. Grant No: ______________________

F. Grant Expiration Date: ______________________

II. Payment Computation

A. Payment Request No. ______________________

B. Grant Amount: ______________________

C. AIPP Amount *(If Applicable)*: ______________________

D. Funds Requested to Date: ______________________

E.

Date of Invoice	Vendor Name	Amount of Invoice	Amount Applicable to this Grant
Amount Requested this Payment:			

F. Reversion Amount *(If Applicable)*: ______________________

G. Grant Balance: ______________________

H. ☐ GF ☐ GOB ☐ STB *(attach wire if first draw)*

I. ☐ Final Request for Payment *(if Applicable)*

III. Fiscal Year : ________
(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

____
Grantee Fiscal Officer
or Fiscal Agent *(if applicable)*

____
Printed Name

Date: ______________________

____
Grantee Representative

____
Printed Name

Date: ______________________

(State Agency Use Only)

Vendor: ______________ **Fund No.:** ______________ **Loc No.:** ______________

I certify that the State Agency financial and vendor file information agree with the above submitted information.

______________________ ________
ALTSD Capital Outlay Bureau Chief Date

______________________ ________
ALTSD Capital Outlay Fiscal Coordinator Date

PLEASE SUBMIT TO: capital.outlay@altsd.nm.gov

GRANTEE REQUEST FOR PAYMENT (RFP) CHECKLIST

RFPs **MUST** be submitted as soon as grantee payment has cleared.

____ RFP # ______ (Verify that you are submitting the correct RFP #)

____ A-Code __________ (Verify that you are requesting payment for the correct grant #)

____ Verify $ amount on the RFP corresponds with the total amount of all invoices and proof of payment (i.e., canceled check, credit card receipt)?

____ Did you include the grant expiration date, and is it a valid date?

____ Has CPMS been updated within the current quarter of RFP submittal?

1st Quarter	July 1 – September 30
2nd Quarter	October 1 – December 31
3rd Quarter	January 1 – March 31
4th Quarter	April 1 – June 30

____ Verify that "Amount of invoice" and "Amount applicable to this Grant" are correct. (For example, if an invoice is for $100.00 but only $50.00 applies to the grant, ensure this is correctly captured on the RFP).

Example:

Date of Invoice	Vendor Name	Amount of Invoice	Amount Applicable to this Grant
6/10/2025	ABC construction	$100.00	$50.00
E	X A M P	L E	
Amount Requested this Payment:			$50.00

Are the following required documents included?

RFPs for equipment, construction, and vehicles

___ Invoice (All PRs)

___ Proof of payment (canceled check/ACH payment) (All PRs)

___ Grantee PO (All PRs)

___ Approved NOO

Additional supporting documents for Vehicles (all the above and the following):

___ Certificate of Origin (all the above and PRs for Vehicles)

___ Odometer Disclosure

___ Buyers' Agreement

Please ensure VINs on all supporting documents match.

NOTE: Be advised that 85% of grant funds must be spent 6 months prior to the reversion date.

This is for your use only DO NOT submit with RFP

EXHIBIT C

Quarterly Reports Form and Certification

EXHIBIT E
Data Sharing Provisions

NEW MEXICO CAPITAL OUTLAY GRANT AGREEMENT
CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into by and between the State of New Mexico, AGING AND LONG-TERM SERVICES DEPARTMENT, 2550 Cerrillos Road, Santa Fe, NM 87505, ("**Department**") and CITY OF LAS CRUCES, ("**Grantee**") (individually "**Party**" and collectively "**Parties**"). This Agreement shall be effective as of the date the Department executes it ("**Effective Date**").

WITNESSETH

WHEREAS, in the Laws of 2024, Chapter 64, Section 10, Subsection A, Paragraph 33, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of funds from this appropriation, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

AGREEMENT

I. PROJECT DESCRIPTION, GRANT AMOUNT, AND REVERSION

A. A24-I5332 ("**Project**") 06/30/2028 ("**Reversion Date**"). Laws of 2024, Chapter 64, Section 10, Subsection A, Paragraph 33, three hundred ten thousand dollars, $310,000, to purchase and equip vehicles for the Munson Senior Center in the City of Las Cruces in Dona Ana County.

B. Grantee's total reimbursements shall not exceed three hundred ten thousand dollars, $310,000 ("**Appropriation Amount**") minus the allocation for Art in Public Places ("**AIPP amount**"), if applicable, zero dollars, $0, which equals three hundred ten thousand dollars, $310,000 ("**Adjusted Appropriation Amount**").

C. In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I, the language of the laws cited herein shall control.

The information contained in Article I is referred to collectively as the "**Project Description.**"

II. DISBURSEMENT LIMITATION

A. Upon the Effective Date, the Grantee shall submit to the Department a comprehensive procurement plan and expenditure plan, detailing a Project timeline with milestones, required procurements, and identifying expected expenditures per milestone (collectively, "**Project Budget**"). The Department shall review and approve the Project Budget by issuing a Notice of Department's Obligation ("**Notice of Obligation**"), in accordance with the Project Description, a sample of which is attached hereto as **Exhibit A** and incorporated herein by reference. After receipt of a Notice of Obligation, the Grantee may be reimbursed for allowable costs up to the Adjusted Appropriation Amount. This Agreement and any reimbursements up to the Adjusted Appropriation Amount are expressly conditioned upon the following:

a. Irrespective of any Notice of Obligation, Grantee's expenditures shall be made in accordance with the Project Budget, on or before the Reversion Date and/or, if applicable, any Early Termination Date; and
b. The total amount received by Grantee shall not exceed the lesser of:
   i. the Adjusted Appropriation Amount identified in Article I (B) herein; or
   ii. the total of all amounts stated in the Notice(s) of Obligation evidencing the Department has received and accepted Grantee's Third-Party Obligation(s); and
c. Grantee's expenditures are made and accounted for pursuant to the State Procurement Code, State's Model Accounting Practices, and execution of binding written obligations or purchase orders with third-party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project ("**Third-Party Obligations**"); and
d. Grantee's submittal of timely Requests for Payment and supporting documentation in accordance with the procedures set forth in this Agreement; and
e. In the event capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
   i. must be approved by the applicable oversight entity (if any) in accordance with §§ 13-6-2, 13-6-2.1, and 13-6-3; or
   ii. If no oversight entity is required to approve the transaction, the Department of Finance and Administration's Infrastructure Planning Development Division (IPDD) must approve it as complying with the law.

B. Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(e)(i) or (ii) herein, the Department may, in its sole and absolute discretion, unless inconsistent with State Board of Finance imposed conditions, reimburse Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, limited to planning and design expenditures; and

C. Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third-Party Obligation, and request the Third-Party to begin work after issuance of a Notice of Obligation by the Department.
b. Grantee acknowledges and agrees that any Third-Party Obligations agreed to prior to receiving a Notice of Obligation are its sole responsibility.
c. Grantee shall submit to the Department one copy of all Third-Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third-Party but prior to execution by the Grantee.
d. Department may, in its sole and absolute discretion, issue a Notice of Obligation for the particular amount of a Third-Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is incorporated herein and attached hereto as Exhibit 2.

D. Grantee shall provide all necessary qualified personnel, materials, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

E. Prior to entering into this Agreement, the Department conducted a risk assessment on the Grantee and a project readiness review for the Project. In accordance with State Model Accounting Practices, FIN

9.2, if the Department determines that the expenditure of Project funds by the Grantee requires special conditions, those conditions are identified and listed in **Exhibit D**, which is attached and incorporated by reference. The Parties agree that, to the extent the Department, in its sole and absolute discretion, determines additional special conditions are necessary or that existing special conditions are no longer required, it may update **Exhibit D** from time to time without the need for a formal amendment of this Agreement.

F. Project funds shall not be used for purposes other than those authorized by the Department in accordance with the Project Description.

G. Project funds cannot be used to reimburse the Grantee for indirect Project costs unless specifically allowed by law.

III. NOTICES

The following provisions shall apply whenever written notices, including written decisions, are to be given or received related to this Agreement.

A. The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

a. Grantee:
  i. Name: Sonia Saldaña
  ii. Title: Deputy Director of Senior Programs
  iii. Address: 700 N. Main St, Las Cruces, NM 88001
  iv. Email: ssaldana@lascruces.gov
  v. Telephone: 575-541-2464

B. **[OPTIONAL]**The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

a. Grantee:
  i. Name: Gabriela M. Prats
  ii. Title: Grant Manager
  iii. Address: 700, N. Main St., Las Cruces, NM 88001
  iv. Email: gprats@lascruces.gov
  v. Telephone: 575-541-2430

C. The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

a. Department:
  i. Name: Tasha Martinez | Mehdi Pourali
  ii. Title: Bureau Chief | Project Coordinator
  iii. Address: 2550 Cerrillos Road, Santa Fe, NM 87505
  iv. Email: tasha.martinez@altsd.nm.gov | mehdi.pourali@altsd.nm.gov
  v. Telephone: 505.316.8900 | 505-946-8855

The Parties agree that all notices, including written decisions, related to this Agreement shall be sent to the persons named above by email or regular mail. For mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five (5) calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of the email.

IV. TERM & DEADLINE TO EXPEND FUNDS

A. The term of this Agreement shall begin on the Effective Date and terminate on the 30th day of June during the calendar year of the Reversion Date unless Terminated Before Reversion Date ("**Early Termination**") pursuant to Article V herein (collectively "**Term**").

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, the Early Termination Date of this Agreement.

a. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Reversion Date or Early Termination Date.
b. For purposes of this Agreement, an expenditure of funds has occurred on the date the particular quantity of goods is delivered to and received by the Grantee, title to the goods is transferred to the Grantee, and/or as of the date particular services are rendered to and accepted by the Grantee.
c. For purposes of this Agreement, an encumbrance of funds pursuant to a contract or purchase order with a third-party does not qualify as an expenditure.

V. EARLY TERMINATION

A. General Provision. The Department may terminate this Agreement before the Reversion Date based on the Completion of the Project, Complete Expenditure of the Adjusted Appropriation, and/or Violation of this Agreement. Early Termination hereunder includes:

a. Termination due to completion of the Project before the Reversion Date;
b. Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date;
c. Termination for violation of the terms of this Agreement; or
d. Termination for suspected mishandling of public funds, including but not limited to fraud, waste, abuse, and conflicts of interest.

B. Non-appropriation. This Agreement is expressly contingent upon the New Mexico State Legislature making sufficient appropriations and authorizations for the Project Description.

a. If the Legislature does not appropriate the Appropriation Amount, this Agreement shall terminate upon the Department giving the Grantee written notice of such termination. Such termination shall be effective as of the effective date of the law making the non-appropriation.
   i. The Department's decision as to whether sufficient appropriations or authorizations are available shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement.
b. As used herein, "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature:
   i. Deauthorization, reauthorization, or revocation of a prior authorization.

C. Grant Disbursements in the Event of Early Termination. In the event of Early Termination, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II above.

D. Notice. Either Party may terminate this Agreement prior to the Reversion Date by providing the other Party with a minimum of fifteen (15) days advance written notice of the Early Termination. Grantee hereby waives any rights to assert an impairment of contract claim against the State of New Mexico in the event of Early Termination of this Agreement by the Department.

VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. Department, in its sole and absolute discretion, may provide written notice to Grantee to suspend entering into further obligations. Upon the receipt of such written notice by the Grantee:

a. Grantee shall immediately suspend entering into new or further written obligations with third parties;
b. Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
c. Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for a Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension. Where the Department, in its sole and absolute discretion, directs Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension.

a. Such a corrective action plan must be approved by the Department and be signed by the Grantee.
b. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(c).
c. A corrective action plan shall be in addition to, and not in lieu of, any other equitable or legal remedy authorized hereunder or at law, including but not limited to Early Termination.

VII. AMENDMENTS

Unless expressly stated otherwise herein, this Agreement shall not be altered, changed, or amended except by an instrument in writing duly executed by both parties hereto with the same formalities as this agreement.

VIII. REPORTING

A. Database Reporting

a. Grantee shall provide the Department with quarterly reports of Project activity, entering the required Project information directly into a database required by the Department.
b. Additionally, Grantee shall certify on each Request for Payment form, attached hereto as **Exhibit B** and incorporated herein, that all information provided in the database is true and accurate, updates to the database have been maintained, and all Project activity complies with applicable law and the terms of this Agreement
c. Grantee hereby acknowledges that failure to perform and/or certify updates to the database will jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of fourteen (14) days' advance written notice of any changes to the information the Grantee is required to report.
d. At the Department's discretion, all reports required hereunder may be directed to and facilitated through an electronic database.
e. Quarterly reports shall be due on the last day of the month, that is, 30 days prior to the end of the quarter following the execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter. Quarterly reports shall be in the form required by **Exhibit C**, attached hereto and incorporated herein by reference.

B. Requests for Additional Information/Project Inspection

a. During the term of this Agreement and the Record Retention Period, the Department may:
   i. Request additional information regarding the Project as it deems necessary and
   ii. Conduct on-site inspections of the Project at reasonable times and upon reasonable notice.
b. Grantee shall respond to such requests for additional information within the time established by the Department.

IX. REQUEST FOR PAYMENT PROCEDURES

A. Grantee shall request payment by submitting the form attached hereto as **Exhibit B**. Payment requests are subject to the following procedures:

a. Each Request for Payment must be in accordance with the Project Budget and contain proof of payment by the Grantee or liabilities incurred by the Grantee.
   i. Proof of payment must demonstrate the validity of an expenditure or liabilities incurred by Grantee.
   ii. However, Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
b. Obligated but unpaid invoices received by Grantee from third-party contractors or vendors may be reimbursed if the invoices comply with the provisions of this Agreement.
   i. The Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or in a shorter period than the Department may prescribe in writing.
   ii. The Department reserves the right to make such payments directly to the contractors or vendors as a special condition under this Agreement.
   iii. The Grantee is required to certify to the Department proof of payment to the third-party contractor or vendor within five (5) business days from the date the Department reimburses the Grantee.

B. Until the Project is fully planned, designed, and all necessary procurements identified in the Project Budget are completed, Grantee's reimbursements will be limited to the planning, design, and procurement costs outlined in the Project Budget. Once the planning, designing, and procuring stages are complete, the Grantee must obligate at least ten percent (10%) of the Adjusted Appropriation Amount within one (1) year and must have utilized at least eighty-five percent (85%) of the Adjusted Appropriation Amount six (6) months before the reversion date.

C. Deadlines. Grantee shall submit requests for Payments to the Department on the earlier of:

a. Immediately as Grantee receives them, but at a maximum of thirty (30) days from when Grantee incurred the expenditure or liability; or
b. The date of Early Termination or Reversion Date for expenditures or liabilities incurred before the Early Termination date or Reversion Date.

D. Grantee's failure to abide by the requirements set forth in Article II and Article IX herein may result in the denial of its Request for Payment. Department reserves the right to reject a payment request for the Project unless and until it is satisfied that the expenditures or liabilities are for permissible purposes within the meaning of the Project Description, identified within the Project Budget, and that the Grantee is otherwise in compliance with this Agreement.

a. Department's authority to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department under this Agreement, at law, or in equity.

X. PROJECT CONDITIONS AND RESTRICTIONS

A. The following general conditions and restrictions shall apply to the Project:

a. The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code.
b. The Project's expenditures and liabilities must be accounted for in accordance with the State's Model Accounting Practices, as amended from time to time.
c. The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable.
d. The Project must provide a public benefit above and beyond any incidental benefit to private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico.
e. Without prior written approval from the Department and State Board of Finance, for the useful life of any asset purchased under this Agreement, Grantee shall not convert any property acquired, built, renovated, repaired, designed, or developed with Project funds to uses other than those specified in the Project Description.
f. In addition to other remedies available at law or in equity, any disposal or conversion of property acquired, built, renovated, repaired, designed, or developed with Project funds without the Department's and the Board of Finance's express written approval will trigger the Département's right to reimbursement from Grantee of the Appropriated Amount, transfer proceeds from any disposition of property to the State, or otherwise provide consideration to the State for the Appropriated Amounts.
g. Grantee shall comply with all applicable federal and state laws, rules, and regulations pertaining to civil rights and equal employment opportunity.
h. In accordance with all such laws, rules, and regulations, the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age, or handicap, be excluded from participation in the Project, use of the Project, employment with Grantee, or

otherwise be denied benefits/subject to discrimination for any activity performed under this Agreement.

i. Where the Department, in its sole and absolute discretion, determines Grantee has failed to comply with the above conditions and restrictions, Grantee agrees to take appropriate steps to correct any deficiencies immediately. The Grantee's failure to implement such appropriate steps within a reasonable time, but no longer than thirty (30) days after notice from the Department, constitutes a breach of this Agreement and grounds for Early Termination.

XI. REPRESENTATIONS AND WARRANTIES

A. Reliance by Department.

a. Grantee expressly acknowledges that the Department relies on the representations and warranties made by Grantee in this Agreement. Grantee acknowledges that such representations and warranties are a material inducement for the Department to enter into this Agreement and provide the Appropriated Amount.

b. Grantee shall ensure all representations and warranties provided herein are true, accurate, and complete as of the date of the Effective Date and shall remain so throughout the Term of this Agreement. Grantee is responsible for promptly notifying the Department in writing of any changes or inaccuracies in the representations and warranties contained herein.

B. Grantee hereby represents and warrants the following:

a. Grantee has taken all necessary steps to attain the legal authority to receive and expend the Project's funds.

b. Grantee has duly authorized this Agreement, and the person executing it has authority to do so. Once executed by Grantee, this Agreement shall constitute a binding obligation of Grantee, enforceable according to its terms.

c. Grantee's obligations hereunder do not conflict with any law, ordinance, or resolution applicable to Grantee, Grantee's charter (if applicable), or any judgment or decree to which Grantee is subject.

d. Grantee has independently confirmed that the Project Description, including, but not limited to, the Appropriated Amount and Reversion Date, is consistent with the underlying appropriation in law.

e. Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign and submit Requests for Payment on behalf of Grantee.

f. Grantee will abide by New Mexico laws regarding conflicts of interest, governmental conduct, and whistleblower protection.

i. Grantee agrees explicitly none of its officers or employees or its designees or agents, no member of the governing body, and no other public official of Grantee who exercises any function or responsibility with respect to this Agreement, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for the Project.

ii. Further, Grantee will require all of its contractors to incorporate the language set forth in this paragraph prohibiting conflicts of interest in all subcontracts.

g. No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of the State, any agency, or body in connection with the awarding of any Third-Party Obligation.

i. Grantee will require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans, and cooperative agreements.

C. Consequences of False or Misleading Representations. If any representation or warranty made by Grantee is found to be false or misleading, the Department shall have the right to exercise any or all of the following remedies:

a. **Termination of Agreement:** Department may terminate this Agreement immediately upon written notice to the Grantee.
b. **Repayment of Grant Funds:** Grantee shall repay all Appropriated Amounts disbursed under this Agreement, upon demand by the Department.
c. **Other Remedies:** Department may pursue any other remedies available at law or in equity.

D. Survival of Representations and Warranties. The representations and warranties made by the Grantee shall survive the Early Termination or expiration of this Agreement.

XII. PROJECT RECORDS

A. Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles and the State's Model Accounting Practices and, if feasible, maintain a separate bank account or fund with a separate organizational code to ensure separate budgeting and accounting of the funds.

B. For six (6) years following the Project's completion ("**Record Retention Period**"), Grantee shall maintain all Project-related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the Appropriated Amount from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department may prescribe.

C. Grantee shall make all Project records available to the Department, the Department's Independent Public Accountant, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department finds any funds were improperly expended, Grantee shall be required to reimburse the State all amounts found to be improperly expended.

XIII. IMPROPERLY REIMBURSED FUNDS

If the Department determines part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, after ten (10) days' notice to Grantee and the opportunity to return such funds to the Department, the Department may offset any funds due to Grantee from the State, until the Appropriation Amount is fully repaid.

XIV. LIABILITY

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 immunities and limitations of the New Mexico Tort Claims Act.

XV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Parties concerning the subject matter hereof. The Agreement supersedes all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

XVI. REQUIRED NON-APPROPRIATIONS CLAUSE

A. Grantee acknowledges and agrees to include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

a. "The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of the State of New Mexico ("**Legislature**") for the performance of this Agreement.
b. If the Legislature does not make sufficient appropriations and authorization, City of Las Cruces may immediately terminate this Agreement by giving Contractor written notice of such termination.
c. City of Las Cruces's decision as to whether sufficient appropriations are available shall be final and accepted by the Contractor. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Las Cruces or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Las Cruces or the State Department of Finance and Administration."

XVII. REQUIRED TERMINATION CLAUSE

A. Grantee acknowledges and agrees to include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

a. "This contract is funded in whole or in part by funds made available by the State of New Mexico ("**State**"). Should the State terminate its Agreement with City of Las Cruces, City of Las Cruces may terminate this contract immediately by providing Contractor written notice of such termination.
b. In the event of termination pursuant to this paragraph, City of Las Cruces's only liability to Contractor shall be for goods and services delivered and accepted prior to the termination date."

XVIII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

a. Submit all reports of annual audits and agreed-upon procedures required by § 12-6-3(A)-(B), NMSA 1978 by the due dates established in § 2.2.2 NMAC, reports of which must be a public record pursuant to § 12-6-5(A), NMSA 1978 within forty-five (45) days of delivery to the State Auditor;
b. Have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
c. Timely submit all required financial reports to its budgetary oversight agency (if any); and
d. Use accounting methods and procedures consistent with Generally Accepted Accounting Principles and the State's Model Accounting Principals to expend the Appropriated Amount in accordance with applicable law and account for and safeguard Project funds and assets acquired with Project funds.

B. In the event Grantee fails to comply with the requirements of subparagraph A of this Article XVIII, Department may take one or more of the following actions:

a. Suspend new or further obligations pursuant to Article VI(A) of this Agreement;

b. Require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
c. Impose special conditions to address the non-compliance by giving Grantee notice of such special conditions in accordance with Article III of this Agreement;
   i. The Parties agree that any special conditions imposed to address non-compliance shall be incorporated into this Agreement, through **Exhibit D**, upon notice to Grantee, without need for formal amendment of this Agreement;
   ii. Special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III or
d. Terminate this Agreement pursuant to Article V(A) of this Agreement.

XIX. SEVERANCE TAX AND GENERAL OBLIGATION BONDS

A. Grantee acknowledges and agrees that the underlying appropriation for the Project may originate from the issuance of tax-exempt severance tax bonds or general obligation bonds by the State. Proceeds from such bonds are administered by the New Mexico State Board of Finance ("**SBOF**"), an entity separate and distinct from the Department.

a. Grantee acknowledges and agrees:
   i. It is Grantee's responsibility to determine through SBOF what (if any) conditions are currently imposed on the Project;
   ii. Department's failure to inform Grantee of an SBOF-imposed condition does not affect the validity or enforceability of the condition;
   iii. The SBOF may in the future impose further or different conditions upon the Project;
   iv. All SBOF conditions are attached to the Project and Appropriation Amount without the need for formal amendment of this Agreement;
   v. All applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s) and
   vi. The Department's obligation to reimburse Grantee from the Project is expressly contingent upon the satisfaction of the then-current SBOF conditions.

B. Grantee acknowledges and agrees SBOF may, at its sole and absolute discretion, require reimbursement or remove eligibility for bond proceeds for the Project if the Project doesn't proceed sufficiently.

a. Grantee must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by Grantee in the Bond Questionnaire and Certification documents submitted to the SBOF.
b. Failure to comply may result in the reassignment of the bond proceeds. Upon reassignment of bond proceeds, this Agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, § 2.61.6, NMAC, as may be amended from time to time or re-codified.

XX. GENERAL PROVISIONS

A. Assignment: Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontractors: Grantee shall not enter any subgrant or subcontract in connection with its obligations under this Agreement without the prior written approval of the State. Upon request, Grantee shall submit to the Department a copy of each such subgrant or subcontract.

C. Binding Effect: Except as otherwise provided, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority: Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References: The captions and headings in this Agreement are for the convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts: This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute the same agreement.

G. Digital Signatures: If any signatory signs this agreement using a digital signature in accordance with the State Policies regarding the use of digital signatures, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

H. Modification: Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment, properly executed and approved in accordance with applicable New Mexico law and State fiscal policies and rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the State.

I. Statutes, Regulations, Fiscal Rules, and Other Authority: Any reference in this Agreement to a statute, regulation, policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended after the Effective Date of this Agreement.

J. External Terms and Conditions: Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

K. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

L. Survival of Certain Agreement Terms: Any provision of this Agreement that imposes an obligation on a Party after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

M. Third-Party Beneficiaries: Except for the Parties' respective successors and assigns described in this Agreement, it does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits that third parties receive as a result of this Agreement are incidental to this Agreement and do not create any rights for such third parties.

N. Waiver: A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

O. Standard and Manner of Performance: Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in Grantee's industry, trade, or profession.

P. Licenses, Permits, and Other Authorizations: Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement and shall ensure that all employees, agents, and subcontractors secure and maintain at all times during the term of their employment, agency or subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

Q. Publicity: Any Publicity regarding the subject matter of this Agreement may not be released without prior written approval from the Department. For purposes of this agreement, "**Publicity**" means notices, informational pamphlets, press releases, email responses, research, reports, signs, and similar public notices prepared by or for the Grantee or jointly with others.

a. Grantee shall obtain written approval prior to issuing any press release or making any public announcement regarding this agreement. Grantee agrees to obtain approval of the Department in advance with respect to all Public Relations, all communications with media, or all communications with any other member of the public with respect to this agreement, except to acknowledge that an agreement does exist.
b. For purposes of this agreement, "Public Relations" includes community relations and means those activities dedicated to maintaining the Department's image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
c. Violations of either Article XX (Q)(a) or (b) shall constitute a material Breach of Agreement.

R. Data Sharing: The State intends to secure and collate specific data generated by Grantee under this Agreement to use in support of the State's organizational, policymaking, and management of public resource functions. State, in accordance with **Exhibit E**, attached hereto and incorporated herein by reference, reserves the right to require Grantee and/or its subcontractors to provide specific data relevant to the above-listed functions. Data provided by Grantee may be incorporated into existing or future developed State integrated analysis tools or databases, including but not limited to geographic information system (GIS) networks and databases accessible by the public. Dissemination of data collected may include historical data and projections based on such historical data.

a. To the extent any data transferred as part of this Agreement is legally determined to be the property of Subrecipient or its subcontractors, Subrecipient and/or its subcontractors grants State a nonexclusive, fully paid-up right and license to reproduce, use, distribute, do derivative works based on, and archive data transferred as part of this Agreement.

S. Venue and Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without regard to any conflict of law provisions. Any legal suit, action, or proceeding arising out of or related to this Agreement shall be instituted exclusively in the district courts located in Santa Fe, New Mexico. The Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such suit, action, or proceeding. The Parties waive any objection to the laying of the venue of any such suit, action, or proceeding in the district courts of Santa Fe, New Mexico, and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]
[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Department's date of execution.

APPROVED BY AGING AND LONG-TERM DIVISION (ALTSD):

SPONSOR:
or Designee

By: Signed by: Tasha Martinez CD28FF760BEC496...

Title: Capital Outlay Bureau Chief Date: 2/9/2026

Office of Secretary:
or Designee

By: DocuSigned by: Antoinette Vigil B700305AB7474B3...

Title: Deputy Cabinet Secretary Date: 2/10/2026

Chief Financial Officer:
or Designee

By: DocuSigned by: Latishia Ortiz 10A0F739685045D...

Title: ASD Director Date: 2/10/2026

Chief Procurement Officer:
or Designee

By: Signed by: Marlene Acosta 839B647AA2804AF...

Title: Chief Procurement Officer Date: 2/10/2026

AS TO LEGAL FORM AND SUFFICIENCY (ALTSD)

General Counsel's Office:
or Designee

By: Signed by: Craig Hay 4953FF916CF2472...

Title: Acting General Counsel Date: 2/10/2026

APPROVED BY GRANTEE:

GRANTEE:	By:	
Ikani Taumoepeau	Title: City Manager	Date: 2/2/26.
GRANTEE:	By: for Brad Douglas	
Brad Douglas	Title: City Attorney	Date: 1/29/26

EXHIBIT A

Notice of Department's Obligation Form

Attachment "C"

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE

Notice of Obligation to Reimburse Grantee [# ______]

DATE: ___________

TO: Department Representative: **AGING & LONG-TERM SERVICES DEPARTMENT**

FROM: Grantee: ___________________________ Grantee Official Representative: ____________________

Grantee Address: ____

Name of Senior Center: ____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: ________________________

Grant Termination Date: _________________

As the designated representative of the Department for Grant Agreement number___________entered into between the Grantee and the Department, I certify that the Grantee has submitted to the Department the following third-party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: ______________________________________

Third Party Obligation Amount: ______________________________

Vendor or Contractor: ______________________________________

Third Party Obligation Amount: ______________________________

Vendor or Contractor: ______________________________________

Third Party Obligation Amount: ______________________________

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within The scope of the project description, subject to all the terms and conditions of the above-referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): $_____________

The Amount of this Notice of Obligation: $_____________

The Total Amount of all Previously Issued Notices of Obligation: $_____________

The Total Amount of all Notices of Obligation to Date: $_____________

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: ____________________________ Title: ____________________________

Signature: ____ Date: ____________________________

Please ensure that all estimates and/or quotes are included with the Notice of Obligation (NOO).

Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

NOO Revised: 10-14-2025 PLEASE SUBMIT TO: capital.outlay@altsd.nm.gov

EXHIBIT B

Request for Payment Form and Certification

Attachment "C"

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: ____________________

B. Senior Center (Name): ____________________

C. Street Address: ____________________

(Complete Mailing, including Suite, if applicable)

____
City State Zip

D. Phone No: ____________________

E. Grant No: ____________________

F. Grant Expiration Date: ____________________

II. Payment Computation

A. Payment Request No. ____________________

B. Grant Amount: ____________________

C. AIPP Amount *(If Applicable)*: ____________________

D. Funds Requested to Date: ____________________

E.

Date of Invoice	Vendor Name	Amount of Invoice	Amount Applicable to this Grant
Amount Requested this Payment:			

F. Reversion Amount *(If Applicable)*: ____________________

G. Grant Balance: ____________________

H. ☐ GF ☐ GOB ☐ STB *(attach wire if first draw)*

I. ☐ Final Request for Payment *(if Applicable)*

III. Fiscal Year : ________

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

____
Grantee Fiscal Officer
or **Fiscal Agent** *(if applicable)*

____
Printed Name

Date: ____________________

____
Grantee Representative

____
Printed Name

Date: ____________________

(State Agency Use Only)

Vendor: ____________ **Fund No.:** ____________ **Loc No.:** ____________

I certify that the State Agency financial and vendor file information agree with the above submitted information.

____
ALTSD Capital Outlay Bureau Chief

____
Date

____
ALTSD Capital Outlay Fiscal Coordinator

____
Date

PLEASE SUBMIT TO: capital.outlay@altsd.nm.gov

Revised 4.30.18

GRANTEE REQUEST FOR PAYMENT (RFP) CHECKLIST

RFPs **MUST** be submitted as soon as grantee payment has cleared.

____ RFP # ______ (Verify that you are submitting the correct RFP #)

____ A-Code __________ (Verify that you are requesting payment for the correct grant #)

____ Verify $ amount on the RFP corresponds with the total amount of all invoices and proof of payment (i.e., canceled check, credit card receipt)?

____ Did you include the grant expiration date, and is it a valid date?

____ Has CPMS been updated within the current quarter of RFP submittal?

1st Quarter	July 1 – September 30
2nd Quarter	October 1 – December 31
3rd Quarter	January 1 – March 31
4th Quarter	April 1 – June 30

____ Verify that "Amount of invoice" and "Amount applicable to this Grant" are correct. (For example, if an invoice is for $100.00 but only $50.00 applies to the grant, ensure this is correctly captured on the RFP).

Example:

Date of Invoice	Vendor Name	Amount of Invoice	Amount Applicable to this Grant
6/10/2025	ABC construction	$100.00	$50.00
E	X A M P	L E	
Amount Requested this Payment:			$50.00

Are the following required documents included?

RFPs for equipment, construction, and vehicles

___ Invoice (All PRs)

___ Proof of payment (canceled check/ACH payment) (All PRs)

___ Grantee PO (All PRs)

___ Approved NOO

Additional supporting documents for Vehicles (all the above and the following):

___ Certificate of Origin (all the above and PRs for Vehicles)

___ Odometer Disclosure

___ Buyers' Agreement

Please ensure VINs on all supporting documents match.

NOTE: Be advised that 85% of grant funds must be spent 6 months prior to the reversion date.

This is for your use only DO NOT submit with RFP

EXHIBIT C

Quarterly Reports Form and Certification

EXHIBIT D

Special Conditions

EXHIBIT E
Data Sharing Provisions

26-113

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

City Council Action and Executive Summary

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Hayford Danso	**Department:**	City Manager's Office
Title:	**A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM.**		

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
To amend the Capital Improvements Program (CIP) for Fiscal Year (FY) 2026 through 2031.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces adopted the FY 2026-2031 Capital Improvements Program (CIP) on May 19, 2025. During the fiscal year, project information, such as funding sources and amounts, may change as projects progress. As a result, amendments to the CIP document are necessary to reflect those changes. City Council approves amendments.

The proposed amendments adjust project budgets and reflect grants accepted by the City Council. Attachment "A" lists the proposed amendments.

SUPPORT INFORMATION:
Exhibit "A" - FY026 - 2031 CIP
Attachment "A" - CIP Amendments Description.

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☒ Yes
☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will amend the City of Las Cruces FY2026 through FY2031 CIP.
2. Vote "No"; this will not amend the City of Las Cruces FY2026 through FY2031 CIP.
3. Vote to "Amend"; this will potentially amend the Cruces FY2026 through FY2031 CIP, requiring pages in the program document be added, deleted or modified.
4. Vote to "Table"; this will delay the use of funds for amended projects.

RESOLUTION 26-113

A RESOLUTION AMENDING THE FY2026 - 2031 CAPITAL IMPROVEMENTS PROGRAM.

The City Council is informed that:

WHEREAS, the Capital Improvements Program (CIP) is a six-year program that identifies capital projects which address capital needs to build, replace, expand, and improve infrastructure and systems; and

WHEREAS, in accordance with the provisions of Article VI. Section 6.03 of the City Charter, the financing and location of capital improvements is guided by the City's Comprehensive Plan, Elevate Las Cruces; and

WHEREAS, pursuant to Article V. Section 5.08 of the City Charter, Council may supplement, reduce or transfer appropriations.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the Capital Improvements Program for FY2026 through FY2031, attached hereto and made part of this Resolution as Exhibit "A", is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

Agenda Item #6.3.

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
FY 2026 - 2031

Exhibit "A"

AMENDED - MARCH 16, 2026

Project Title	Department	Funded FY2026	Unfunded FY2027	FY2028	FY2029	FY2030	FY2031	Funding Source
Active Transportation		$	$	$	$	$	$	
Active Transportation - Newly Funded		$ -	$ -	$ -	$ -	$ -	$ -	
Active Transportation - Carryover		$ 7,686,922.46	$ 775,000.00	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ -	
Active Transportation Program		$ 7,065,182.08	$ 665,000.00	$ -	$ -	$ -	$ -	
Active Transportation Projects		$ 3,030,370.00	$ -	$ -	$ -	$ -	$ -	**Grants**
Madrid Ave Extension - Evelyn St to N Triviz Dr	Public Works	$ 1,221,457.00	$ -	$ -	$ -	$ -	$ -	**Bonds**
Melendres Ave/Pittsburg - Hadley to Picacho	Public Works	$ 1,094,853.00	$ -	$ -	$ -	$ -	$ -	**Bonds**
Trail Renovations	Parks & Recreation	$ 95,000.00	$ 1,540,000.00	$ 500,000.00	$ 500,000.00	$ -	$ -	**Grants**
Dona Ana Move Trail	Parks & Recreation	$ 909,469.23	$ -	$ -	$ -	$ -	$ -	**Grants**
Tortugas Trail	Parks & Recreation	$ 125,543.68	$ 350,000.00	$ -	$ -	$ -	$ -	**Grants**, Other
University Multi-Use Trail Loop	Parks & Recreation	$ 588,489.17	$ -	$ -	$ -	$ -	$ -	**Grants**, Taxes
Active Transportation - Annual		$ 621,740.38	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ -	
ADA Compliance		$ 621,740.38	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ -	
ADA Sidewalk Program	Public Works	$ 621,740.38	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ 110,000.00	$ -	**Taxes**
Active Transportation - Future		$ -	$ 174,000.00	$ -	$ -	$ -	$ -	
Green Cool Corridors for Bicycles	Sustainability	$ -	$ 174,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
	SUBTOTAL	$ 8,308,662.84	$ 1,059,000.00	$ 220,000.00	$ 220,000.00	$ 220,000.00	$ -	
Airport		$	$	$	$	$	$	
Airport - Newly Funded		$ 1,319,671.00	$ 475,000.00	$ -	$ -	$ -	$ -	
LRU Airport Automated Weather Observation System (AWOS)	Las Cruces Airport	$ 1,319,671.00	$ 475,000.00	$ -	$ -	$ -	$ -	**Grants**
Airport - Carryover		$ 3,081,283.70	$ 1,985,000.00	$ 285,000.00	$ 285,000.00	$ 285,000.00	$ -	
LRU Runway Improvements		$ 2,906,283.70	$ 1,500,000.00	$ -	$ -	$ -	$ -	
LRU Runway 4-22 Rehabilitation	Las Cruces Airport	$ 2,333,919.66	$ 1,500,000.00	$ -	$ -	$ -	$ -	**Grants**
LRU Runways 8-26 and 12-30 Blast Pads	Las Cruces Airport	$ 572,364.04	$ -	$ -	$ -	$ -	$ -	**Grants, Taxes**
LRU Infrastructure Extensions/Improvements	Las Cruces Airport	$ 481,568.45	$ 5,350,000.00	$ -	$ -	$ -	$ -	**Grants, Taxes**
LRU Airport Infrastructure Improvements	Las Cruces Airport	$ 22,672.44						**NMDFA Grant Reauthorized**
Airport - Annual		$ 175,000.00	$ 485,000.00	$ 285,000.00	$ 285,000.00	$ 285,000.00	$ -	
LRU Pavement Maintenance Program	Las Cruces Airport	$ -	$ 400,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ -	Other, Taxes
LRU Pavement Striping/Marking Maintenance Program	Las Cruces Airport	$ 175,000.00	$ 85,000.00	$ 85,000.00	$ 85,000.00	$ 85,000.00	$ -	**Grants, Taxes**
Airport - Future		$ -	$ 18,539,000.00	$ 7,050,000.00	$ 5,150,000.00	$ 38,770,000.00	$ 17,500,000.00	
LRU Runway Improvements	Las Cruces Airport	$ -	$ -	$ -	$ -	$ 27,500,000.00	$ 17,500,000.00	
LRU Runway 12/30 Extension	Las Cruces Airport	$ -	$ -	$ -	$ -	$ -	$ 17,500,000.00	Grants, Other, Taxes
Runway 8/26 Extension	Las Cruces Airport	$ -	$ -	$ -	$ -	$ 27,500,000.00	$ -	Grants, Taxes
LRU Airline Ground Support Equipment Facility Design and Construction	Las Cruces Airport	$ -	$ -	$ -	$ 750,000.00	$ -	$ -	Other
LRU Airport Automated Weather Observation System (AWOS)	Las Cruces Airport	$ -	$ 475,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
LRU Airport Maintenance Equipment	Las Cruces Airport	$ -	$ -	$ 750,000.00	$ -	$ -	$ -	Grants, Taxes
LRU Airport Rotating Beacon	Las Cruces Airport	$ -	$ 345,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
LRU Apron West Rehabilitation	Las Cruces Airport	$ -	$ -	$ -	$ -	$ 70,000.00	$ -	Grants, Taxes
LRU ARFF (Airport Rescue and Fire Fighting) Index B Equipment Upgrades	Las Cruces Airport	$ -	$ 1,600,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
LRU Commercial Hangar Design and Construction	Las Cruces Airport	$ -	$ -	$ 2,850,000.00	$ -	$ -	$ -	Grants, Taxes
LRU East Road Extensions/Improvements	Las Cruces Airport	$ -	$ -	$ -	$ -	$ 11,200,000.00	$ -	Other
LRU Fuel Farm Relocation and Expansion	Las Cruces Airport	$ -	$ -	$ -	$ 1,900,000.00	$ -	$ -	Other
LRU Maintenance Facility Design and Construction	Las Cruces Airport	$ -	$ 550,000.00	$ -	$ -	$ -	$ -	Grants
LRU Multi-Modal Public Passenger Transit Facility	Las Cruces Airport	$ -	$ -	$ -	$ 2,500,000.00	$ -	$ -	Other
LRU Passenger Terminal Design and Construction	Las Cruces Airport	$ -	$ 9,600,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
LRU Passenger Terminal Parking Design and Construction	Las Cruces Airport	$ -	$ 1,600,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
LRU Taxi Lane Extensions/Improvements	Las Cruces Airport	$ -	$ -	$ 3,450,000.00	$ -	$ -	$ -	Other
Taxiway C Rehabilitation	Las Cruces Airport	$ -	$ 4,369,000.00	$ -	$ -	$ -	$ -	Grants, Other, Taxes
	SUBTOTAL	$ 4,575,954.70	$ 21,484,000.00	$ 7,620,000.00	$ 5,720,000.00	$ 39,340,000.00	$ 17,500,000.00	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
FY 2026 - 2031

Attainable/Affordable Housing		$	$	$	$	$	$	
Attainable/Affordable Housing - Newly Funded		**$ 9,261,834.00**	**$ 6,000,000.00**	**$ 2,000,000.00**	**$ 2,000,000.00**	**$ 2,000,000.00**	**$ -**	
Arcadia 4 Subdivision	Housing and Neighborhood Svcs	$ 3,250,000.00	$ -	$ -	$ -	$ -	$ -	**Grants, Other**
Affordable Housing Trust Fund and Land Bank Projects	Housing and Neighborhood Svcs	$ 4,972,334.00	$ -	$ -	$ -	$ -	$ -	**Grants, Other**
Paseos Verdes	Housing and Neighborhood Svcs	$ 1,039,500.00	$ 6,000,000.00	$ 2,000,000.00	$ 2,000,000.00	$ 2,000,000.00	$ -	Bonds, **Grants,** Taxes
Attainable/Affordable Housing - Carryover		**$ 16,487,106.83**	**$ 2,737,401.00**	**$ -**	**$ -**	**$ -**	**$ -**	
MVCoH Campus Extension (Amador Crossing)	Housing and Neighborhood Svcs	$ 16,487,106.83	$ 2,737,401.00	$ -	$ -	$ -	$ -	**Grants, Telshor**
Attainable/Affordable Housing - Annual		**$ -**	$ -	$ -	$ -	$ -	$ -	
Attainable/Affordable Housing - Future		**$ -**	**$ 12,550,000.00**	**$ 7,050,000.00**	**$ 12,050,000.00**	**$ 7,050,000.00**	**$ 5,050,000.00**	
Affordable Housing Trust Fund and Land Bank Projects	Housing and Neighborhood Svcs	$ -	$ 5,500,000.00	$ 5,050,000.00	$ 10,050,000.00	$ 5,050,000.00	$ 5,050,000.00	Bonds, Grants, Other
Lift Up Las Cruces - Street Improvements		$ -	$ 7,050,000.00	$ 2,000,000.00	$ 2,000,000.00	$ 2,000,000.00	$ -	
	SUBTOTAL	**$ 25,748,940.83**	**$ 21,287,401.00**	**$ 9,050,000.00**	**$ 14,050,000.00**	**$ 9,050,000.00**	**$ 5,050,000.00**	

City Operational Facilities		$	$	$	$	$	$	
City Operational Facilities - Newly Funded		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	
East Mesa Center Emergency Generator (Sage Café)	Quality of Life	$ 3,052,170.00	$ 422,500.00	$ -	$ -	$ -	$ -	Grants, Taxes
City Operational Facilities - Carryover		**$ 278,650.46**	**$ 1,016,500.00**	**$ 255,500.00**	**$ 255,500.00**	**$ 255,500.00**	**$ -**	
Safety, Health, Environmental & Emergency		$ 278,650.46	$ -	$ -	$ -	$ -	$ -	
City Hall Security Upgrades	Facilities Management	$ 15,436.46	$ -	$ -	$ -	$ -	$ -	**Taxes**
HR Remodel	Facilities Management	$ 110,000.00	$ -	$ -	$ -	$ -	$ -	**Taxes**
Surveillance and Access Controls (Key Cards)	Facilities Management	$ 153,214.00	$ -	$ -	$ -	$ -	$ -	**Taxes**
General Facilities Improvements		$ -	$ -	$ -	$ -	$ -	$ -	
Energy Efficiency Program - IGA	Facilities Management	$ -	$ -	$ -	$ -	$ -	$ -	Taxes
City Operational Facilities - Annual		**$ -**	**$ 1,016,500.00**	**$ 255,500.00**	**$ 255,500.00**	**$ 255,500.00**	**$ -**	
Safety, Health, Environmental & Emergency		$ -	$ 1,016,500.00	$ 255,500.00	$ 255,500.00	$ 255,500.00	$ -	
Safety, Health, Environmental, & Emergency	Facilities Management	$ -	$ 1,016,500.00	$ 255,500.00	$ 255,500.00	$ 255,500.00	$ -	Taxes
City Operational Facilities - Future		**$ -**	**$ 10,146,500.00**	**$ 300,000.00**	**$ 210,000.00**	**$ 200,000.00**	**$ -**	
General Facilities Improvements		$ -	$ 7,922,500.00	$ -	$ -	$ -	$ -	
City Hall Expansion	Facilities Management	$ -	$ 7,500,000.00	$ -	$ -	$ -	$ -	Other
HVAC Upgrade Program		$ -	$ 400,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ -	
HVAC Upgrade Program	Facilities Management	$ -	$ 400,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ -	Taxes
Refuse & Recycling Buffer Program		$ -	$ 24,000.00	$ 100,000.00	$ 10,000.00	$ -	$ -	
Refuse & Recycling Buffer Program	Facilities Management	$ -	$ 24,000.00	$ 100,000.00	$ 10,000.00	$ -	$ -	Taxes
East Mesa Outdoor Pool - Ground Stabilization	Parks & Recreation	$ -	$ 1,100,000.00	$ -	$ -	$ -	$ -	ARPA, Bonds, Grants, Taxes
Office Renovation - Castaneda Service Center	Parks & Recreation	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	ARPA, Bonds, Grants, Other, Taxes
Satellite Park Maintenance Yard and Facility	Parks & Recreation	$ -	$ 600,000.00	$ -	$ -	$ -	$ -	ARPA, Bonds, Grants, Other, Taxes
	SUBTOTAL	**$ 278,650.46**	**$ 12,179,500.00**	**$ 811,000.00**	**$ 721,000.00**	**$ 711,000.00**	**$ -**	

Equipment & IT		$	$	$	$	$	$	
Equipment & IT - Newly Funded		**$ -**	**$ 181,500.00**	**$ -**	**$ -**	**$ -**	**$ -**	
Access Channel Capital Improvement	Communications	$ -	$ 181,500.00	$ -	$ -	$ -	$ -	Other
Equipment & IT - Carryover		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	
Safety, Health, Environmental & Emergency		$ -	$ -	$ -	$ -	$ -	$ -	
Senior Program Equipment and Rolling Stock	Quality of Life	$ 310,000.00	$ -	$ -	$ -	$ -	$ -	Grants, Taxes
Equipment & IT - Annual		**$ -**	$ -	**$ -**	**$ -**	**$ -**	**$ -**	
Equipment & IT - Future		**$ -**	**$ 483,000.00**	**$ 92,000.00**	**$ -**	**$ -**	**$ -**	
Audio and Visual Equipment Upgrades for City Hall	Facilities Management	$ -	$ 383,000.00	$ 92,000.00	$ -	$ -	$ -	Taxes
Large Equipment - New and Replacement	Parks & Recreation	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	ARPA, Bonds, Grants, Other, Taxes
	SUBTOTAL	**$ -**	**$ 664,500.00**	**$ 92,000.00**	**$ -**	**$ -**	**$ -**	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
FY 2026 - 2031

Non-Profit		$	$	$	$	$	$	
Non-Profit - Newly Funded		$ 584,100.00	$ 4,000,000.00	$ 2,000,000.00	$ 2,000,000.00	$ -	$ -	
MVCoH Master Plan Implementation	Housing and Neighborhood Svcs	$ 584,100.00	$ 4,000,000.00	$ 2,000,000.00	$ 2,000,000.00	$ -	$ -	**Grants**, Taxes
Non-Profit - Carryover		$ 6,424,934.56	$ 16,224,356.00	$ -	$ -	$ -	$ -	
MVCoH Health Facility		$ 31,314.63	$ -	$ -	$ -	$ -	$ -	
MVCH Health Facility Improvements	Non-Profit	$ 31,314.63	$ -	$ -	$ -	$ -	$ -	**Grants**
Arts and Cultural District Improvements	Non-Profit	$ 1,521,448.01	$ -	$ -	$ -	$ -	$ -	**Grants**
Jardin de los Niños Re-Roof	Non-Profit	$ 7,745.30	$ 150,000.00	$ -	$ -	$ -	$ -	**Grants**
La Casa, Inc. Improvements (Flooring, Painting, Shade Structure)	Non-Profit	$ 72,447.60	$ -	$ -	$ -	$ -	$ -	**Grants**
La Casa, Inc. Safety and Security Improvements	Non-Profit	$ 574,200.00	$ 500,000.00	$ -	$ -	$ -	$ -	**Grants**
MV Community of Hope Expansion Remodel	Non-Profit	$ 874,811.76	$ 1,000,000.00	$ -	$ -	$ -	$ -	**Grants**
MVCoH Restroom Showers & Mechanical Room	Facilities Management	$ 387,125.00	$ -	$ -	$ -	$ -	$ -	**Telshor**
The Kitchens at MVCOH	Non-Profit	$ 2,955,842.26	$ 14,574,356.00	$ -	$ -	$ -	$ -	**Grants**
Non-Profit - Annual		$ -	$ -	$ -	$ -	$ -	$ -	
Non-Profit - Future		$ -	$ 3,060,000.00	$ -	$ -	$ -	$ -	
MVCoH Health Facility		$ -	$ 330,000.00	$ -	$ -	$ -	$ -	
Health Facility Phase IV	Non-Profit	$ -	$ 330,000.00	$ -	$ -	$ -	$ -	Grants
Jardin de los Niños Security Improvements	Non-Profit	$ -	$ 200,000.00	$ -	$ -	$ -	$ -	Grants
MVCH Bldg 1 Solar Project	Non-Profit	$ -	$ 600,000.00	$ -	$ -	$ -	$ -	Other
MVCH Patio to Office Remodel	Non-Profit	$ -	$ 1,000,000.00	$ -	$ -	$ -	$ -	Grants
MVCH Solar Parking Structure	Non-Profit	$ -	$ 600,000.00	$ -	$ -	$ -	$ -	Grants
	SUBTOTAL	**$ 7,009,034.56**	**$ 20,554,356.00**	**$ 2,000,000.00**	**$ 2,000,000.00**	**$ -**	**$ -**	
Other		$	$	$	$	$	$	
Other - Newly Funded		$ -	$ -	$ -	$ -	$ -	$ -	
Other - Carryover		$ -	$ -	$ -	$ -	$ -	$ -	
Other - Annual		$ -	$ -	$ -	$ -	$ -	$ -	
Other - Future		$ -	$ 653,000.00	$ -	$ -	$ -	$ -	
Parks and Recreation Master Plan Update	Parks & Recreation	$ -	$ 433,000.00	$ -	$ -	$ -	$ -	Grants, Other, Taxes
QOL Bookmobile	Quality of Life	$ -	$ 220,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Other, Taxes, TIDD
Park Improvements	**SUBTOTAL**	**$ -**	**$ 653,000.00**	**$ -**	**$ -**	**$ -**	**$ -**	
Park Improvements - Newly Funded		$ -	$ -	$ -	$ -	$ -	$ -	
Park Improvements - Carryover		$ 8,177,165.70	$ 9,150,007.19	$ 2,650,000.00	$ 2,775,000.00	$ 2,900,000.00	$ 3,025,000.00	
Apodaca Park Aquatic Playground and Multi-Use Path	Parks & Recreation	$ 3,302,977.17	$ -	$ -	$ -	$ -	$ -	**Grants, PIF, Taxes**
Ballfield/Multi-Use Field Renovations & Upgrades	Parks & Recreation	$ 14,716.22	$ 3,344,000.00	$ -	$ -	$ -	$ -	ARPA, Bonds, **Grants**, Taxes
Benavidez Community Center Park Improvements	Parks & Recreation	$ 734,599.40	$ 619,007.19	$ -	$ -	$ -	$ -	**Grants, PIF**
Gallagher Park Improvements - Design/Construction	Parks & Recreation	$ 6,482.35	$ -	$ -	$ -	$ -	$ -	**Bonds**
Klein Park Improvements	Parks & Recreation	$ -	$ 57,000.00	$ -	$ -	$ -	$ -	Grants, PIF
Legacy Park Renovations	Parks & Recreation	$ 1,541,095.16	$ 5,075,000.00	$ 2,650,000.00	$ 2,775,000.00	$ 2,900,000.00	$ 3,025,000.00	ARPA, Bonds, **Grants**, Other, PIF, Taxes
Park Drinking Fountains	Parks & Recreation	$ 963,792.44	$ 55,000.00	$ -	$ -	$ -	$ -	Grants, **Telshor Fund**
Pioneer Women's Park improvements	Parks & Recreation	$ 741,820.68	$ -	$ -	$ -	$ -	$ -	**Grants**
Skate Park Improvements	Parks & Recreation	$ 403,420.22	$ -	$ -	$ -	$ -	$ -	**Grants, PIF**
Valley View Park - Heske Garden Lighting Replacement	Parks & Recreation	$ 468,262.06	$ -	$ -	$ -	$ -	$ -	**Grants**, Taxes
Park Improvements - Annual		$ 1,751,095.12	$ 5,973,000.00	$ 2,325,000.00	$ 1,926,000.00	$ 2,526,000.00	$ 500,000.00	
Neighborhood Parks		$ 1,147,290.12	$ 4,900,000.00	$ 1,800,000.00	$ 1,900,000.00	$ 2,000,000.00	$ -	
Playground Renovations	Parks & Recreation	$ 1,147,290.12	$ 4,900,000.00	$ 1,800,000.00	$ 1,900,000.00	$ 2,000,000.00	$ -	**Grants**, Other, Telshor Fund
Parks Shade Structures		$ 23,250.00	$ 73,000.00	$ 25,000.00	$ 26,000.00	$ 26,000.00	$ -	
Shade structure replacement	Parks & Recreation	$ 23,250.00	$ 73,000.00	$ 25,000.00	$ 26,000.00	$ 26,000.00	$ -	**Taxes**
Park Restroom Improvements and New Restrooms	Parks & Recreation	$ 580,555.00	$ 1,000,000.00	$ 500,000.00	$ -	$ 500,000.00	$ 500,000.00	**PIF**
Park Improvements - Future		$ -	$ 5,894,000.00	$ 13,500,000.00	$ 30,150,000.00	$ 29,750,000.00	$ 150,000.00	
Parks and Recreational Facilities Structural Renovations		$ -	$ 1,460,000.00	$ 150,000.00	$ 150,000.00	$ 150,000.00	$ 150,000.00	
Light Poles at Hadley Fields	Facilities Management	$ -	$ 1,010,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
Parks and Recreational Facilities Enhancements	Parks & Recreation	$ -	$ 450,000.00	$ 150,000.00	$ 150,000.00	$ 150,000.00	$ 150,000.00	Taxes
Burn Lake Improvements	Parks & Recreation	$ -	$ 300,000.00	$ 3,000,000.00	$ -	$ -	$ -	ARPA, Bonds, Grants, Other, PIF, Taxes
Four Field Baseball/Softball Complex	Parks & Recreation	$ -	$ 400,000.00	$ 5,950,000.00	$ -	$ -	$ -	Other
Multi-Use Recreation Center	Parks & Recreation	$ -	$ 1,800,000.00	$ 4,400,000.00	$ 30,000,000.00	$ 29,600,000.00	$ -	Bonds, Grants, Other, Taxes
Soldados Field Lighting	Parks & Recreation	$ -	$ 1,200,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, PIF, Taxes
Soldados Field Restroom	Parks & Recreation	$ -	$ 600,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, PIF, Taxes
Veterans Memorial Park Restroom Plumbing Repairs and Upgrades	Parks & Recreation	$ -	$ 134,000.00	$ -	$ -	$ -	$ -	Other
	SUBTOTAL	**$ 9,928,260.82**	**$ 21,017,007.19**	**$ 18,475,000.00**	**$ 34,851,000.00**	**$ 35,176,000.00**	**$ 3,675,000.00**	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
FY 2026 - 2031

Parks - New		$	$	$	$	$	$	
Parks - New - Newly Funded		$ 2,000,000.00	$ 4,983,700.00	$ -	$ 1,407,498.00	$ -	$ -	
Bike Park	Parks & Recreation	$ 2,000,000.00	$ 4,983,700.00	$ -	$ 1,407,498.00	$ -	$ -	ARPA, Bonds, Grants, Other, PIF, Taxes
Parks - New - Carryover		$ 3,536,843.86	$ 3,995,000.00	$ 920,000.00	$ 500,000.00	$ 920,000.00	$ 920,000.00	
Neighborhood Parks		$ 1,054,895.22	$ 2,760,000.00	$ 920,000.00	$ 500,000.00	$ 920,000.00	$ 920,000.00	
Developer Neighborhood Park Reimbursement	Parks & Recreation	$ 1,054,895.22	$ 2,760,000.00	$ 920,000.00	$ 500,000.00	$ 920,000.00	$ 920,000.00	PIF
Chandler Tank Park Phase 1	Parks & Recreation	$ 1,079,202.05	$ -	$ -	$ -	$ -	$ -	Bonds, PIF, Taxes
East Mesa Public Safety Area Park	Parks & Recreation	$ 100,000.00	$ -	$ -	$ -	$ -	$ -	PIF
Highland Park	Parks & Recreation	$ 566,490.69	$ -	$ -	$ -	$ -	$ -	Bonds, PIF, Taxes
LCIIP Gateway Signage	Economic Development	$ 480,000.00	$ 85,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
New Skate Park	Parks & Recreation	$ 21,255.90	$ 1,150,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Other, PIF
Veteran's Memorial Park Enhancements	Parks & Recreation	$ 235,000.00	$ -	$ -	$ -	$ -	$ -	ARPA, Bonds, Grants, Taxes
Parks - New - Annual		$ 793,250.00	$ 1,550,000.00	$ 800,000.00	$ 800,000.00	$ 800,000.00	$ 950,000.00	Bonds
Neighborhood Parks		$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	Bonds
Neighborhood Parks	Parks & Recreation	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	PIF
Land Acquisition, Planning, and Design for Parks	Parks & Recreation	$ 293,250.00	$ 1,050,000.00	$ 300,000.00	$ 300,000.00	$ 300,000.00	$ 450,000.00	Bonds, PIF
Parks - New - Future		$ -	$ 5,333,700.00	$ 3,500,000.00	$ 1,407,498.00	$ 2,000,000.00	$ 240,000.00	
Event Park	Parks & Recreation	$ -	$ -	$ -	$ -	$ -	$ 240,000.00	ARPA, Bonds, Grants, Other, PIF
Waterfalls Park	Parks & Recreation	$ -	$ 350,000.00	$ 3,500,000.00	$ -	$ 2,000,000.00	$ -	Bonds, Grants, PIF, Taxes
	SUBTOTAL	**$ 6,330,093.86**	**$ 10,528,700.00**	**$ 1,720,000.00**	**$ 2,707,498.00**	**$ 1,720,000.00**	**$ 1,870,000.00**	

Public Facilities		$	$	$	$	$	$	
Public Facilities - Newly Funded		$ 1,264,920.08	$ -	$ -	$ -	$ -	$ -	
DC Fast Charger - Electric Vehicle Charger	Sustainability	$ 522,420.08	$ -	$ -	$ -	$ -	$ -	Grant
ADA Compliance								
ADA Compliance	Public Works	$ 297,000.00						
MoNaS Nature Center Redesign	Quality of Life	$ 445,500.00	$ 250,000.00	$ -	$ -	$ -	$ -	Grants, Taxes, TIDD
Public Facilities - Carryover		$ 22,750,357.63	$ 36,266,431.64	$ 43,479,721.32	$ 7,672,226.32	$ 7,672,226.32	$ 59,000.00	
General Facilities Improvements		$ 9,730,411.59	$ 20,479,442.00	$ 35,607,495.00	$ 1,000,000.00	$ 1,000,000.00	$ -	
Amador Hotel Renovation	Quality of Life	$ 4,811,333.14	$ 2,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ -	Grants, Taxes, TIDD
Benavidez Center Kitchen Floor	Quality of Life	$ 82,465.45	$ -	$ -	$ -	$ -	$ -	Grants, Taxes
Branch Library	Quality of Life	$ 29,754.68	$ 1,750,000.00	$ 17,500,000.00	$ -	$ -	$ -	Bonds, Other, Taxes
Branigan Library Renovation and Expansion	Quality of Life	$ 1,767,127.71	$ 15,310,642.00	$ 17,107,495.00	$ -	$ -	$ -	Bonds, Grants, Taxes, TIDD
Frank O'Brien Papen Community Center Rehabilitation	Facilities Management	$ 10,777.79	$ 448,800.00	$ -	$ -	$ -	$ -	Taxes
Meerscheidt Recreation Center - Remodel/Expansion	Parks & Recreation	$ 2,157,678.12	$ -	$ -	$ -	$ -	$ -	Bonds, Taxes
Munson Senior Center Renovations	Quality of Life	$ 661,274.70	$ -	$ -	$ -	$ -	$ -	Grants
Museum of Nature & Science Atrium Redesign	Quality of Life	$ -	$ -	$ -	$ -	$ -	$ -	Grants, TIDD
Museum Technology Improvements	Quality of Life	$ 210,000.00	$ -	$ -	$ -	$ -	$ -	TIDD
Generator Buffer Program		$ -	$ 65,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ -	
Generator Buffer Program	Facilities Management	$ -	$ 65,000.00	$ 15,000.00	$ 15,000.00	$ 15,000.00	$ -	Taxes
Generator Replacement Program		$ -	$ 292,537.00	$ 59,000.00	$ 59,000.00	$ 59,000.00	$ 59,000.00	
Generator Replacement Program	Facilities Management	$ -	$ 292,537.00	$ 59,000.00	$ 59,000.00	$ 59,000.00	$ 59,000.00	Taxes
Roof Replacement Program		$ 1,436,250.00	$ 118,000.00	$ -	$ -	$ -	$ -	
Municipal Court Re-Roof	Facilities Management	$ 350,000.00	$ -	$ -	$ -	$ -	$ -	Bonds
Museum of Art/MoNaS Re-Roof	Facilities Management	$ 815,000.00	$ -	$ -	$ -	$ -	$ -	Bonds, TIDD
Rio Grande Theater Re-Roof	Facilities Management	$ 271,250.00	$ 118,000.00	$ -	$ -	$ -	$ -	TIDD
Branigan Cultural Center Improvements	Quality of Life	$ 1,000,000.00	$ 2,000,000.00	$ 1,200,000.00	$ -	$ -	$ -	Grants, Taxes, TIDD
East Mesa Public Recreational Complex	Public Works	$ 3,906,557.00	$ -	$ -	$ -	$ -	$ -	Bonds
Electrical Vehicle Fleet Chargers	Facilities Management	$ 72,673.92	$ 75,000.00	$ -	$ -	$ -	$ -	Taxes
GO Bond - ARPA	Public Works	$ -	$ -	$ -	$ -	$ -	$ -	Bonds
GO Bond 2022- E. Mesa Recreation Complex	Public Works	$ 1,140,846.56	$ -	$ -	$ -	$ -	$ -	Bonds
GO Bond 2022- Parks Improvements	Public Works	$ 2,034,781.31	$ -	$ -	$ -	$ -	$ -	Bonds
GO Bond 2022- Public Art	Quality of Life	$ 240,000.00	$ -	$ -	$ -	$ -	$ -	Bonds
Municipal Court Rehabilitiation	Public Works	$ 400,000.00	$ 13,236,452.64	$ 6,598,226.32	$ 6,598,226.32	$ 6,598,226.32	$ -	Bonds, Grants, Taxes, TIDD
Plaza Shade Structures	Economic Development	$ 2,400,000.00	$ -	$ -	$ -	$ -	$ -	Bonds, Taxes
Public Art Rollover Funding	Quality of Life	$ 88,837.25	$ -	$ -	$ -	$ -	$ -	Taxes
Regional Community Pool	Public Works	$ -	$ -	$ -	$ -	$ -	$ -	Bonds
Villa Mora Dam Park	Parks & Recreation	$ 300,000.00	$ -	$ -	$ -	$ -	$ -	Grants, Taxes
Voluntary Assessment District Phase II	Public Works	$ -	$ -	$ -	$ -	$ -	$ -	Bonds
	SUBTOTAL	**$ 24,015,277.71**	**$ 36,966,431.64**	**$ 43,479,721.32**	**$ 7,672,226.32**	**$ 7,672,226.32**	**$ 59,000.00**	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
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		$	$	$	$	$	$	
Public Facilities - Annual		**$ 1,330,712.35**	**$ 10,793,907.00**	**$ 3,892,340.00**	**$ 3,867,340.00**	**$ 3,202,340.00**	**$ -**	
ADA Compliance		$ -	$ 502,400.00	$ 101,200.00	$ 101,200.00	$ 101,200.00	$ -	
ADA Compliance	Facilities Management	$ -	$ 202,400.00	$ 101,200.00	$ 101,200.00	$ 101,200.00	$ -	Bonds, Grants, Taxes
Downtown Parking Lots Renovation		$ -	$ 561,000.00	$ 280,500.00	$ 280,500.00	$ 280,500.00	$ -	
Downtown Parking Lot Program	Facilities Management	$ -	$ 561,000.00	$ 280,500.00	$ 280,500.00	$ 280,500.00	$ -	**TIDD**
Facility Parking Lot Program		$ 157,678.12	$ 2,124,600.00	$ 482,800.00	$ 482,800.00	$ 257,800.00	$ -	
Facility Parking Lot Program	Facilities Management	$ 157,678.12	$ 1,609,000.00	$ 225,000.00	$ 225,000.00	$ -	$ -	**Taxes**
Parks Parking Lot Rehabilitation Program	Facilities Management	$ -	$ 515,600.00	$ 257,800.00	$ 257,800.00	$ 257,800.00	$ -	**Bonds, Grants, Taxes**
General Facilities Improvements		$ 118,411.23	$ 1,387,940.00	$ 656,470.00	$ 651,470.00	$ 656,470.00	$ -	
General Facilities Improvement Program	Facilities Management	$ 118,411.23	$ 1,000,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ -	**Taxes, Telshor**
WIA Building (Women's Improvement Association) Rehabilitation	Facilities Management	$ -	$ 387,940.00	$ 156,470.00	$ 151,470.00	$ 156,470.00	$ -	Taxes, Grants
Parks Parking Lots		$ -	$ 900,000.00	$ 450,000.00	$ 450,000.00	$ -	$ -	
Parks Parking Lot Program	Parks & Recreation	$ -	$ 900,000.00	$ 450,000.00	$ 450,000.00	$ -	$ -	Grants, Other, Taxes
Roof Replacement Program		$ 739,623.00	$ 1,388,927.00	$ 336,600.00	$ 336,600.00	$ 336,600.00	$ -	
Facility Roof Replacement Program	Facilities Management	$ 199,623.00	$ 1,072,146.00	$ 336,600.00	$ 336,600.00	$ 336,600.00	$ -	**Bonds, Taxes, TIDD**
Meerscheidt Center Re-Roof	Facilities Management	$ 540,000.00	$ -	$ -	$ -	$ -	$ -	**Bonds**
Re-Roof of Castaneda Building	Facilities Management	$ -	$ 316,781.00	$ -	$ -	$ -	$ -	Taxes
Safety, Health, Environmental & Emergency		$ 315,000.00	$ 3,025,500.00	$ 1,170,500.00	$ 1,155,500.00	$ 1,155,500.00	$ -	
City Security Program	Facilities Management	$ 175,000.00	$ 555,500.00	$ 270,500.00	$ 255,500.00	$ 255,500.00	$ -	**Taxes**
City Vacant /Abandoned Lots	Facilities Management	$ -	$ 1,650,000.00	$ 825,000.00	$ 825,000.00	$ 825,000.00	$ -	Taxes
Park Sidewalk Repair Program	Facilities Management	$ 65,000.00	$ 150,000.00	$ 75,000.00	$ 75,000.00	$ 75,000.00	$ -	Grants, **Taxes**
Security & Fire Alarm Program	Facilities Management	$ -	$ 670,000.00	$ -	$ -	$ -	$ -	Taxes, TIDD
Convention Center FF&E	Visit Las Cruces	$ 75,000.00	$ 150,000.00	$ 75,000.00	$ 75,000.00	$ 75,000.00	$ -	**Taxes**
Public Facilities - Future		**$ -**		**$ 8,055,000.00**	**$ 26,481,000.00**	**$ 650,000.00**	$ -	
General Facilities Improvements		$ -	$ 10,993,180.00	$ 2,200,000.00	$ 15,200,000.00	$ -	$ -	
East Mesa Multi-Generational Center Expansion (Sage Café)	Quality of Life	$ -	$ 3,083,180.00	$ -	$ -	$ -	$ -	Taxes
Eastside Purchase and Renovation	Quality of Life	$ -	$ 2,575,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
Munson Center Bathrooms	Quality of Life	$ -	$ 250,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
Munson Center Floor	Quality of Life	$ -	$ 750,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
Museum of Art Improvements	Quality of Life	$ -	$ 615,000.00	$ 200,000.00	$ -	$ -	$ -	Grants, Taxes
Museum of Art/MoNaS Remodel	Quality of Life	$ -	$ 3,000,000.00	$ -	$ 15,000,000.00	$ -	$ -	Bonds, Grants, Taxes
Railroad Museum Exterior Improvements	Quality of Life	$ -	$ 375,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
Sage Café Library Expansion	Quality of Life	$ -	$ 200,000.00	$ 2,000,000.00	$ 200,000.00	$ -	$ -	Grants, Taxes
Senior Programs Master Plan	Quality of Life	$ -	$ 145,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
Safety, Health, Environmental & Emergency		$ -	$ 1,300,000.00	$ 650,000.00	$ 650,000.00	$ 650,000.00	$ -	
Rehabilitation and Demolition of Vacant Buildings	Facilities Management	$ -	$ 1,300,000.00	$ 650,000.00	$ 650,000.00	$ 650,000.00	$ -	Taxes
Branigan Library Rehabilitation	Facilities Management	$ -	$ 249,500.00	$ 2,750,000.00	$ 1,111,000.00	$ -	$ -	Bonds, Grants, Taxes
Legends West Facility Master Plan	Parks & Recreation	$ -	$ 150,000.00	$ -	$ -	$ -	$ -	ARPA, Bonds, Grants, Other, PIF, Taxes
Museum System Collections Storage	Quality of Life	$ -	$ -	$ -	$ 9,500,000.00	$ -	$ -	Bonds, Grants, Taxes
Plugged in for Good Community Resilience & Energy Hub	Sustainability	$ -	$ 1,932,500.00	$ 2,000,000.00	$ -	$ -	$ -	Grants
Railroad Museum Reinterpretation	Quality of Life	$ -	$ 60,000.00	$ 225,000.00	$ -	$ -	$ -	Grants, Taxes
Safe Haven Outdoor Classroom	Parks & Recreation	$ -	$ 20,000.00	$ 230,000.00	$ 20,000.00	$ -	$ -	ARPA, Bonds, Grants, PIF, Taxes
	SUBTOTAL	**$ 25,345,990.06**	**$ 47,060,338.64**	**$ 55,427,061.32**	**$ 38,020,566.32**	**$ 11,524,566.32**	**$ 59,000.00**	

CITY OF LAS CRUCES
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Public Safety		$	$	$	$	$	$	
Public Safety - Newly Funded		**$ 620,000.00**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	
Statewide Critical Incident Response Vehicles	Police Department	$ 620,000.00	$ -	$ -	$ -	$ -	$ -	
Public Safety - Carryover		**$ 24,196,729.79**	**$ 13,538,068.00**	**$ -**	**$ -**	**$ -**	**$ -**	
Police Department Equipment		$ 235,704.81	$ 1,238,068.00	$ -	$ -	$ -	$ -	
Police Shooting Range	Police Department	$ 235,704.81	$ 290,500.00	$ -	$ -	$ -	$ -	**Grants**, Other
Public Safety Regional Communication System Improvements	Police Department	$ -	$ 500,500.00	$ -	$ -	$ -	$ -	**Grants**
Public Safety Vehicle SWAT Command Vehicle	Police Department	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	Grants
Public Safety Vehicles - Bearcat	Police Department	$ -	$ 347,068.00	$ -	$ -	$ -	$ -	Grants
Safety, Health, Environmental & Emergency		$ 23,961,024.98	$ 12,300,000.00	$ -	$ -	$ -	$ -	
MIH and CIT response station	Fire Department	$ 11,076,137.98	$ 3,000,000.00	$ -	$ -	$ -	$ -	**Grants**
Real Time Crime Center (RTCC)	Police Department	$ 2,621,786.00	$ 2,000,000.00	$ -	$ -	$ -	$ -	**Grants, Taxes**
Fire Station 4 Remodel	Public Works	$ 950,000.00	$ -	$ -	$ -	$ -	$ -	
Fire Station 9 Build	Public Works	$ 9,313,101.00	$ -	$ -	$ -	$ -	$ -	**Bonds, Grants, Telshor**
Police Department Building Renovation	Police Department	$ -	$ 400,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
Public Safety - Annual		**$ 18,799.65**	**$ 9,050,000.00**	**$ 240,000.00**	**$ -**	**$ -**	**$ -**	
Fire Station Improvements		$ 18,799.65	$ 5,562,000.00	$ -	$ -	$ -	$ -	
Fire Stations Improvements	Fire Department	$ 18,799.65	$ 5,562,000.00	$ -	$ -	$ -	$ -	**Grants**
Fire Department Vehicles and Equipment	Fire Department	$ -	$ 3,008,000.00	$ -	$ -	$ -	$ -	Bonds
Fire Station Equipment	Fire Department	$ -	$ 480,000.00	$ 240,000.00	$ -	$ -	$ -	Grants
Public Safety - Future		**$ -**	**$ 6,211,919.00**	**$ 24,675,000.00**	**$ 57,000,000.00**	**$ -**	**$ -**	
Facility Parking Lot Program		$ -	$ 45,000.00	$ -	$ -	$ -	$ -	
Police North Parking Lot Fencing	Police Department	$ -	$ 20,000.00	$ -	$ -	$ -	$ -	Taxes
Police Parking Lot Resurfacing	Police Department	$ -	$ 25,000.00	$ -	$ -	$ -	$ -	Taxes
Police Department Equipment		$ -	$ 3,020,000.00	$ 9,000,000.00	$ -	$ -	$ -	
Police Department Equipment - Axon Body Cameras	Police Department	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
Police Department Equipment - Mobile Data Terminals	Police Department	$ -	$ 350,000.00	$ -	$ -	$ -	$ -	Grants
Police Emergency Vehicles	Police Department	$ -	$ 1,230,000.00	$ -	$ -	$ -	$ -	Grants, PSIF, Taxes
Police/Fire Training Facility - Design/Construct	Police Department	$ -	$ -	$ 6,900,000.00	$ -	$ -	$ -	Bonds, Grants, PSIF, Taxes
Police/Fire Training Facility - Furniture, Fixtures, and Equipment	Police Department	$ -	$ -	$ 2,100,000.00	$ -	$ -	$ -	Grants, PSIF, Taxes
Public Safety Smart Technology	Police Department	$ -	$ 200,000.00	$ -	$ -	$ -	$ -	Grants
Solar Canopy protective screen	Police Department	$ -	$ 20,000.00	$ -	$ -	$ -	$ -	Taxes
Statewide Critical Incident Response Vehicles	Police Department	$ -	$ 500,000.00	$ -	$ -	$ -	$ -	Grants, Other
Downtown Public Safety Complex	Police Department	$ -	$ -	$ -	$ 57,000,000.00	$ -	$ -	Bonds, Taxes
Police Department Mobile Operation Command Vehicle	Police Department	$ -	$ 701,919.00	$ -	$ -	$ -	$ -	Grants
Southwest Station Build	Fire Department	$ -	$ -	$ 6,675,000.00	$ -	$ -	$ -	Taxes
	SUBTOTAL	**$ 24,835,529.44**	**$ 28,799,987.00**	**$ 24,915,000.00**	**$ 57,000,000.00**	**$ -**	**$ -**	

Public Transit		$	$	$	$	$	$	
Public Transit - Newly Funded		**$ 100,000.00**	**$ 5,346,800.00**	**$ -**	**$ -**	**$ -**	**$ -**	
MVITT Inductive Charging	RoadRunner Transit	$ 100,000.00	$ 5,346,800.00	$ -	$ -	$ -	$ -	**Grants**
Public Transit - Carryover		**$ 7,086,230.99**	**$ 5,700,000.00**	**$ -**	**$ -**	**$ -**	**$ -**	
Municipal Service Center - Transit	RoadRunner Transit	$ 487,254.99	$ -	$ -	$ -	$ -	$ -	**Grants, Taxes**
Electric Buses (6)	RoadRunner Transit	$ 6,598,976.00	$ 5,700,000.00	$ -	$ -	$ -	$ -	**Grants, Taxes**
Public Transit - Annual		**$ 75,000.00**	**$ 275,000.00**	**$ 75,000.00**	**$ 75,000.00**	**$ 75,000.00**	**$ 75,000.00**	
Transit Facilities Improvement Program	RoadRunner Transit	$ 75,000.00	$ 275,000.00	$ 75,000.00	$ 75,000.00	$ 75,000.00	$ 75,000.00	**Grants**
Public Transit - Future		**$ -**	**$ 14,836,800.00**	**$ -**	**$ -**	**$ -**	**$ -**	
Resiliency Program		$ -	$ 8,146,800.00	$ -	$ -	$ -	$ -	
Solar Array	RoadRunner Transit	$ -	$ 2,700,000.00	$ -	$ -	$ -	$ -	Grants
Battery Storage	RoadRunner Transit	$ -	$ 3,150,000.00	$ -	$ -	$ -	$ -	Grants
Transit Vehicles 26'	RoadRunner Transit	$ -	$ 840,000.00	$ -	$ -	$ -	$ -	Grants
	SUBTOTAL	**$ 7,261,230.99**	**$ 26,158,600.00**	**$ 75,000.00**	**$ 75,000.00**	**$ 75,000.00**	**$ 75,000.00**	

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Resiliency		$	$	$	$	$	$	
Resiliency - Newly Funded		**522,420.08**	**-**	**-**	**-**	**-**	**-**	
DC Fast Chargers for Electric Vehicles	Sustainability	522,420.08	-	-	-	-	-	
Resiliency - Carryover		**2,888,313.80**	**365,000.00**	**-**	**-**	**-**	**-**	
Resiliency Program		2,888,313.80	365,000.00	-	-	-	-	**Bonds**
Melendres Ave/Pittsburg - Hadley to Picacho	Public Works	2,717,660.84	-	-	-	-	-	Bonds, Taxes
Melendres Ave/Pittsburg - Hadley to Picacho		-	-	-	-	-	-	**Bonds**
Solar Photovoltaic/Storage Projects	Sustainability	170,652.96	-	-	-	-	-	**Taxes**
Resiliency - Annual		**4,110,820.10**	**1,200,000.00**	**500,000.00**	**500,000.00**	**500,000.00**	**-**	
Drainage Infrastructure Improvements		3,143,375.00	1,000,000.00	500,000.00	500,000.00	500,000.00	-	
Drainage Infrastructure Improvements	Public Works	3,143,375.00	1,000,000.00	500,000.00	500,000.00	500,000.00	-	**Taxes**
Resiliency Program		483,722.55	100,000.00	-	-	-	-	
Casa Linda Acres Reconstruction	Public Works	273,612.10	-	-	-	-	-	**Taxes**
East Mesa Roads and Drainage	Public Works	110,110.45	-	-	-	-	-	**Taxes**
Storm Water System Mapping	Public Works	100,000.00	100,000.00	-	-	-	-	**Taxes**
Resiliency - Future		**-**	**4,105,000.00**	**-**	**-**	**-**	**-**	
DC Fast Chargers for Electric Vehicles	Sustainability	-	200,000.00	-	-	-	-	Grants, Taxes
Fleet electric vehicle chargers (dual chargers)	Sustainability	-	400,000.00	-	-	-	-	Grants, Taxes
Hadley Ave Complex Recreation Rehabilitation	Parks & Recreation	-	3,305,000.00	-	-	-	-	Grants
Public Electric Vehicle Chargers (8 dual)	Sustainability	-	200,000.00	-	-	-	-	Grants, Taxes
	SUBTOTAL	**7,521,553.98**	**5,670,000.00**	**500,000.00**	**500,000.00**	**500,000.00**	**-**	

Streets - New		$	$	$	$	$	$	
Streets - New - Newly Funded		-	-	-	-	-	-	
Streets - New - Carryover		-	-	-	-	-	-	
Streets - New - Annual		-	-	-	-	-	-	
Streets - New - Future		-	**48,848,000.00**	-	-	-	-	
High Mesa Road	Economic Development	-	32,000,000.00	-	-	-	-	Bonds, Grants, Taxes
Transit Loop Road	Economic Development	-	16,848,000.00	-	-	-	-	Bonds, Grants, Taxes
	SUBTOTAL	**-**	**48,848,000.00**	**-**	**-**	**-**	**-**	

Streets Improvements		$	$	$	$	$	$	
Streets Improvements - Newly Funded		**-**	**-**	**-**	**-**	**-**	**-**	
Streets Improvements - Carryover		**34,081,075.91**	**15,040,000.00**	**1,620,000.00**	**1,500,000.00**	**620,000.00**	**1,120,000.00**	
Complete Streets Program		5,259,613.38	-	-	-	-	-	
East Mesa Roads and Drainage	Public Works	2,353,051.00	-	-	-	-	-	**Bonds**, Taxes
Melendres Ave/Pittsburg - Hadley to Picacho	Public Works	2,604,500.00	-	-	-	-	-	
University Area Complete Streets	Public Works	302,062.38	-	-	-	-	-	**Bonds**
Downtown Street Improvements		7,420,567.38	10,000,000.00	-	-	-	-	
Alameda Blvd - S. Main St to W Las Cruces Ave	Public Works	750,000.00	10,000,000.00	-	-	-	-	**TIDD**
Campo Street Design and Reconstruction	Public Works	6,670,567.38	-	-	-	-	-	**TIDD**
Lift Up Las Cruces - Street Improvements		1,567,774.00	1,800,000.00	-	-	-	-	
Sacramento St - Poplar Ave to Oasis Ave	Public Works	1,567,774.00	1,800,000.00	-	-	-	-	**Bonds**, Grants, Taxes
Median Landscaping		317,917.00	2,240,000.00	1,120,000.00	1,000,000.00	120,000.00	1,120,000.00	
Lohman Ave & Roadrunner Parkway Medians	Parks & Recreation	-	-	-	-	-	-	**Grants**
Medians	Parks & Recreation	317,917.00	2,240,000.00	1,120,000.00	1,000,000.00	120,000.00	1,120,000.00	**Bonds**, Grants, Taxes
Street Lighting & Traffic Signal Maintenance Program		7,623,398.07	-	-	-	-	-	
Mesquite Historic District	Public Works	896,694.84	-	-	-	-	-	**Grants**
Traffic Signal Program		6,726,703.23	-	-	-	-	-	
Bataan Memorial at Rinconada	Public Works	1,150,887.00	-	-	-	-	-	**Taxes, Bonds**
Casa Linda Acres Reconstruction	Public Works	4,058,653.48	-	-	-	-	-	ARPA, **Bonds,** Grants, Taxes
E Lohman Ave & S Walnut St Traffic Signal MAP	Public Works	1,517,162.75	-	-	-	-	-	**Bonds**, Grants, Taxes
East Mesa Roads and Drainage	Public Works	5,165,102.85	1,000,000.00	500,000.00	500,000.00	500,000.00	-	**Bonds, Grants, Taxes**
Johnson St - Rouault Ave to Topley Ave	Public Works	108,928.44	-	-	-	-	-	Bonds, Taxes
Madrid Ave Extension - Evelyn St to N Triviz Dr	Public Works	932,620.74	-	-	-	-	-	**Bonds**
South Main St - Avenida de Mesilla to Boutz	Public Works	3,549,046.26	-	-	-	-	-	**Bonds**
Telshor Spruce Intersection Improvements	Public Works	574,507.41	2,850,000.00	-	-	-	-	**Bonds**, Grants, Taxes
	SUBTOTAL	**34,081,075.91**	**15,040,000.00**	**1,620,000.00**	**1,500,000.00**	**620,000.00**	**1,120,000.00**	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
FY 2026 - 2031

Streets Improvements		$	$	$	$	$	$	
Streets Improvements - Annual		**$ 10,759,525.34**	**$ 23,354,525.00**	**$ 10,714,525.00**	**$ 15,214,525.00**	**$ 13,579,000.00**	**$ 250,000.00**	
Drainage Infrastructure Improvements		$ 15,450.00	$ 160,000.00	$ 80,000.00	$ 80,000.00	$ 80,000.00	$ -	
CO-OP Match	Public Works	$ 15,450.00	$ 160,000.00	$ 80,000.00	$ 80,000.00	$ 80,000.00	$ -	**Taxes**
Neighborhood Traffic Calming Program		$ 240,000.00	$ 120,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ -	
Neighborhood Traffic Calming Program	Public Works	$ 240,000.00	$ 120,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ -	**Taxes**
Pavement Condition Index Improvements		$ 5,213,019.34	$ 12,600,000.00	$ 6,300,000.00	$ 6,300,000.00	$ 6,300,000.00	$ -	
Pavement Condition Index Improvements	Public Works	$ 5,213,019.34	$ 12,600,000.00	$ 6,300,000.00	$ 6,300,000.00	$ 6,300,000.00	$ -	**Taxes**
Pavement Marking Program		$ 222,500.00	$ 169,000.00	$ 169,000.00	$ 169,000.00	$ 169,000.00	$ -	
Pavement Marking Program	Public Works	$ 222,500.00	$ 169,000.00	$ 169,000.00	$ 169,000.00	$ 169,000.00	$ -	**Taxes**
Roadway Maintenance Program		$ 1,980,000.00	$ 1,950,000.00	$ 1,950,000.00	$ 1,950,000.00	$ 470,000.00	$ 250,000.00	
Chip Seal Program	Public Works	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 200,000.00	$ 220,000.00	$ -	**Taxes**
Roadway Maintenance Program	Public Works	$ 1,530,000.00	$ 1,500,000.00	$ 1,500,000.00	$ 1,500,000.00	$ -	$ -	**Taxes**
Unpaved Roads	Public Works	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	**Taxes**
Street Lighting & Traffic Signal Maintenance Program		$ 1,299,291.00	$ 6,200,000.00	$ 1,000,000.00	$ 5,500,000.00	$ 5,500,000.00	$ -	
Street Lighting and Traffic Signal Maintenance	Public Works	$ 1,099,291.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ -	**Taxes**
Las Cruces Street Lighting Management System	Public Works	$ 200,000.00	$ 5,500,000.00	$ 500,000.00	$ 5,000,000.00	$ 5,000,000.00	$ -	**Taxes**
Traffic Signal Program		$ 1,150,000.00	$ 2,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ -	
Transportation System Modernization ITS	Public Works	$ 1,150,000.00	$ 2,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ -	**Taxes**
Weed Control & Maintenance Program		$ 639,265.00	$ 155,525.00	$ 155,525.00	$ 155,525.00	$ -	$ -	
Weed Control & Maintenance Program	Public Works	$ 155,525.00	$ 155,525.00	$ 155,525.00	$ 155,525.00	$ -	$ -	**Taxes**
Land Acquisition - Public Works	Public Works	$ 243,740.00	$ 500,000.00	$ 250,000.00	$ 250,000.00	$ 250,000.00	$ -	**Taxes**
Materials Testing	Public Works	$ 240,000.00	$ 240,000.00	$ 240,000.00	$ 240,000.00	$ 240,000.00	$ -	**Taxes**
Streets Improvements - Future		**$ -**	**$ 38,305,309.51**	**$ 21,630,000.00**	**$ 13,612,360.00**	**$ 12,755,000.00**	**$ 2,540,000.00**	
Downtown Street Improvements		$ -	$ 750,000.00	$ -	$ -	$ -	$ -	
Alameda Blvd - Las Cruces Ave to Picacho Ave	Public Works	$ -	$ 750,000.00	$ -	$ -	$ -	$ -	TIDD
Street Lighting & Traffic Signal Maintenance Program		$ -	$ -	$ -	$ 50,000.00	$ -	$ -	
Targeted Road and Lighting Improvements - Design	Public Works	$ -	$ -	$ -	$ 50,000.00	$ -	$ -	Taxes
Traffic Signal Program		$ -	$ 1,500,000.00	$ -	$ -	$ -	$ -	
Lohman at Walnut and Walton Signal Improvement	Public Works	$ -	$ 1,500,000.00	$ -	$ -	$ -	$ -	Other
Advancement Ave Expansion	Economic Development	$ -	$ 516,383.56	$ -	$ -	$ -	$ -	Bonds, Grants
Armijo St - W Organ Ave to W Mountain Ave	Public Works	$ -	$ -	$ 1,800,000.00	$ -	$ -	$ -	Bonds, Taxes
Armijo St - W Picacho Ave to Parker Rd	Public Works	$ -	$ 1,450,000.00	$ -	$ -	$ -	$ -	Bonds, Taxes
Aspen Ave-Sequioa Ave to S Valley Dr	Public Works	$ -	$ -	$ -	$ 3,475,600.00	$ -	$ -	Bonds, Grants, Taxes
Elm St & Tamarack Dr from Aspen Ave to Sequoia Ave	Public Works	$ -	$ -	$ -	$ -	$ 2,380,000.00	$ -	Bonds, Grants, Other, Taxes
Evelyn St - Madrid Ave to Ash Ave	Public Works	$ -	$ 3,600,000.00	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
Hayner Ave.- N. Valley Dr to N. Compress Rd and Sixth St- Hayner Ave to W. Hadley Ave	Public Works	$ -	$ 3,293,850.00	$ -	$ -	$ -	$ -	Bonds, Taxes
Hickory Dr & Sycamore Dr from Aspen Ave to Sequoia Ave	Public Works	$ -	$ -	$ -	$ -	$ -	$ 2,540,000.00	Bonds, Grants, Taxes
Kilmer St - Spruce Ave to Ash Ave	Public Works	$ -	$ 2,000,000.00	$ -	$ -	$ -	$ -	Bonds, Taxes
La Fonda Dr - Idaho Ave to E.O.P.	Public Works	$ -	$ 1,200,000.00	$ -	$ -	$ -	$ -	Bonds, Taxes
LCIIP Infrastructure Improvements	Economic Development	$ -	$ 5,000,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
McClure Rd & Carlyle Dr Pond, Road & Drainage Improvements	Public Works	$ -	$ 2,500,000.00	$ 3,000,000.00	$ 2,000,000.00	$ -	$ -	Grants, Other, Taxes
Med Park - Idaho Ave. to Perkins St.	Public Works	$ -	$ 2,545,300.00	$ -	$ -	$ -	$ -	Bonds, Taxes
Miranda Ave - Picacho Ave to Court Ave	Public Works	$ -	$ -	$ -	$ 2,700,000.00	$ -	$ -	Bonds, Taxes
Mountain Ave - Melendres St to Armijo St	Public Works	$ -	$ 2,542,986.00	$ -	$ -	$ -	$ -	Bonds, Taxes
Mountain Vista Parkway Expansion	Economic Development	$ -	$ 1,200,473.54	$ -	$ -	$ -	$ -	Grants, Taxes
Parkview - Espina to W Park Dr	Public Works	$ -	$ -	$ -	$ 1,200,000.00	$ -	$ -	Taxes
Poplar Ave - Mesquite St to Santa Fe St	Public Works	$ -	$ 1,100,000.00	$ -	$ -	$ -	$ -	Bonds, Taxes
Rigsby Rd - Barker to Valley Dr	Public Works	$ -	$ -	$ 850,000.00	$ -	$ -	$ -	Bonds, Taxes
Rocket Drive Expansion	Economic Development	$ -	$ 5,956,316.41	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
Scoggins Ave-Sixth St to Sweet St	Public Works	$ -	$ -	$ 1,180,000.00	$ -	$ -	$ -	Taxes
Sequoia Ave - Valley Dr to EOP	Public Works	$ -	$ -	$ 3,000,000.00	$ -	$ -	$ -	Bonds, Grants, Taxes
Solano Dr- Missouri to Lohman	Public Works	$ -	$ -	$ -	$ -	$ 10,375,000.00	$ -	Other
South Valley Dr Reconstruction - Avenida de Mesilla to Boutz	Public Works	$ -	$ -	$ 11,800,000.00	$ -	$ -	$ -	Bonds, Grants, Taxes
Sweet St- Hayner Ave to W. Hadley Ave	Public Works	$ -	$ -	$ -	$ 1,761,760.00	$ -	$ -	Taxes
Venture Blvd Expansion	Economic Development	$ -	$ 900,000.00	$ -	$ -	$ -	$ -	Grants, Taxes
Westgate St - Amador Ave to Cul de Sac	Public Works	$ -	$ -	$ -	$ 2,375,000.00	$ -	$ -	Bonds, Grants, Taxes
	SUBTOTAL	**$ 44,840,601.25**	**$ 80,906,501.51**	**$ 34,619,525.00**	**$ 30,981,885.00**	**$ 27,594,000.00**	**$ 3,910,000.00**	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENTS PROGRAM
FY 2026 - 2031

Utilities		$	$	$	$	$	$	
Utilities - Newly Funded		**$ 17,928,227.90**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	
2025 DWSRF Loan	Utilities	$ 14,955,302.15	$ -	$ -	$ -	$ -	$ -	
2025 Water Trust Board Loan	Utilities	$ 2,972,925.75	$ -	$ -	$ -	$ -	$ -	
Utilities - Carryover		**$ 59,703,958.82**	**$ 84,843,060.00**	**$ 21,887,221.00**	**$ 8,562,969.00**	**$ 3,615,000.00**	**$ 4,892,239.00**	
Gas Admin Building Improvements	Utilities	$ 769,353.00	$ 446,666.00	$ 748,998.00	$ 125,000.00	$ 125,000.00	$ -	**Other**
Gas Development	Utilities	$ 2,548,618.00	$ -	$ -	$ -	$ -	$ -	**Other**
Gas Miscellaneous	Utilities	$ 358,923.00	$ 175,000.00	$ 175,000.00	$ 175,000.00	$ 175,000.00	$ -	**Other**
Gas PHMSA Grant	Utilities	$ 10,000,000.00	$ 7,972,055.00	$ -	$ -	$ -	$ -	**Grants**
Gas Rehabilitation	Utilities	$ 2,064,798.00	$ 2,999,467.00	$ 5,488,493.00	$ 360,000.00	$ 1,080,000.00	$ 360,000.00	**Other**
Solid Waste Building Improvements	Utilities	$ 1,505,534.00	$ 2,319,166.00	$ 1,750,000.00	$ 125,000.00	$ 125,000.00	$ 125,000.00	**Other**
Wastewater Building Improvements	Utilities	$ 574,150.12	$ 420,000.00	$ 50,000.00	$ 50,000.00	$ 50,000.00	$ 50,000.00	**Other**
Wastewater Development	Utilities	$ 1,021,522.00	$ 156,000.00	$ -	$ -	$ -	$ -	**Other**
Wastewater Miscellaneous	Utilities	$ -	$ 341,569.00	$ 260,000.00	$ 260,000.00	$ 260,000.00	$ 260,000.00	**Other**
Wastewater Rehabilitation	Utilities	$ 3,075,156.50	$ 5,616,439.00	$ 5,811,040.00	$ 500,000.00	$ 720,000.00	$ 410,000.00	**Other**
Wastewater Septic Systems	Utilities	$ 372,753.20	$ 47,677,216.00	$ -	$ -	$ -	$ -	**Grants**
Water 2025 Projects	Utilities	$ 15,211,000.00	$ -	$ -	$ -	$ -	$ -	**Other**
Water Building Improvements	Utilities	$ 180,226.00	$ 554,385.00	$ 250,000.00	$ 125,000.00	$ 125,000.00	$ 125,000.00	**Other**
Water Development	Utilities	$ 151,724.00	$ 5,298,864.00	$ 261,272.00	$ 2,745,624.00	$ -	$ -	**WIF**
Water Miscellaneous	Utilities	$ 75,000.00	$ 1,552,187.00	$ 1,046,277.00	$ 795,784.00	$ 105,000.00	$ 60,000.00	**WIF**
Water Rehab	Utilities	$ 4,700,027.00	$ 9,314,046.00	$ 6,046,141.00	$ 3,301,561.00	$ 850,000.00	$ 3,502,239.00	**Other**
WW23 Projects	Utilities	$ 17,095,174.00	$ -	$ -	$ -	$ -	$ -	**Other**
Utilities - Annual		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	
Utilities - Future		**$ -**	**$ 64,656,940.72**	**$ 9,496,380.10**	**$ 7,700,787.00**	**$ 10,209,133.00**	**$ 11,850,960.00**	
Belt Filter Press Drainage Improvement	Utilities	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	Other
Lead and Copper Service Line Replacement	Utilities	$ -	$ 6,539,951.00	$ 4,750,656.00	$ 5,700,787.00	$ 8,209,133.00	$ 9,850,960.00	Bonds, Grants
Lift Station Stationary Generator Installation	Utilities	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	Other
Pressure Reducing Valve Rehabilitation	Utilities	$ -	$ 100,000.00	$ -	$ -	$ -	$ -	Other
Primary Digester Sludge Pump Upgrade	Utilities	$ -	$ 93,000.00	$ -	$ -	$ -	$ -	Other
SCADA Operating System Replacement	Utilities	$ -	$ 2,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ 1,000,000.00	$ 1,000,000.00	Grants
Sewer Connections	Utilities	$ -	$ 1,000,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	Grants
Transite Pipe Identification & Replacement	Utilities	$ -	$ 5,500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	$ 500,000.00	Bonds, Grants, Other
Wastewater Treatment Plant	Utilities	$ -	$ 45,839,309.00	$ -	$ -	$ -	$ -	Bonds, Grants, Taxes
Water Storage Tank Rehab	Utilities	$ -	$ 3,000,000.00	$ -	$ -	$ -	$ -	Other
Water Valve Replacements	Utilities	$ -	$ 120,000.00	$ -	$ -	$ -	$ -	Other
Well 66	Utilities	$ -	$ 264,680.72	$ 2,745,724.10	$ -	$ -	$ -	Grants
	SUBTOTAL	**$ 77,632,186.72**	**$ 149,500,000.72**	**$ 31,383,601.10**	**$ 16,263,756.00**	**$ 13,824,133.00**	**$ 16,743,199.00**	

	$	$	$	$	$	$
Total Newly Funded	$ 33,601,173.06	$ 20,987,000.00	$ 4,000,000.00	$ 5,407,498.00	$ 2,000,000.00	$ -
Total Carryover	$ 196,379,574.51	$ 191,635,823.83	$ 71,207,442.32	$ 21,660,695.32	$ 16,377,726.32	$ 10,016,239.00
Total Annual	$ 19,635,942.94	$ 53,807,932.00	$ 19,197,365.00	$ 23,033,365.00	$ 21,332,840.00	$ 1,775,000.00
Total Future	$ -	$ 233,797,169.23	$ 95,348,380.10	$ 153,761,645.00	$ 101,384,133.00	$ 37,330,960.00
GRAND TOTAL	**$ 249,616,690.51**	**$ 500,227,925.06**	**$ 189,753,187.42**	**$ 203,863,203.32**	**$ 141,094,699.32**	**$ 49,122,199.00**

Abbreviations:

ARPA - American Rescue Plan Act

Bonds - Includes Bonds and Loans

Grants - Includes Local, State, Federal, or private entity

Other - Includes Fees, State Entitlements, Leases, Developer Contributions and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

TIDD - Tax Increment Development District

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

Notes: *Pending funding noted in italic* *Pending 2025 Legislative Appropriations/Capital Outlay* Current funding sources noted in bold

CAPITAL IMPROVEMENTS PROGRAM (CIP)
Amendments
City Council Meeting - March 16, 2026

Attachment "A"

Project:
East Mesa Center Emergency Generator (Sage Café)

Scope of Work:
Installation of the generator for the facility, all electrical work, a concrete pad, diesel fuel with an integral diesel tank, and an enclosure of block-walls and access gates.

Amendment:

Category	Department	Current Balance	Change	Ending Balance	Remarks	CIP Page
City Operational Facilities	Quality of Life	$0	$3,052,170	$3,052,170	Adjustment to reflect new grant funding.	2

Project:
Senior Program Equipment and Rolling Stock

Scope of Work:
The purchase of vehicles and equipment for Senior Programs services such as Nutrition, Long Term Care and Recreation. Vehicles used for the Nutrition Program must meet temperature requirements for safe transport of meals. This request is ongoing to replace vehicles.

Amendment:

Category	Department	Current Balance	Change	Ending Balance	Remarks	CIP Page
Equipment and IT	Quality of Life	$0	$310,000	$310,000	Adjustment to reflect new grant funding.	2

26-114

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Blairre Flores	**Department:**	Economic Development
Title:	**A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE EL PASEO AND SOUTH SOLANO METROPOLITAN REDEVELOPMENT AREA.**		

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:

Approving Gross Receipts Tax Increment Financing for the El Paseo and South Solano Metropolitan Redevelopment Area.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The El Paseo and South Solano Metropolitan Redevelopment Area Plan, including the boundary extension, was approved on July 7, 2025, resolutions R-25-083 and R-25-114. Pursuant to Sections 3-60A-19 through 3-60A-24 NMSA 1978 (the “Tax Increment Law”), the City is authorized to utilize gross receipts and property tax increments for up to twenty (20) years as an alternative funding mechanism to support metropolitan redevelopment projects. This authority includes establishing base values, calculating incremental revenues, dedicating up to seventy-five percent (75%) of such increments with the consent of participating governmental entities, and depositing the revenues into a metropolitan redevelopment fund in accordance with Sections 3-60A-21 through 3-60A-23 NMSA 1978.

Upon approval of the resolution, the City will follow the procedures set forth in the Tax Increment Law, including notifying the New Mexico Taxation and Revenue Department and requesting designation of a reporting location code pursuant to Section 7-1-14 NMSA 1978; recommending that Doña Ana County dedicate up to seventy-five percent (75%) of applicable gross receipts and property tax increments; submitting a request to the New Mexico State Board of Finance for dedication of the State’s portion of the gross receipts tax increment; and directing City financial staff to establish a metropolitan redevelopment fund as authorized by Section 3-60A-22 NMSA 1978.

SUPPORT INFORMATION:

EXHIBIT_"A"_EL_PASEO_BASELINE
ATTACHMENT_"A"_EL_PASEO_MRA_MAP

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes
☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the El Paseo and South Solano Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing and to dedicate seventy-five percent (75%) of the City's portion of the gross receipts tax increment generated within the area for a period of twenty (20) years.
2. Vote "No"; this will not approve the El Paseo and South Solano Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing and to dedicate seventy-five percent (75%) of the City's portion of the gross receipts tax increment generated within the area for a period of twenty (20) years.
3. Vote to "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote to "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 26-114

A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE EL PASEO AND SOUTH SOLANO METROPOLITAN REDEVELOPMENT AREA.

The City Council is informed that:

WHEREAS, the State of New Mexico has enacted the Metropolitan Redevelopment Code, Chapter 3, Article 60A, Sections 1–49 NMSA 1978, as amended (the “Code”), which authorizes municipalities, including the City of Las Cruces, New Mexico (the “City”), to prepare and amend metropolitan redevelopment plans and to undertake metropolitan redevelopment projects; and

WHEREAS, the El Paseo and South Solano area was designated as a Metropolitan Redevelopment Area in 2023, and the City approved the El Paseo and South Solano Metropolitan Redevelopment Area Plan, including a boundary extension to University Avenue, on July 7, 2025, resolutions R-25-083 and R-25-114; and

WHEREAS, amendments to the Code effective January 1, 2025 authorize municipalities to dedicate gross receipts tax increment revenues for up to twenty (20) years to support metropolitan redevelopment projects; and

WHEREAS, the governing body retains authority to approve redevelopment financing mechanisms and to dedicate available increments for such purposes; and

WHEREAS, the governing body finds that investment and redevelopment within the El Paseo and South Solano Metropolitan Redevelopment Area are essential to the long-term economic vitality, sound growth, and public welfare of the City, and that such development is unlikely to occur without the use of tax increment financing; and

WHEREAS, the City desires to designate the area for gross receipts tax increment financing and dedicate a portion of the increment generated within the area to fund eligible metropolitan redevelopment projects.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the entire El Paseo and South Solano Metropolitan Redevelopment Area is hereby designated for inclusion in gross receipts tax increment financing.

(II)

THATthe gross receipts tax baseline shall be established in alignment with the New Mexico Taxation and Revenue Department’s baseline forecasts, as reflected in Exhibit "A".

(III)

THAT the City hereby dedicates seventy-five percent (75%) of its portion of the gross receipts tax increment generated within the area to fund metropolitan redevelopment projects for a period of twenty (20) years from the date of the required statutory notifications, and is further authorized to seek participation from Doña Ana County and the State of New Mexico for the dedication of their respective tax increments, in amounts up to seventy-five percent (75%), and to collaborate with those entities toward adoption of the necessary resolutions.

(IV)

THAT appropriate City financial staff are directed to establish a metropolitan redevelopment fund for the exclusive purpose of receiving and administering all tax increment revenues generated within the area.

(V)

THAT the City is directed to notify the New Mexico State Board of Finance, Doña Ana County, and other appropriate agencies of the approved geographic boundary and to authorize the transfer of the dedicated increment to the metropolitan redevelopment fund.

(VI)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

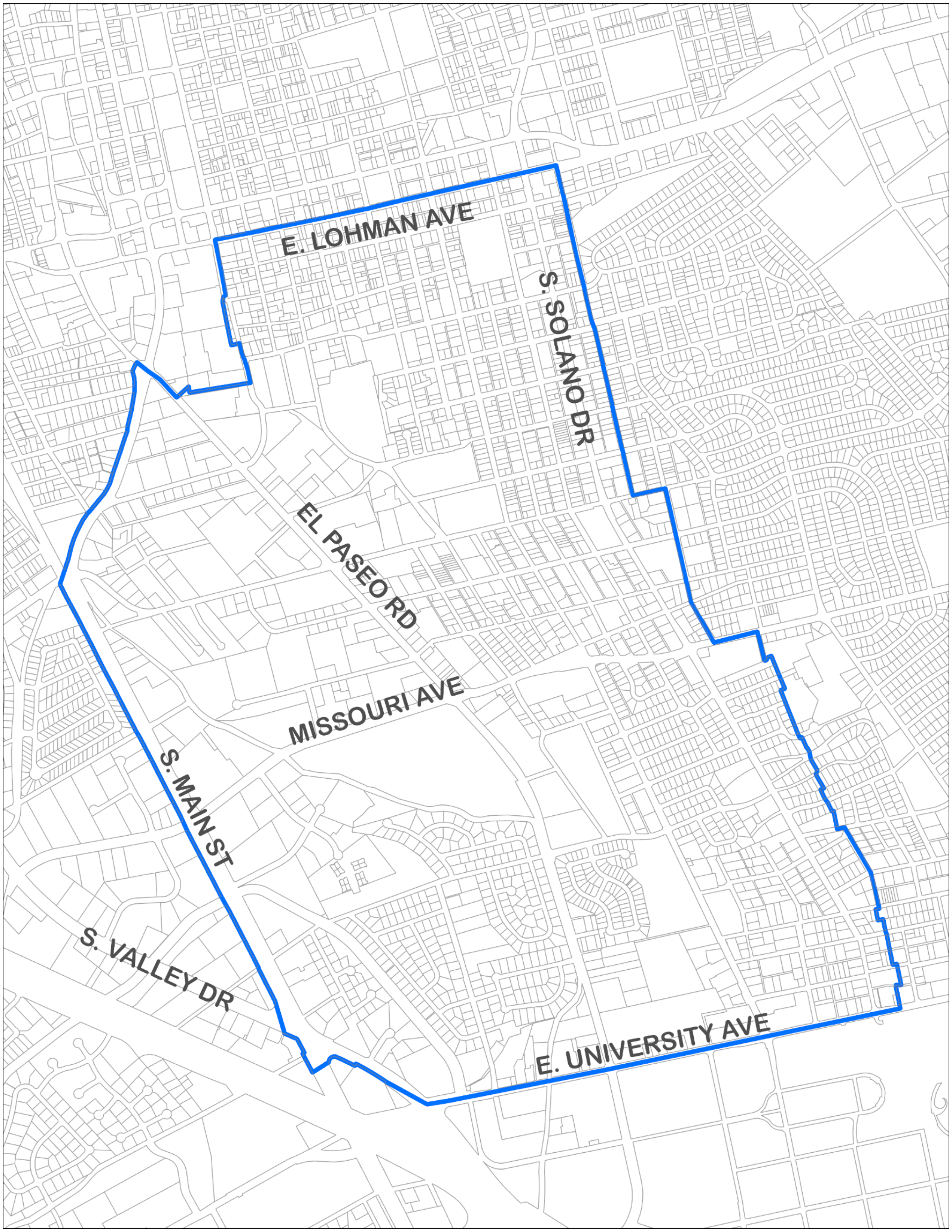
AYES

NAYS

EXHIBIT "A"

El Paseo/S Solano		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 192,561.00	$ 41,882.02
February	$ 192,561.00	$ 41,882.02
March	$ 192,561.00	$ 41,882.02
April	$ 192,561.00	$ 41,882.02
May	$ 192,561.00	$ 41,882.02
June	$ 192,561.00	$ 41,882.02
July	$ 192,561.00	$ 41,882.02
August	$ 192,561.00	$ 41,882.02
September	$ 192,561.00	$ 41,882.02
October	$ 192,561.00	$ 41,882.02
November	$ 192,561.00	$ 41,882.02
December	$ 192,561.00	$ 41,882.02
Total	$ 2,310,732.00	$ 502,584.21

ATTACHMENT "A"



26-115

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

City Council Action and Executive Summary

District:	☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Blairre Flores	**Department:**	Economic Development
Title:	**A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE WEST PICACHO AND MOTEL BOULEVARD METROPOLITAN REDEVELOPMENT AREA.**		

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:

Approving Gross Receipts Tax Increment Financing for the West Picacho and Motel Boulevard Metropolitan Redevelopment Area.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The West Picacho and Motel Boulevard Metropolitan Redevelopment Area Plan, including the boundary extension, was approved on December 1, 2025, resolutions R-25-204 and R-25-205. Pursuant to Sections 3-60A-19 through 3-60A-24 NMSA 1978 (the “Tax Increment Law”), the City is authorized to utilize gross receipts and property tax increments for up to twenty (20) years as an alternative funding mechanism to support metropolitan redevelopment projects. This authority includes establishing base values, calculating incremental revenues, dedicating up to seventy-five percent (75%) of such increments with the consent of participating governmental entities, and depositing the revenues into a metropolitan redevelopment fund in accordance with Sections 3-60A-21 through 3-60A-23 NMSA 1978.

Upon approval of the resolution, the City will follow the procedures set forth in the Tax Increment Law, including notifying the New Mexico Taxation and Revenue Department and requesting designation of a reporting location code pursuant to Section 7-1-14 NMSA 1978; recommending that Doña Ana County dedicate up to seventy-five percent (75%) of applicable gross receipts and property tax increments; submitting a request to the New Mexico State Board of Finance for dedication of the State’s portion of the gross receipts tax increment; and directing City financial staff to establish a metropolitan redevelopment fund as authorized by Section 3-60A-22 NMSA 1978.

SUPPORT INFORMATION:

EXHIBIT_"A"_PICACHO_BASELINE
ATTACHMENT_"A"_PICACHO_MRA_MAP

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes
☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the West Picacho and Motel Boulevard Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing and to dedicate seventy-five percent (75%) of the City's portion of the gross receipts tax increment generated within the area for a period of twenty (20) years.
2. Vote "No"; this will not approve the West Picacho and Motel Boulevard Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing and to dedicate seventy-five percent (75%) of the City's portion of the gross receipts tax increment generated within the area for a period of twenty (20) years.
3. Vote to "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote to "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 26-115

A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE WEST PICACHO AND MOTEL BOULEVARD METROPOLITAN REDEVELOPMENT AREA.

The City Council is informed that:

WHEREAS, the State of New Mexico has enacted the Metropolitan Redevelopment Code, Chapter 3, Article 60A, Sections 1–49 NMSA 1978, as amended (the “Code”), which authorizes municipalities, including the City of Las Cruces, New Mexico (the “City”), to prepare and amend metropolitan redevelopment plans and to undertake metropolitan redevelopment projects; and

WHEREAS, the West Picacho and Motel Boulevard area was designated as a Metropolitan Redevelopment Area in 2023, and the City approved the West Picacho and Motel Boulevard Redevelopment Area Plan, including a boundary extension to the Rio Grande River, on December 1, 2025, resolutions R-25-204 and R-25-205; and

WHEREAS, amendments to the Code effective January 1, 2025 authorize municipalities to dedicate gross receipts tax increment revenues for up to twenty (20) years to support metropolitan redevelopment projects; and

WHEREAS, the governing body retains authority to approve redevelopment financing mechanisms and to dedicate available increments for such purposes; and

WHEREAS, the governing body finds that investment and redevelopment within the West Picacho and Motel Boulevard Metropolitan Redevelopment Area are essential to the long-term economic vitality, sound growth, and public welfare of the City, and that such development is unlikely to occur without the use of tax increment financing; and

WHEREAS, the City desires to designate the area for gross receipts tax increment financing and dedicate a portion of the increment generated within the area to fund eligible metropolitan redevelopment projects.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the entire West Picacho and Motel Boulevard Metropolitan Redevelopment Area is hereby designated for inclusion in gross receipts tax increment financing.

(II)

THAT the gross receipts tax baseline shall be established in alignment with the New Mexico Taxation and Revenue Department’s baseline forecasts, as reflected in Exhibit "A".

(III)

THAT the City hereby dedicates seventy-five percent (75%) of its portion of the gross receipts tax increment generated within the area to fund metropolitan redevelopment projects for a period of twenty (20) years from the date of the required statutory notifications, and is further authorized to seek participation from Doña Ana County and the State of New Mexico for the dedication of their respective tax increments, in amounts up to seventy-five percent (75%), and to collaborate with those entities toward adoption of the necessary resolutions.

(IV)

THAT appropriate City financial staff are directed to establish a metropolitan redevelopment fund for the exclusive purpose of receiving and administering all tax increment revenues generated within the area.

(V)

THAT the City is directed to notify the New Mexico State Board of Finance, Doña Ana County, and other appropriate agencies of the approved geographic boundary and to authorize the transfer of the dedicated increment to the metropolitan redevelopment fund.

(VI)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

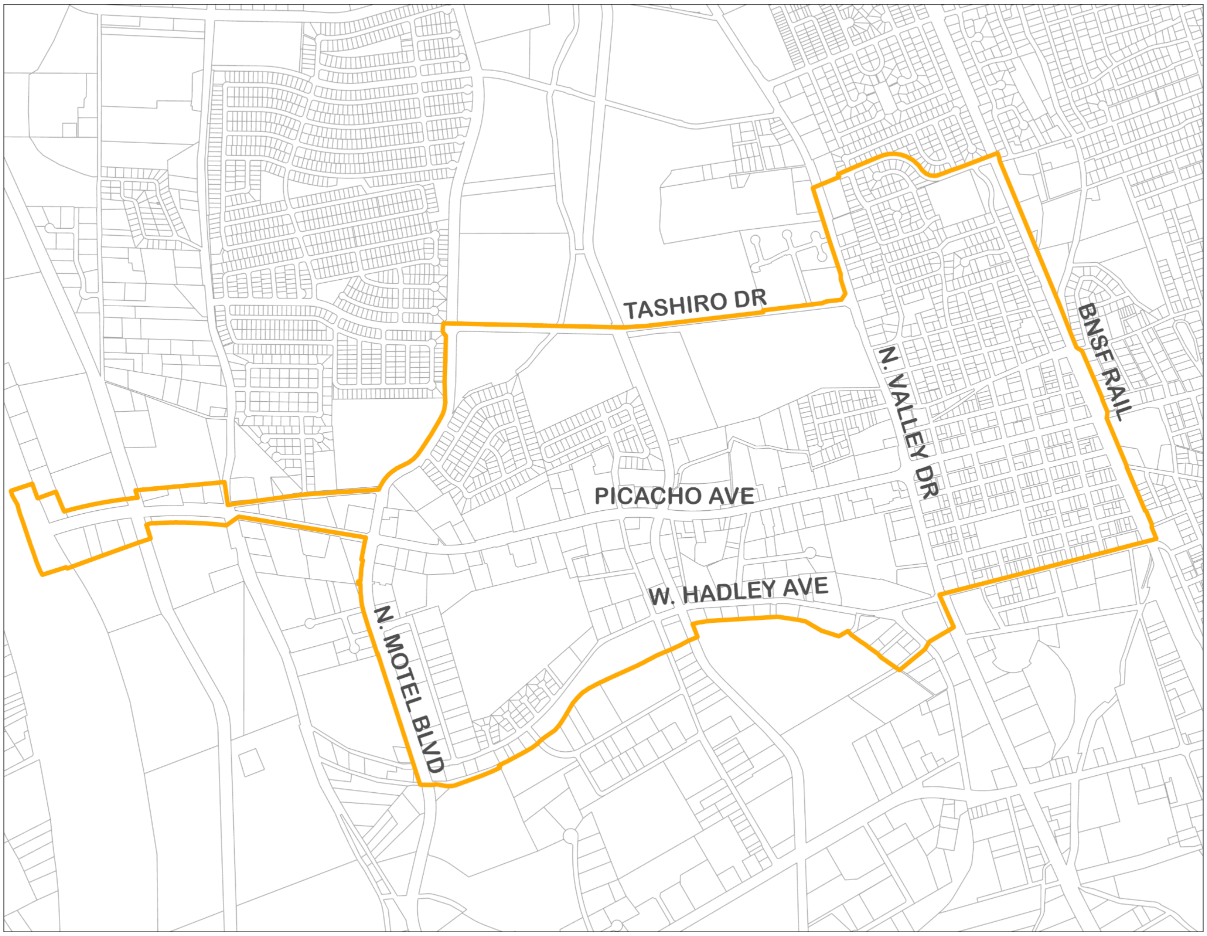
AYES

NAYS

EXHIBIT "A"

W Picacho/Motel		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 112,553.00	$ 24,480.28
February	$ 112,553.00	$ 24,480.28
March	$ 112,553.00	$ 24,480.28
April	$ 112,553.00	$ 24,480.28
May	$ 112,553.00	$ 24,480.28
June	$ 112,553.00	$ 24,480.28
July	$ 112,553.00	$ 24,480.28
August	$ 112,553.00	$ 24,480.28
September	$ 112,553.00	$ 24,480.28
October	$ 112,553.00	$ 24,480.28
November	$ 112,553.00	$ 24,480.28
December	$ 112,553.00	$ 24,480.28
Total	$ 1,350,636.00	$ 293,763.33

ATTACHMENT "A"



26-116

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

City Council Action and Executive Summary

District:	☒ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Blairre Flores	**Department:**	Economic Development
Title:	**A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE APODACA AND LIFT UP METROPOLITAN REDEVELOPMENT AREA.**		

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
Approving Gross Receipts Tax Increment Financing for the Apodaca and Lift Up Metropolitan Redevelopment Area.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The Apodaca and Lift Up Metropolitan Redevelopment Area Plan was designated as a Metropolitan Redevelopment Area in March 2023. Pursuant to Sections 3-60A-19 through 3-60A-24 NMSA 1978 (the “Tax Increment Law”), the City is authorized to utilize gross receipts and property tax increments for a period of up to twenty (20) years as an alternative funding mechanism to support metropolitan redevelopment projects, including the establishment of base values for the calculation of incremental revenues.

SUPPORT INFORMATION:
EXHIBIT_"A"_UNDADOPTED_BASELINE
ATTACHMENT_"A"_APODACA_MAP

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Apodaca and Lift Up Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
2. Vote "No"; this will not approve the Apodaca and Lift Up Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
3. Vote to "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote to "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 26-116

A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE APODACA AND LIFT UP METROPOLITAN REDEVELOPMENT AREA.

The City Council is informed that:

WHEREAS, the State of New Mexico has enacted the Metropolitan Redevelopment Code, Chapter 3, Article 60A, Sections 1–49 NMSA 1978, as amended (the "Code"), which authorizes municipalities, including the City of Las Cruces, New Mexico (the "City"), to prepare and amend metropolitan redevelopment plans and to undertake metropolitan redevelopment projects; and

WHEREAS, the Apodaca and Lift Up area was officially designated as a Metropolitan Redevelopment Area in March 2023 in accordance with the Code; and

WHEREAS, amendments to the Code effective January 1, 2025 authorize municipalities to dedicate gross receipts tax increment revenues for up to twenty (20) years to support metropolitan redevelopment projects; and

WHEREAS, the governing body retains authority to approve redevelopment financing mechanisms and to dedicate available increments for such purposes; and

WHEREAS, the governing body finds that investment and redevelopment within the Apodaca and Lift Up Metropolitan Redevelopment Area are essential to the long-term economic vitality, sound growth, and public welfare of the City, and that such development is unlikely to occur without the use of tax increment financing; and

WHEREAS, the City desires to designate the area for gross receipts tax increment financing and dedicate a portion of the increment generated within the area to fund eligible metropolitan redevelopment projects.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the entire Apodaca and Lift Up Metropolitan Redevelopment Area is hereby designated for inclusion in gross receipts tax increment financing.

(II)

THAT the gross receipts tax baseline shall be established in alignment with the New Mexico Taxation and Revenue Department's baseline forecasts, as reflected in Exhibit "A".

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

EXHIBIT "A"

Amador Proximo/South		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 83,018.00	$ 18,056.42
February	$ 83,018.00	$ 18,056.42
March	$ 83,018.00	$ 18,056.42
April	$ 83,018.00	$ 18,056.42
May	$ 83,018.00	$ 18,056.42
June	$ 83,018.00	$ 18,056.42
July	$ 83,018.00	$ 18,056.42
August	$ 83,018.00	$ 18,056.42
September	$ 83,018.00	$ 18,056.42
October	$ 83,018.00	$ 18,056.42
November	$ 83,018.00	$ 18,056.42
December	$ 83,018.00	$ 18,056.42
Total	$ 996,216.00	$ 216,676.98

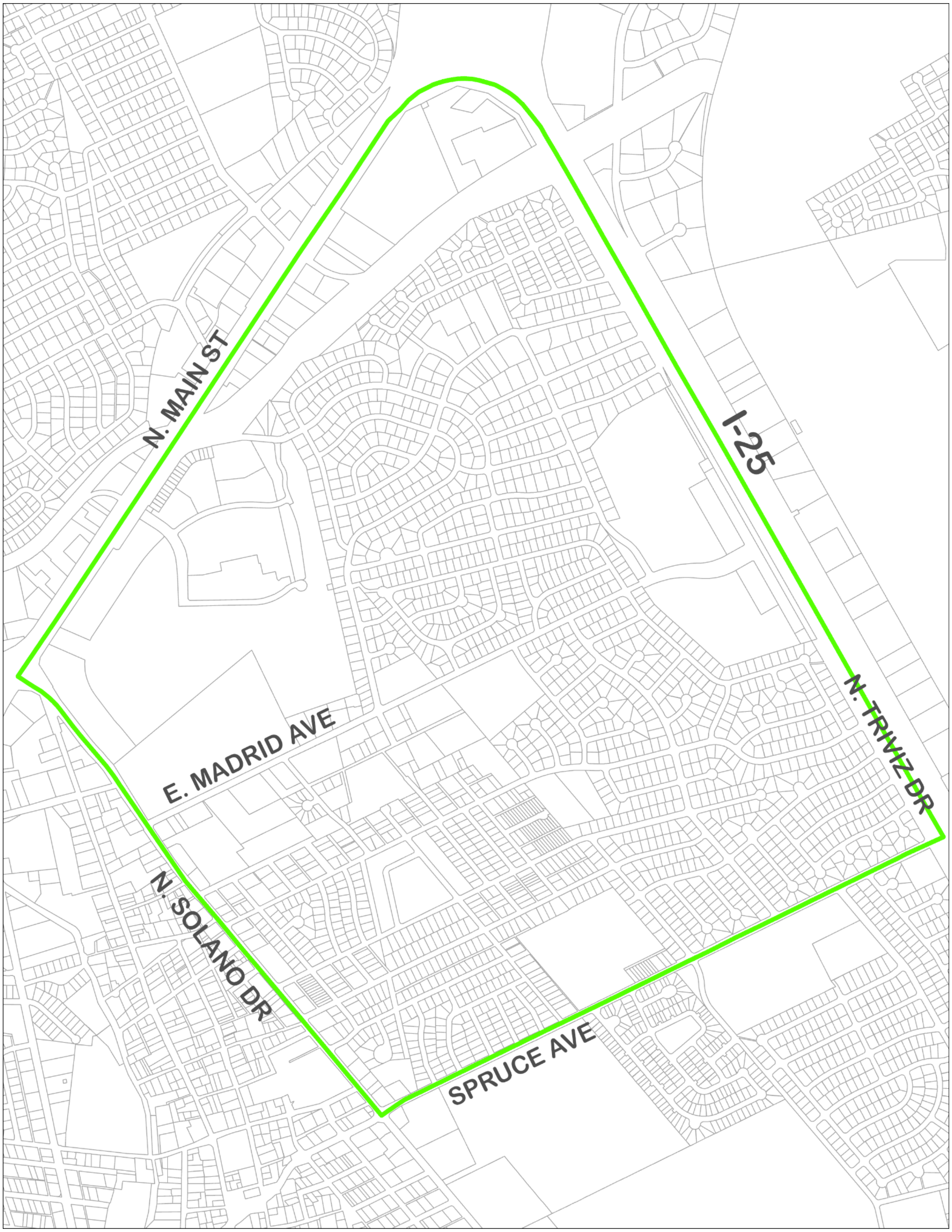
Apodaca/Lift Up		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 119,120.00	$ 25,908.60
February	$ 89,786.00	$ 19,528.46
March	$ 89,786.00	$ 19,528.46
April	$ 89,786.00	$ 19,528.46
May	$ 89,786.00	$ 19,528.46
June	$ 89,786.00	$ 19,528.46
July	$ 89,786.00	$ 19,528.46
August	$ 89,786.00	$ 19,528.46
September	$ 89,786.00	$ 19,528.46
October	$ 89,786.00	$ 19,528.46
November	$ 89,786.00	$ 19,528.46
December	$ 89,786.00	$ 19,528.46
Total	$ 1,106,766.00	$ 240,721.61

E of Solano

Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 191,496.00	$ 41,650.38
February	$ 191,496.00	$ 41,650.38
March	$ 191,496.00	$ 41,650.38
April	$ 191,496.00	$ 41,650.38
May	$ 191,496.00	$ 41,650.38
June	$ 191,496.00	$ 41,650.38
July	$ 191,496.00	$ 41,650.38
August	$ 191,496.00	$ 41,650.38
September	$ 191,496.00	$ 41,650.38
October	$ 191,496.00	$ 41,650.38
November	$ 191,496.00	$ 41,650.38
December	$ 191,496.00	$ 41,650.38
Total	$ 2,297,952.00	$ 499,804.56

Mesquite		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 24,525.00	$ 5,334.19
February	$ 24,525.00	$ 5,334.19
March	$ 24,525.00	$ 5,334.19
April	$ 24,525.00	$ 5,334.19
May	$ 24,525.00	$ 5,334.19
June	$ 24,525.00	$ 5,334.19
July	$ 24,525.00	$ 5,334.19
August	$ 24,525.00	$ 5,334.19
September	$ 24,525.00	$ 5,334.19
October	$ 24,525.00	$ 5,334.19
November	$ 24,525.00	$ 5,334.19
December	$ 24,525.00	$ 5,334.19
Total	$ 294,300.00	$ 64,010.25

ATTACHMENT "A"



26-117

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

City Council Action and Executive Summary

District:	☐ 1 ☒ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Blairre Flores	**Department:**	Economic Development
Title:	**A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE EAST OF SOLANO NEIGHBORHOOD METROPOLITAN REDEVELOPMENT AREA.**		

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
Approving Gross Receipts Tax Increment Financing for the East of Solano Neighborhood Metropolitan Redevelopment Area.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The East of Solano Neighborhood Metropolitan Redevelopment Area Plan was designated as a Metropolitan Redevelopment Area in March 2023. Pursuant to Sections 3-60A-19 through 3-60A-24 NMSA 1978 (the "Tax Increment Law"), the City is authorized to utilize gross receipts and property tax increments for a period of up to twenty (20) years as an alternative funding mechanism to support metropolitan redevelopment projects, including the establishment of base values for the calculation of incremental revenues.

SUPPORT INFORMATION:
EXHIBIT_"A"_UNDADOPTED_BASELINE
ATTACHMENT_"A"_EAST_OF_SOLANO_MAP

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the East of Solano Neighborhood Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
2. Vote "No"; this will not approve the East of Solano Neighborhood Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
3. Vote to "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote to "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 26-117

A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE EAST OF SOLANO NEIGHBORHOOD METROPOLITAN REDEVELOPMENT AREA.

The City Council is informed that:

WHEREAS, the State of New Mexico has enacted the Metropolitan Redevelopment Code, Chapter 3, Article 60A, Sections 1–49 NMSA 1978, as amended (the “Code”), which authorizes municipalities, including the City of Las Cruces, New Mexico (the “City”), to prepare and amend metropolitan redevelopment plans and to undertake metropolitan redevelopment projects; and

WHEREAS, the East of Solano Neighborhood area was officially designated as a Metropolitan Redevelopment Area in March 2023 in accordance with the Code; and

WHEREAS, amendments to the Code effective January 1, 2025 authorize municipalities to dedicate gross receipts tax increment revenues for up to twenty (20) years to support metropolitan redevelopment projects; and

WHEREAS, the governing body retains authority to approve redevelopment financing mechanisms and to dedicate available increments for such purposes; and

WHEREAS, the governing body finds that investment and redevelopment within the East of Solano Neighborhood Redevelopment Area are essential to the long-term economic vitality, sound growth, and public welfare of the City, and that such development is unlikely to occur without the use of tax increment financing; and

WHEREAS, the City desires to designate the area for gross receipts tax increment financing and dedicate a portion of the increment generated within the area to fund eligible metropolitan redevelopment projects.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the entire East of Solano Neighborhood Metropolitan Redevelopment Area is hereby designated for inclusion in gross receipts tax increment financing.

(II)

THAT the gross receipts tax baseline shall be established in alignment with the New Mexico Taxation and Revenue Department’s baseline forecasts, as reflected in Exhibit "A".

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

EXHIBIT "A"

Amador Proximo/South		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 83,018.00	$ 18,056.42
February	$ 83,018.00	$ 18,056.42
March	$ 83,018.00	$ 18,056.42
April	$ 83,018.00	$ 18,056.42
May	$ 83,018.00	$ 18,056.42
June	$ 83,018.00	$ 18,056.42
July	$ 83,018.00	$ 18,056.42
August	$ 83,018.00	$ 18,056.42
September	$ 83,018.00	$ 18,056.42
October	$ 83,018.00	$ 18,056.42
November	$ 83,018.00	$ 18,056.42
December	$ 83,018.00	$ 18,056.42
Total	$ 996,216.00	$ 216,676.98

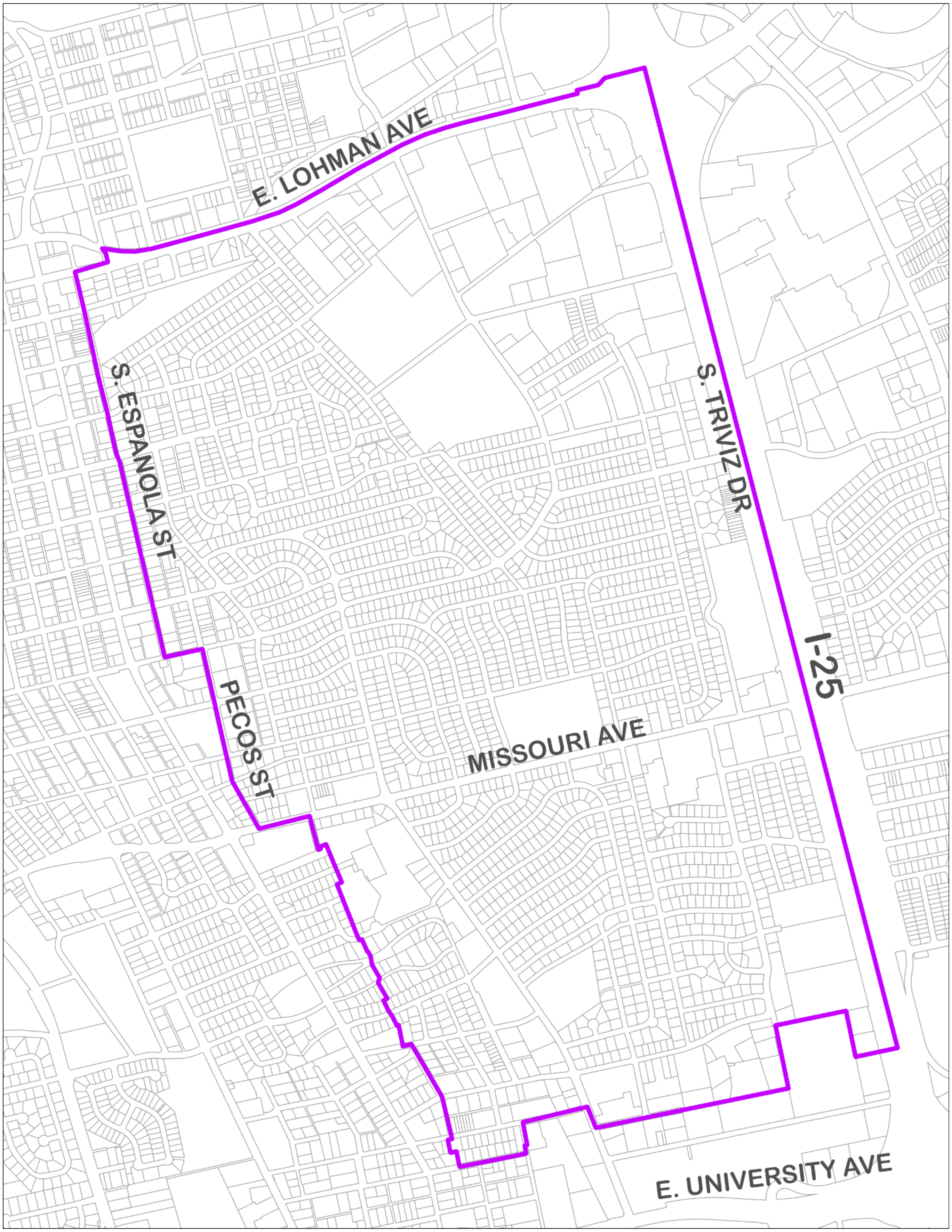
Apodaca/Lift Up		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 119,120.00	$ 25,908.60
February	$ 89,786.00	$ 19,528.46
March	$ 89,786.00	$ 19,528.46
April	$ 89,786.00	$ 19,528.46
May	$ 89,786.00	$ 19,528.46
June	$ 89,786.00	$ 19,528.46
July	$ 89,786.00	$ 19,528.46
August	$ 89,786.00	$ 19,528.46
September	$ 89,786.00	$ 19,528.46
October	$ 89,786.00	$ 19,528.46
November	$ 89,786.00	$ 19,528.46
December	$ 89,786.00	$ 19,528.46
Total	$ 1,106,766.00	$ 240,721.61

E of Solano

Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 191,496.00	$ 41,650.38
February	$ 191,496.00	$ 41,650.38
March	$ 191,496.00	$ 41,650.38
April	$ 191,496.00	$ 41,650.38
May	$ 191,496.00	$ 41,650.38
June	$ 191,496.00	$ 41,650.38
July	$ 191,496.00	$ 41,650.38
August	$ 191,496.00	$ 41,650.38
September	$ 191,496.00	$ 41,650.38
October	$ 191,496.00	$ 41,650.38
November	$ 191,496.00	$ 41,650.38
December	$ 191,496.00	$ 41,650.38
Total	$ 2,297,952.00	$ 499,804.56

Mesquite		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 24,525.00	$ 5,334.19
February	$ 24,525.00	$ 5,334.19
March	$ 24,525.00	$ 5,334.19
April	$ 24,525.00	$ 5,334.19
May	$ 24,525.00	$ 5,334.19
June	$ 24,525.00	$ 5,334.19
July	$ 24,525.00	$ 5,334.19
August	$ 24,525.00	$ 5,334.19
September	$ 24,525.00	$ 5,334.19
October	$ 24,525.00	$ 5,334.19
November	$ 24,525.00	$ 5,334.19
December	$ 24,525.00	$ 5,334.19
Total	$ 294,300.00	$ 64,010.25

ATTACHMENT "A"



26-118

Type of Action:
☒ **Resolution**
☐ **Ordinance**
☐ **TIDD Resolution**

City Council Action and Executive Summary

District:	☒ **1** ☐ **2** ☐ **3** ☐ **4** ☐ **5** ☐ **6** ☐ **N/A**		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Blairre Flores	**Department:**	Economic Development

Title:	**A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE MESQUITE METROPOLITAN REDEVELOPMENT AREA.**

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
Approving Gross Receipts Tax Increment Financing for the Mesquite Metropolitan Redevelopment Area.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The Mesquite Metropolitan Redevelopment Area Plan was designated as a Metropolitan Redevelopment Area in March 2023. Pursuant to Sections 3-60A-19 through 3-60A-24 NMSA 1978 (the "Tax Increment Law"), the City is authorized to utilize gross receipts and property tax increments for a period of up to twenty (20) years as an alternative funding mechanism to support metropolitan redevelopment projects, including the establishment of base values for the calculation of incremental revenues.

SUPPORT INFORMATION:
EXHIBIT_"A"_UNDADOPTED_BASELINE
ATTACHMENT_"A"_MESQUITE_MRA_MAP

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Mesquite Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
2. Vote "No"; this will not approve the Mesquite Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
3. Vote to "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote to "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 26-118

A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE MESQUITE METROPOLITAN REDEVELOPMENT AREA.

The City Council is informed that:

WHEREAS, the State of New Mexico has enacted the Metropolitan Redevelopment Code, Chapter 3, Article 60A, Sections 1–49 NMSA 1978, as amended (the “Code”), which authorizes municipalities, including the City of Las Cruces, New Mexico (the “City”), to prepare and amend metropolitan redevelopment plans and to undertake metropolitan redevelopment projects; and

WHEREAS, the Mesquite area was officially designated as a Metropolitan Redevelopment Area in March 2023 in accordance with the Code; and

WHEREAS, amendments to the Code effective January 1, 2025 authorize municipalities to dedicate gross receipts tax increment revenues for up to twenty (20) years to support metropolitan redevelopment projects; and

WHEREAS, the governing body retains authority to approve redevelopment financing mechanisms and to dedicate available increments for such purposes; and

WHEREAS, the governing body finds that investment and redevelopment within the Mesquite Metropolitan Redevelopment Area are essential to the long-term economic vitality, sound growth, and public welfare of the City, and that such development is unlikely to occur without the use of tax increment financing; and

WHEREAS, the City desires to designate the area for gross receipts tax increment financing and dedicate a portion of the increment generated within the area to fund eligible metropolitan redevelopment projects.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the entire Mesquite Metropolitan Redevelopment Area is hereby designated for inclusion in gross receipts tax increment financing.

(II)

THAT the gross receipts tax baseline shall be established in alignment with the New Mexico Taxation and Revenue Department’s baseline forecasts, as reflected in Exhibit "A".

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

EXHIBIT "A"

Amador Proximo/South				
Month	Forcasted Gross Receipts		Forcasted 601 Base Amount	
January	$	83,018.00	$	18,056.42
February	$	83,018.00	$	18,056.42
March	$	83,018.00	$	18,056.42
April	$	83,018.00	$	18,056.42
May	$	83,018.00	$	18,056.42
June	$	83,018.00	$	18,056.42
July	$	83,018.00	$	18,056.42
August	$	83,018.00	$	18,056.42
September	$	83,018.00	$	18,056.42
October	$	83,018.00	$	18,056.42
November	$	83,018.00	$	18,056.42
December	$	83,018.00	$	18,056.42
Total	$	996,216.00	$	216,676.98

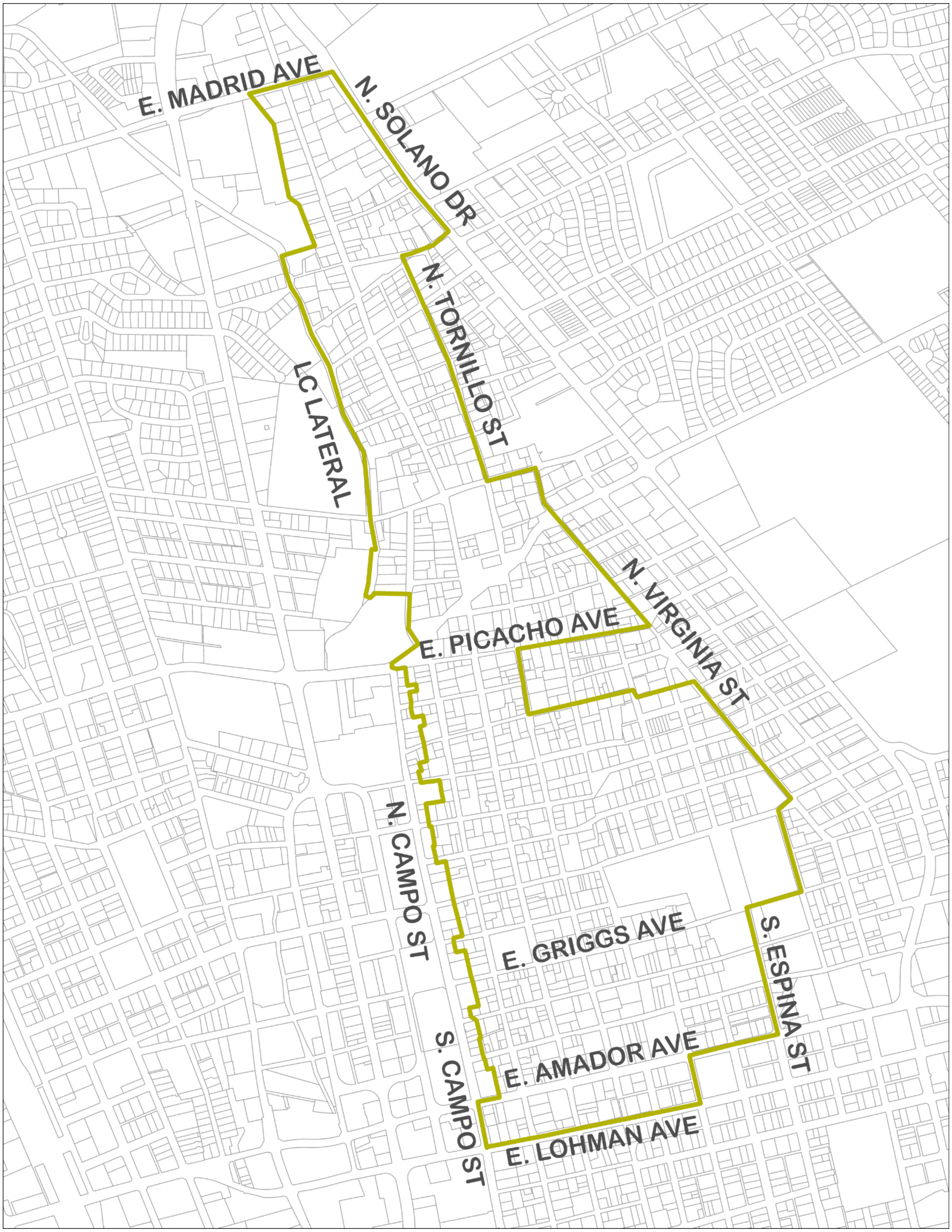
Apodaca/Lift Up				
Month	Forcasted Gross Receipts		Forcasted 601 Base Amount	
January	$	119,120.00	$	25,908.60
February	$	89,786.00	$	19,528.46
March	$	89,786.00	$	19,528.46
April	$	89,786.00	$	19,528.46
May	$	89,786.00	$	19,528.46
June	$	89,786.00	$	19,528.46
July	$	89,786.00	$	19,528.46
August	$	89,786.00	$	19,528.46
September	$	89,786.00	$	19,528.46
October	$	89,786.00	$	19,528.46
November	$	89,786.00	$	19,528.46
December	$	89,786.00	$	19,528.46
Total	$	1,106,766.00	$	240,721.61

E of Solano

Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 191,496.00	$ 41,650.38
February	$ 191,496.00	$ 41,650.38
March	$ 191,496.00	$ 41,650.38
April	$ 191,496.00	$ 41,650.38
May	$ 191,496.00	$ 41,650.38
June	$ 191,496.00	$ 41,650.38
July	$ 191,496.00	$ 41,650.38
August	$ 191,496.00	$ 41,650.38
September	$ 191,496.00	$ 41,650.38
October	$ 191,496.00	$ 41,650.38
November	$ 191,496.00	$ 41,650.38
December	$ 191,496.00	$ 41,650.38
Total	$ 2,297,952.00	$ 499,804.56

Mesquite		
Month	Forcasted Gross Receipts	Forcasted 601 Base Amount
January	$ 24,525.00	$ 5,334.19
February	$ 24,525.00	$ 5,334.19
March	$ 24,525.00	$ 5,334.19
April	$ 24,525.00	$ 5,334.19
May	$ 24,525.00	$ 5,334.19
June	$ 24,525.00	$ 5,334.19
July	$ 24,525.00	$ 5,334.19
August	$ 24,525.00	$ 5,334.19
September	$ 24,525.00	$ 5,334.19
October	$ 24,525.00	$ 5,334.19
November	$ 24,525.00	$ 5,334.19
December	$ 24,525.00	$ 5,334.19
Total	$ 294,300.00	$ 64,010.25

ATTACHMENT "A"



26-119

City Council Action and Executive Summary

Type of Action:
☒ **Resolution**
☐ **Ordinance**
☐ **TIDD Resolution**

District:	☐ **1** ☐ **2** ☐ **3** ☒ **4** ☐ **5** ☐ **6** ☐ **N/A**		
1st Reading:		**Adopted:**	March 16, 2026
Drafter:	Blairre Flores	**Department:**	Economic Development

Title:	**A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE AMADOR PROXIMO AND SOUTH METROPOLITAN REDEVELOPMENT AREA.**

TYPE OF ACTION: ☒ **Administrative** ☐ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
Approving Gross Receipts Tax Increment Financing for the Amador Proximo and South Metropolitan Redevelopment Area.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The Amador Proximo and South Metropolitan Redevelopment Area Plan was designated as a Metropolitan Redevelopment Area in March 2023. Pursuant to Sections 3-60A-19 through 3-60A-24 NMSA 1978 (the “Tax Increment Law”), the City is authorized to utilize gross receipts and property tax increments for a period of up to twenty (20) years as an alternative funding mechanism to support metropolitan redevelopment projects, including the establishment of base values for the calculation of incremental revenues.

SUPPORT INFORMATION:
EXHIBIT_"A"_UNDADOPTED_BASELINE
ATTACHMENT_"A"_AMADOR_MAP

PLAN(S):
Elevate Las Cruces

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Amador Proximo and South Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
2. Vote "No"; this will not approve the Amador Proximo and South Metropolitan Redevelopment Area for inclusion in gross receipts tax increment financing.
3. Vote to "Amend"; this could modify the Resolution and would need further direction from Council to staff.
4. Vote to "Table"; this will postpone consideration of the Resolution and would need further direction from Council to staff.

RESOLUTION 26-119

A RESOLUTION APPROVING GROSS RECEIPTS TAX INCREMENT FINANCING FOR THE AMADOR PROXIMO AND SOUTH METROPOLITAN REDEVELOPMENT AREA.

The City Council is informed that:

WHEREAS, the State of New Mexico has enacted the Metropolitan Redevelopment Code, Chapter 3, Article 60A, Sections 1–49 NMSA 1978, as amended (the “Code”), which authorizes municipalities, including the City of Las Cruces, New Mexico (the “City”), to prepare and amend metropolitan redevelopment plans and to undertake metropolitan redevelopment projects; and

WHEREAS, the Amador Proximo and South area was officially designated as a Metropolitan Redevelopment Area in March 2023 in accordance with the Code; and

WHEREAS, amendments to the Code effective January 1, 2025 authorize municipalities to dedicate gross receipts tax increment revenues for up to twenty (20) years to support metropolitan redevelopment projects; and

WHEREAS, the governing body retains authority to approve redevelopment financing mechanisms and to dedicate available increments for such purposes; and

WHEREAS, the governing body finds that investment and redevelopment within the Amador Proximo and South Metropolitan Redevelopment Area are essential to the long-term economic vitality, sound growth, and public welfare of the City, and that such development is unlikely to occur without the use of tax increment financing; and

WHEREAS, the City desires to designate the area for gross receipts tax increment financing and dedicate a portion of the increment generated within the area to fund eligible metropolitan redevelopment projects.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the entire Amador Proximo and South Metropolitan Redevelopment Area is hereby designated for inclusion in gross receipts tax increment financing.

(II)

THAT the gross receipts tax baseline shall be established in alignment with the New Mexico Taxation and Revenue Department’s baseline forecasts, as reflected in Exhibit "A".

(III)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

EXHIBIT "A"

Amador Proximo/South				
Month	Forcasted Gross Receipts		Forcasted 601 Base Amount	
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December	$	83,018.00	$	18,056.42
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Total	$	1,106,766.00	$	240,721.61

E of Solano

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Total	$ 2,297,952.00	$ 499,804.56

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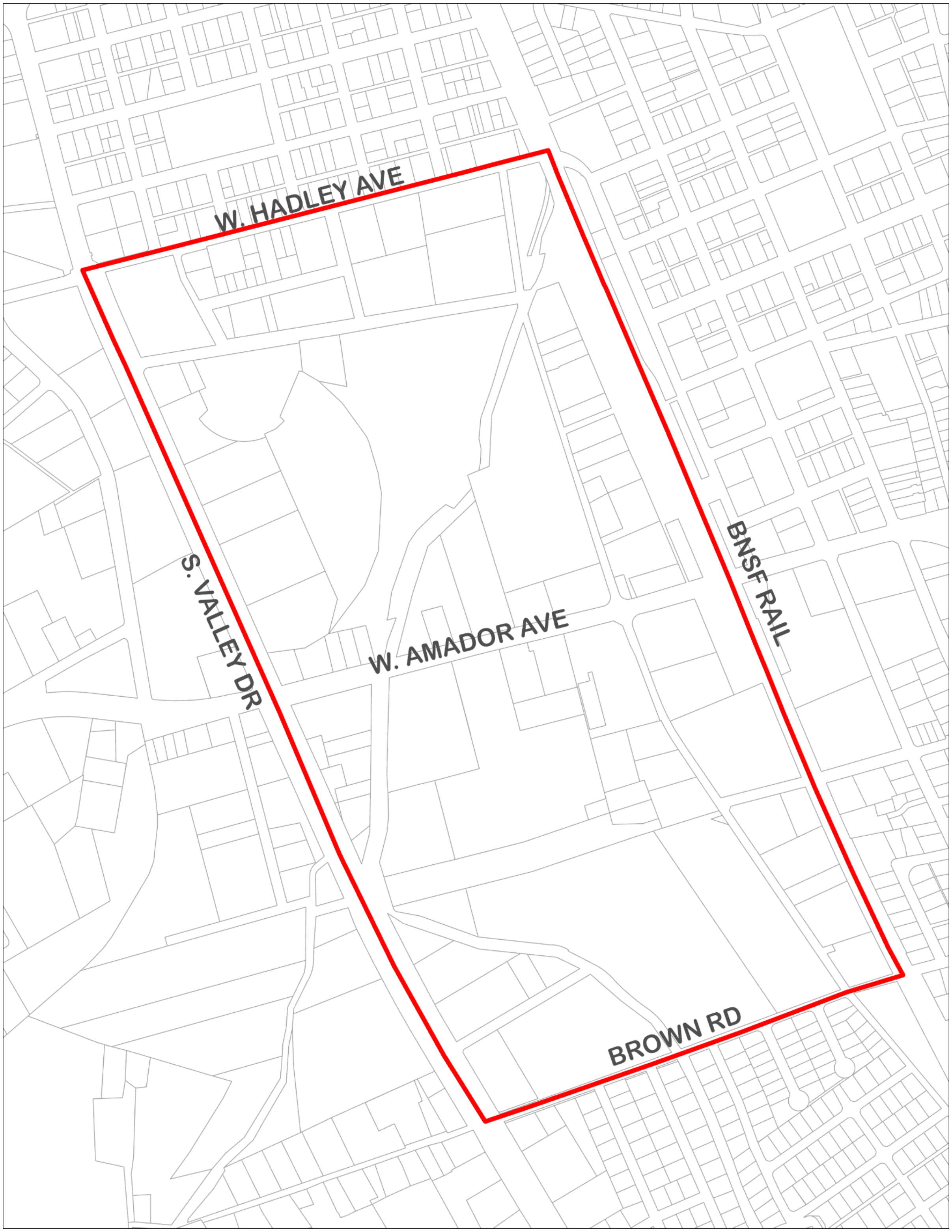
September	$ 24,525.00	$ 5,334.19
October	$ 24,525.00	$ 5,334.19
November	$ 24,525.00	$ 5,334.19
December	$ 24,525.00	$ 5,334.19
Total	$ 294,300.00	$ 64,010.25

ATTACHMENT "A"



3109; Council Bill 26-017

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	March 16, 2026	**Adopted:**	April 6, 2026
Drafter:	Alicia Hernandez	**Department:**	Financial Services
Title:	**AN ORDINANCE AMENDING CHAPTER 24, PROCUREMENT CODE, OF THE LAS CRUCES MUNICIPAL CODE.**		

TYPE OF ACTION: ☐ **Administrative** ☒ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:
To amend the City's Procurement Code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City's Purchasing Program is recommending a modification to Chapter 24, Procurement Code, of the Las Cruces Municipal Code. The only change is reflected in Article II. Section 24-31 of the Las Cruces Municipal Code, providing clarification of what constitutes direct contact.

SUPPORT INFORMATION:
Exhibit "A" - P Code Updates - 2026-03
Attachment "A" - P Code Updates - 2026-03 REDLINE

PLAN(S):
None

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

OPTIONS / ALTERNATIVES:
1. Vote "Yes"; this will approve the ordinance and amend the Procurement Code to make the necessary modifications.
2. Vote "No"; this action will not approve the ordinance, and the Procurement Code will remain as status quo.

3. Vote to "Amend"; this could modify the ordinance based on direction from City Council to staff.
4. Vote to "Table"; City Council will need to provide direction to staff.

ORDINANCE 3109; COUNCIL BILL 26-017

AN ORDINANCE AMENDING CHAPTER 24, PROCUREMENT CODE, OF THE LAS CRUCES MUNICIPAL CODE.

The City Council is informed that:

WHEREAS, the City's Purchasing Program is recommending changes to Chapter 24, Procurement Code, of the Las Cruces Municipal Code; and

WHEREAS, the change will clarify what constitutes direct contact; and

WHEREAS, the change consists of defining direct contact in Article II, Sec. 24-31.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the changes to Chapter 24, Procurement Code, of the Las Cruces Municipal Code are hereby amended and adopted, as shown in Exhibit "A".

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS

EXHIBIT "A"

PART II – MUNICIPAL CODE
Chapter 24 – PROCUREMENT CODE

ARTICLE I. - IN GENERAL

Sec. 24-1. - Purpose.

The purpose of this chapter is to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity.

(Code 1988, § 25.5-1)

Sec. 24-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

All definitions listed within New Mexico Statutes sections 13-1-21 through 13-1-199, NMSA, 1978, plus, sections 13-4-1 through 13-4-43, NMSA, 1978, are incorporated herein by reference. Wherever difference exists between such statutory definitions and any definitions within this chapter, the definition of this chapter shall prevail.

Advertising means a public medium promoting a product, service, or event, including radio, television, print and electronic.

Agreement means two or more persons having common understanding about responsibilities, obligations, duties, and rights.

Approved equal means approved specifications as established by the industry or the using agency.

Award means the issuance of a validly executed contract which may include a purchase order.

Bid means a response to a competitive sealed procurement solicitation.

Bidder means a person who submits a quote/bid in response to a solicitation for respective, competitive quotes/bids.

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other disposition of the property subject to the trust.

Brand name or equal specifications means a specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet city requirements, and which provides for the submission of equivalent products.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Calendar days means all days in a month including weekend, holidays, etc.

Construction Manager At Risk (CMAR) means the construction manager commits to deliver the project within a Guaranteed Maximum Price (GMP) based on the construction documents and specifications.

Contingency means an amount set aside to address unforeseen issues.

Contract means agreement between two or more persons authorized to legally bind their interests by setting forth what each person will or will not do in the procurement of tangible personal property, professional or nonprofessional services, or construction.

Contract administration means a contract administration system designed to ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.

Contract limitations and change orders means a construction related written order directing the contractor to make a change, which the contract authorizes with or without the contractor's consent.

Defective pricing means when a contractor has more current, complete, and accurate cost and pricing data and does not disclose it resulting in a significant increase in price.

Employee means an individual drawing salary or wages from the city, whether elected or not; any uncompensated individual performing personal services for the city or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the city; and any uncompensated individual serving as an elected official of the city.

Financial interest means:

(1) Ownership of one percent or more of any property or business; or

(2) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

Gratuity means anything of value that is presented or promised in anticipation of receiving a consideration, whether or not the consideration is less than, equal to or greater than the value presented or promised.

Immediate family means an employee's spouse, son, daughter, or parent as defined in FMLA regulations. FMLA defines the term "parent" as "a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when he or she was a minor."

Invitation for bid/invitation to bid (IFB or ITB) means all documents, whether attached or incorporated by reference, used for soliciting sealed bids whereby award is based upon the lowest price that meets specifications.

Local business means a business that has a valid city business certificate or license issued through the City of Las Cruces.

Non-procurement contracts means any agreement that was not the result of a procurement, for example memoranda of understanding, grant pass-through or fiscal agent agreements, or contracts that don't involve expenditures for goods or services.

Offeror means a person submitting a proposal in response to a competitive request for proposals.

Person means any business, individual, union, committee, club, or other organization, or group of individuals.

Pricing data means factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

Professional services means the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services.

Procurement means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, service, or construction, including needs analysis, specification development, competitive or noncompetitive solicitation of sources, contract development, negotiation and execution, and all phases of contract administration.

Proposal means a response to a competitive sealed procurement solicitation.

Public agency means an administrative division of city, state, or federal government.

Qualified products list means an approved list of tangible goods, services, or construction items described by model or catalog numbers, which, prior to competitive solicitation, a determination was made that the list met applicable specification requirements.

Quote means a response to a procurement solicitation less than $100,000 conducted for the purchase of goods/services/construction, whereby award is based upon the lowest price that meets specifications as deemed practical.

Request for proposals (RFP) means a competitive solicitation of proposals conducted for the purchase of goods/services/construction whereby the responses are evaluated considering multiple, weighted criteria and the resulting contract is awarded based upon the response ranked highest considering such criteria.

Supplies includes tangible goods including, but is not limited to, equipment, materials, rolling stock, books, fuel, tools, printed media.

Tangible goods means physical objects or items (like equipment and inventory) that can be touched and has a real, physical presence.

Technical services means research and development (R&D) work, the development and installation of management information systems (MIS), materials requirement planning (MRP) systems, and the development of technical manuals, printing services, and repair services.

Using agency means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this chapter.

Working days means only those days per City calendar in which City staff are available to address, observe, or otherwise handle contractual issues as they arise. The following days are normally not considered working days: City Holidays, Saturdays, Sundays, and days in which the City Manager has closed City Offices due to inclement weather or some other specified emergencies.

(Code 1988, § 25.5-3; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. A), 8-6-12)

Sec. 24-3. - Applicability.

(a) This chapter applies to contracts for the procurement of supplies, services, and construction entered into by the city after the effective date of the ordinance from which this chapter derives. It shall apply to every expenditure of public funds by the city or a public agency for public purchasing irrespective of the source of the funds, except for procurement that is exempt as set forth herein.

(b) When the procurement involves the expenditure of federal or state assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal and state law and regulations. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

All the dollar thresholds mentioned in this code exclude taxes, freight, and shipping charges.

(Code 1988, § 25.5-2; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-4. - Authorized exemptions from competitive procurement, subject to review and written determination by the purchasing manager. All other applicable contract requirements of this article are required.

(1) Procurement of goods, services or construction from state agencies, public bodies, or external procurement units.

(2) Procurement of publicly provided or publicly regulated gas, electricity, water, sewer or refuse collection services.

(3) Purchases of books and periodicals from publishers or copyright holders thereof to include publications offered on CDs, videos, or the Internet.

(4) Travel or shipping by common carrier or by private conveyance, or to meals and lodging.

(5) Purchase of live animal(s).

(6) Art objects or artifacts or for their creation including exhibits.

(7) Procurement from self-determination corporations or other such enterprises designed and operated to assist in the care or maintenance of the sick and indigent and the prevention thereof and aided by state or federal antipoverty programs or through private philanthropy.

(8) Leases, exchanges or purchases of real property or a permanent interest in land.

(9) Services of bond underwriters and debt rating agencies.

(10) Agreement for the services of attorneys, legal assistants, and expert witnesses. Services of expert witnesses needed in conjunction with litigation, court reporting services and legislative activities. Contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees.

(11) Purchases, rentals, leases (personal and real property), and professional/technical services contracts necessary for the investigation of criminal activities. The police department may purchase such materials and services without quotations, requests for proposals, or bids if such would compromise a criminal investigation as determined by the chief of police in writing. All funds expended for this type of activity will be properly receipted and accounted for with supporting documentation. All documentation will be maintained by the police department and shall be subject to internal audit. Rentals, leases, and professional/technical services will be limited to the term of an investigation.

(12) Contracts with professional entertainers.

(13) Advertising in all media.

(14) Promotional goods intended for resale or for the procurement of printing services for materials produced and intended for resale.

(15) Subscription services.

(16) Contracts for retirement and other benefits.

(17) Services provided by lobbyists or legislative experts.

(18) Contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration.

(19) Procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act.

(20) Procurement of surety bonds.

(21) Procurement of parts and labor or maintenance agreement to repair disabled equipment or machinery if the equipment or machinery is repaired by a franchised dealer or by a factory authorized repair shop.

(22) Payments for conference registrations, offsite training courses, or similar minor purchases where prepayments are required, or which are administrative in nature and non-competitive as determined by the purchasing manager.

(23) Payments for membership dues.

(24) Existing contracts. The purchasing manager may contract for services, construction, or goods without the use of competitive bids or competitive proposals at a price equal to or less than:

a. The current federal or state supply contract or catalogue price, whichever is lower, and the purchase order adequately identifies the contract relied upon. A copy of the federal supply contract or catalogue shall be made part of the procurement record.

b. The current contract price held by other intrastate or interstate governmental bodies and their agencies. A copy of the contract relied upon shall be made part of the procurement record.

c. A bid awarded by the city to the same contractor, for the same materials or services, within the past 24 months. A copy of the original documentation is to become a permanent part of the procurement record providing the vendor wishes to extend. Resulting contract(s) shall not exceed 48 months after the initial contract execution date.

(25) Cooperative procurements through other government entities and cooperatives.

(Code 1988, § 25.5-181; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-5. - Small purchases.

(a) Purchase splitting is prohibited. Separate purchases of the same or similar goods, services, or construction, whether from the same or different businesses, within a time frame established by the purchasing manager, shall be considered a single purchase for purposes of this article.

(b) Authority. Any contract less than $100,000.00 for supplies, services, and construction, may be made in accordance with the procedures set forth in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

(1) Purchases $50,000.00 or more but less than $100,000.00. Unless determined impractical by the purchasing manager, no less than three sources shall be solicited to submit written quotations. Award shall be based on the lowest price meeting specifications. A record of the solicitation and written responses shall be maintained as public record.

(2) Purchases $25,000.00 or more but less than $50,000.00. Unless determined impractical by the purchasing manager, written quotes from no less than two sources shall be obtained. Award

shall be based upon the lowest price meeting specifications. Solicitations, responses and/or other pricing documentation shall be recorded and maintained as public record.

(3) Purchases less than $25,000.00. Unless otherwise determined impractical by the purchasing manager, for a purchase of supplies, services, or construction estimated to be less than $25,000.00, written quotes from no less than one source shall be obtained. Purchase is to be made only by authorized city employees at the best obtainable price considering time and process efficiencies.

(c) Professional/technical services less than $100,000.00. Unless otherwise determined impractical by the purchasing manager, professional/technical services estimated to be less than $100,000.00 may be purchased in accordance with the following:

(1) All professional/technical services estimated to be less than $100,000.00 shall be procured by either the purchasing manager or authorized department employee calling a reasonable number of firms to obtain written offers when practical. Procurement over this amount shall be by competitive sealed proposal.

(2) The purchasing manager or designee shall provide such information as is necessary to provide the potential offeror the opportunity to provide a proper and timely response. Included in the information shall be the factors to be evaluated and the relative weights assigned each factor.

(3) The types of questions to be asked of the potential offeror may include, but not be limited to:

a. The specialized design and technical competence of the business, including a joint venture or association, regarding the type of services required.

b. Capacity and capability of the business to perform the work, including any specialized services, within the time limitation, if any.

c. Past record of performance or contracts with government agencies or private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules.

d. Proximity to or familiarity with the area in which the project is located.

e. The anticipated price, if price is a factor, for services based upon the information provided by the purchasing manager as to the scope of work.

f. Other criteria determined to be essential to the particular contract or project.

(4) The award shall be based on the highest-ranking respondent considering the evaluation factors provided in the solicitation. The city may negotiate with any responding offeror with the intent to obtain best and final offer of the offeror.

(Code 1988, § 25.5-34; Ord. No. 1703, § IX, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, § V, 8-17-09; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-6. - Fiscal responsibility.

(a) When the aggregate sum of contract modifications, change orders, or contract price adjustments exceeds $100,000.00, all subsequent contract modifications, change orders, or contract price adjustments shall be subject to city council approval, except for those contracts that will be or are approved under the contract limitations and change order policy.

(b) Aggregate contract modifications, change orders, or price adjustments up to $100,000.00 shall be authorized by the city manager conditioned upon the award limitations.

(Code 1988, § 25.5-93; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-7. - Sole source procurement.

A contract may be awarded without competition when the purchasing manager determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, service, or construction item; or when it is likely that award to any other source would result in:

(a) Substantial duplication of cost to the city that is not expected to be recovered through competition; or

(b) Unacceptable delays in fulfilling the city's requirement.

The purchasing manager may conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurement shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification number of each contract file.

(Code 1988, § 25.5-35; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-8. - Rapid procurement; Emergency procurement.

(a) Purchases of goods, services, and construction for any amount where Advertising and the solicitation of offers would entail unnecessary and detrimental delay and loss to the city, may be made by the purchasing office, at the best obtainable price in accordance with procedures approved by the purchasing manager. Complete documentation of all proposed prices submitted by offerors must be maintained in the purchasing office for public inspection.

(b) Notwithstanding any other section of this chapter, the city manager may authorize the purchasing manager or designee to make emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety, provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the items procured under the contract, and the identification number of the contract file. If the city manager determines that urgent and compelling reasons require emergency contractual, professional, and technical services, the city manager, notwithstanding any section of this division, may approve such services, provided that the city manager shall notify the city council of the action citing the compelling and urgent reasons for the action. A complete report shall be submitted to the city council by the using department within a week of the procurement.

(Code 1988, § 25.5-36; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-9 – Contingency

Construction contracts shall be budgeted with no more than a 20% contingency fund for new construction and no more than a 20% contingency fund for rehabilitation projects. Professional and/or Technical service contracts shall be budgeted with no more than a 10% contingency fund.

Sec. 24-10—Purchase Card Program.

The Purchase Card (P-Card) program is intended for use whenever purchase orders are not applicable as determined by the purchasing manager or designee. The P-Card Procedure Manual shall govern P-Card and Department Card (D-Card) issuance, application, usage, monthly statement processing, card maintenance, card violations, disputed or fraudulent charges, and receipt retention.

Secs. 24-11 – 24-30. - Reserved.

ARTICLE II. - ETHICS AND PROHIBITIONS IN PROCUREMENT

Sec. 24-31. - Direct contact.

Direct contact with city elected officials or city staff during the bid/proposal process from development of specifications through contract award, will render the bid/proposal as noncompliant and no further consideration will be given the bid/proposal. For the purposes of this section, “direct contact” is defined as any potential respondent contacting city elected officials and/or city staff, including city contractors, for the purpose of obtaining a competitive advantage over other prospective vendors. Direct contact includes, but is not limited to, inquiring about project specifications that are not subject to public record, responses submitted by other competitors, compensations details, or any other information not available to the public. The purchasing manager shall have the sole authority to determine whether direct contact has occurred.

(Ord. No. 1923, § 1, 6-17-02)

Sec. 24-32. - Criminal penalties.

To the extent that violations of the ethical standards of conduct set forth in this Procurement Code constitute violations of the state Criminal Code, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this article. Criminal, civil, and administrative sanctions against employees or nonemployees which are in existence on the effective date of the ordinance from which this chapter derives shall not be impaired.

(Code 1988, § 25.5-141)

Sec. 24-33. - Employee conflict of interest.

(a) It shall be unethical for any city employee to participate directly or indirectly in a procurement contract when the city employee knows that:

 (1) The city employee or any member of the city employee's immediate family has a financial interest pertaining to the procurement contract; or

 (2) Any other person, business, or organization with whom the city employee or any member of a city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

(b) A city employee or any member of a city employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

(c) If an employee becomes aware of a potential conflict of interest related to a procurement, they shall disclose such potential conflict to the purchasing manager immediately.

(Code 1988, § 25.5-142)

Sec. 24-34. - Gratuities and kickbacks.

(a) Gratuities. It shall be unlawful for any person to offer, give, or agree to give to any current or former city employee or for any current or former city employee to solicit, accept or agree to accept a gratuity in exchange for consideration pertaining to a city procurement. Consideration shall include but is not limited to a decision, approval, disapproval, recommendation, or action that influences a procurement solicitation, contract award or the administration of a contract. No sample or sampling of a product or service shall be accepted by a city employee unless the purchasing manager determines that the sample or sampling is to be used in city activities for evaluation or product qualification purposes.

(b) Kickbacks. It shall be unlawful for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontract under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(c) Contract clause. The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor. Any person convicted of violating this section shall be guilty of a petty misdemeanor.

(Code 1988, § 25.5-143; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-35. - Contingent fees.

It shall be unlawful for a person to be retained or to retain a person to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Any person convicted of violating this section shall be guilty of a petty misdemeanor.

(Code 1988, § 25.5-144; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-36. - Contemporaneous employment.

It shall be unethical for any city employee who is participating directly or indirectly in the procurement process to become or to be, while such a city employee, the employee of any person contracting with the governmental body by whom the employee is employed.

(Code 1988, § 25.5-145)

Sec. 24-37. - Waivers from employee conflict of interest and contemporaneous employment.

The city council may grant a waiver from the employee conflict of interest provision or the contemporaneous employment provision upon making a written determination that:

(1) The contemporaneous employment or financial interest of the city employee has been publicly disclosed;

(2) The city employee will be able to perform his procurement functions without actual or apparent bias or favoritism; and

(3) The award will be in the best interests of the city.

(Code 1988, § 25.5-146)

Sec. 24-38. - Use of confidential information.

It shall be unlawful for any city employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person. Any person convicted of violating this section shall be guilty of a petty misdemeanor.

(Code 1988, § 25.5-147; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-39. - Recovery of value transferred or received in breach of ethical standards.

(a) Authority. The value of anything transferred or received in breach of the ethical standards of this chapter by a city employee may be recovered from the city employee.

(b) Recovery of kickbacks by city. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

(Code 1988, § 25.5-148)

Secs. 24-40—24-60. - Reserved.

ARTICLE III. - PURCHASING MANAGER

Sec. 24-61. - Position created.

There is created the position of purchasing manager, who shall be the city's principal public purchasing official.

(Code 1988, § 25.5-21; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-62. - Authority, duties.

(a) Principal public purchasing official. Except as otherwise provided in this chapter, the purchasing manager shall serve as the principal public purchasing official for the city and shall be responsible for the procurement of supplies, services, and construction in accordance with this chapter.

(b) Duties. In accordance with this chapter and subject to the supervision of the city manager, the purchasing manager shall:

(1) Procure or supervise the procurement of all supplies, services, and construction needed by the city.

(2) Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services and construction.

(3) Provide a quarterly report of all procurements equaling $100,000.00 and above to the city council as a non-action item.

(c) Operational procedures. Consistent with this chapter the purchasing manager may adopt operational procedures relating to the execution of his/her duties.

(Code 1988, § 25.5-22; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-63. - Authority to award.

(a) In the discretion of the purchasing manager, if no acceptable bid or offer is received on the solicitation the purchasing office may purchase the required goods or services in the open market at the best obtainable price or re-advertise the request for bid or proposal.

(b) The purchasing manager shall be authorized to enter into all budgeted purchase contracts subject to the following conditions:

(1) For purchases of non-construction, non-capital improvement related goods or services of $50,000.00 but less than $100,000.00, the purchasing manager shall obtain approval from the city manager prior to issuing a purchase order. Purchases below $50,000.00 will be processed by the purchasing manager.

(2) For purchases of non-construction, non-capital improvement related goods or services equaling $100,000 or more, the purchasing manager shall obtain approval from the city council prior to contracting.

(3) For purchases of current year capital improvement projects, capital equipment and vehicles already approved in budget, no council or city manager action is required. These procurements will be processed by the purchasing manager.

(4) For purchases of capital improvement projects, capital equipment and vehicles of $100,000.00 and above which are not included in current year approved budget, city council approval is required.

(5) For purchases of goods and services funded through grants or state appropriations previously accepted by council and amended into the budget, no council approval will be required. Procurements will be processed by the purchasing manager.

(6) For the purpose of this section, aggregate cost shall not be the determinative on multi-year contracts.

(7) Signing of contracts. Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the mayor or city manager or their designees.

(Code 1988, § 25.5-39; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-64. - Delegation to others.

The purchasing manager may delegate authority to purchase supplies, services, or construction items to other city officials, if such delegation is deemed necessary for the effective procurement of those items. Notwithstanding debarment or suspension, procurement authority with respect to certain supplies, services or construction may be delegated to other city officials by the city manager with the approval of the city council, when such delegation is deemed necessary for the effective procurement of these supplies, services, or construction.

(Code 1988, § 25.5-23; Ord. No. 1923, § 1, 6-17-02)

Secs. 24-65—24-90. - Reserved.

ARTICLE IV. - CONTRACT INFORMATION

Sec. 24-91. - Types of contracts.

(a) General authority. Subject to the limitations of this section, any type of contract which is appropriate to the procurement, and which will promote the best interests of the city may be used, provided that the use of a cost-plus-a-percentage-of-cost contract be approved by the city council. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

(b) Multiterm contracts.

(1) Specified period. Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the city, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds thereof.

(2) Determination prior to use. Prior to the utilization of a multiterm contract, it shall be determined in writing that:

a. Estimated requirements cover the period of the contract and are reasonably firm and continuing; and

b. Such a contract will serve the best interests of the city by encouraging effective competition or otherwise promoting economies in city procurement.

(c) Multiple source contracting.

(1) Generally. A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the city's actual requirements is limited by the provision of Uniform Commercial Code subsection 2-306(1).

(2) Limitations on use. A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Multiple source awards shall not be made when a single award will meet the city's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.

(3) Eligible users. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that the city shall reserve the right to take bids separately if:

a. A particular quantity requirement arises which exceeds its normal requirement, or an amount specified in the contract; and

b. The purchasing manager approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the city.

(4) Intent to use. If a multiple source award is anticipated prior to issuing a solicitation, the city shall reserve the right to make such an award, and the criteria for award shall be stated in the solicitation.

(5) Determination required. The purchasing manager shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

(Code 1988, § 25.5-61; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-92. - Contract clauses.

(a) Required generally. All city contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The purchasing manager, after consultation with the city attorney, may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:

(1) Statement of work, delivery schedules, and period of performance;

(2) The unilateral right of the city to order in writing changes in the work within the scope of the contract;

(3) The unilateral right of the city to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;

(4) Variations occurring between estimated quantities of work in the contract and actual quantities;

(5) Defective pricing;

(6) Liquidated damages to include administrative contractual or legal remedies for violation of contract terms;

(7) Specified excuses for delay or nonperformance;

(8) Termination of the contract for default or cause;

(9) Termination of the contract in whole or in part for the convenience of the city;

(10) Suspension of work on a construction project ordered by the city; and

(11) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract when:

a. The contract is negotiated;

b. The contractor provides the site or design; or

c. The parties have otherwise agreed with respect to the risk of differing site conditions.

(b) Price adjustments.

(1) Adjustments in price resulting from the use of contract clauses required by subsection (a) of this section shall be computed in one or more of the following ways:

a. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

b. By unit prices specified in the contract or subsequently agreed upon;

c. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

d. In such other manner as the contracting parties may mutually agree;

e. In the absence of agreement by the parties, by a unilateral determination by the city of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the city, as accounted for in accordance with industry price list, catalogue or market prices and subject to the appeals and remedies in article VII of this chapter; or

f. For all federally funded purchases, cost or price analysis shall be the only means from which pricing shall be determined.

(2) A contractor shall be required to submit cost or pricing data for any adjustment in contract price.

(c) Standard clauses and modification. The purchasing manager, after consultation with the city attorney, may establish standard contract clauses for use in city contracts. If the purchasing manager establishes any standard clauses addressing the subjects set forth in subsection (a) of this section, such clauses may be varied, provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that notice of any such material variation be stated in the invitation for bids or request for proposals.

(Code 1988, § 25.5-62; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § III, 9-7-10)

Sec. 24-93. - Approval of accounting system.

Except with respect to firm fixed-price city contracts, no contract type shall be used unless it has been determined in writing by the purchasing manager that the proposed contractor's accounting system:

(1) Will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

(2) Is adequate to allocate costs in accordance with generally accepted cost accounting principles.

(Code 1988, § 25.5-65; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-94. - Right of inspection.

The city may, at reasonable times, inspect the plant, place of business, storage site, or work site of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the city.

(Code 1988, § 25.5-66)

Sec. 24-95. - Right to audit records.

(a) Audit of cost or pricing data. The city may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost of pricing data is required shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three years from the date of final payment under the contract.

(b) Contract audit. The city shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

(Code 1988, § 25.5-67)

Sec. 24-96. - Reporting of anticompetitive practices.

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors for a city contract, a notice of the relevant facts shall be transmitted to the state attorney general by the city attorney.

(Code 1988, § 25.5-68)

Sec. 24-97. - City records.

(a) Contract file. All determinations and other written records pertaining to the solicitation, award, or performance of a city contract shall be maintained for the city in a contract file by the purchasing manager.

(b) Retention of procurement records. All procurement records shall be retained and disposed of by the city in accordance with records retention and guidelines and schedules set by the city clerk.

(Code 1988, § 25.5-69; Ord. No. 1923, § 1, 6-17-02)

Secs. 24-98 – 24-120. Reserved.

ARTICLE V. - SOURCE SELECTION

DIVISION 1. - PROFESSIONAL AND TECHNICAL SERVICES PROCUREMENT

Sec. 24-121. - Contracting for designated professional services; selection procedure.

(a) Criteria. Professional and technical services shall be procured in accordance with this division.

(b) Determination of award for professional and technical services shall be based on qualifications. Cost will not be a criteria factor in the evaluation process, and it shall be negotiated during the award phase of the contract.

(c) Where the primary contract may be awarded through the procurement code without review by the selection advisory committee, nothing in this division shall require that the selection advisory committee separately review subcontractors who are an integral part of the primary contract.

Sec. 24-122. - Request for proposals.

(a) Conditions for use. When the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the request for proposal method set forth herein.

(b) Request for proposal. A proposal shall be solicited through a request for proposal.

(c) Public notice. For proposals estimated to be $100,000.00 or more, adequate public notice of the request for proposals shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the closing of the request for proposals. The public notice shall state the due date and time for proposal submission, and where proposal documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(d) Receipt of proposal. No proposal shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors prior to the deadline for receipt of the proposal by the purchasing manager. A register of proposals shall be prepared containing the name of each offeror. The register of proposals shall be open for public inspection not later than three days after the deadline for receipt of proposals. During the evaluation of proposals, and until approval of the recommendation of award by the city council, the contents of proposals may not be disclosed to the public. If a request for proposals is canceled and a similar RFP will be issued within six months, the contents of proposals received in response to the first request for proposals may not be disclosed until after approval by the city council of the recommendation of award for the second RFP or cancellation of the RFP.

(e) Evaluation factors. The request for proposal shall state the relative importance of price and other evaluation factors.

(f) Discussion with responsible offeror and revision to proposal. As provided in the request for proposal, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to ensure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors. Any modification received during the revision and negotiation stages will become a part of the permanent record.

(g) Award. Awards shall be made to the highest-ranking responsible offeror taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation except that, unless otherwise determined impractical by the purchasing manager, award(s) resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsible local manufacturers or local businesses, award shall be made to a responsible qualified non-local manufacturer or business. The contract file shall contain the basis on which the award is made.

(h) The procurement of lease financing shall be conducted utilizing request for proposal.

(i) Award recommendation shall be made to the city council by the purchasing manager.

(Code 1988, § 25.5-32; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, § IV, 8-17-09)

Sec. 24-123. - Selection advisory committee.

(a) There is a selection advisory committee comprised of three department heads: one designated by the committee chair, one from the end user department and one serving on a rotating basis from the total pool of directors. For each request for proposal, there are at least five subject matter experts designated by the director of the department that developed the RFP. There shall be no more than seven subject matter experts total. All external subject matter experts are non-voting technical advisors and are not included in the total number of subject matter experts. A pool of internal subject matter experts shall be maintained by departments and can be used for the appropriate procurement.

(b) A member of the selection advisory committee shall serve until a successor is appointed. An alternate may be suggested by any member and submitted to the selection advisory committee chair for approval. Upon approval, the alternate will attend in that member's place.

(c) The assistant city managers shall serve as a nonvoting member and chair for the selection advisory committee.

(d) The city's purchasing manager or designee shall serve as staff coordinator for the selection advisory committee.

(Code 1988, § 2-137; Ord. No. 1701, § I, 9-14-98; Ord. No. 1703, §§ III, X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 1947, § 1, 3-3-03; Ord. No. 2643, § I, 1-17-12; Ord. No. 2852, § 5-21-18)

Sec. 24-124. - Notice of projects; recommendations.

(a) When the fee for professional and/or technical services is estimated to be $100,000.00 or more, the city shall cause to be published, at least two weeks before initial screening of professional firms or persons by the selection advisory committee, a legal advertisement containing a brief description of the work to be performed by the professional firms or persons and inviting interested firms to submit their qualifications for consideration by the selection advisory committee.

(b) If the estimated cost of the services is less than $100,000.00, review by the selection advisory committee is not required. The purchasing manager may select a qualified firm or firms to provide these services based on adopted purchasing procedures.

(c) When the fee for the professional/technical services is $100,000.00 or more, the selection advisory committee shall submit the name of the most qualified professional firm or firms or person to the city council, for purposes of review and approval by the council. Nothing in this subsection shall prohibit the submission of more than one firm.

Sec. 24-125. - Files of qualifications of firms and persons.

The purchasing manager may maintain a file of qualifications of all firms or persons qualified to perform professional and technical services for city projects. These files shall be updated at the request of the selections advisory committee to provide current qualification information. Interviews and presentation of qualifications shall be conducted at the direction of the selection advisory committee. Mailed inquiries may be solicited to provide specific information as may be considered necessary by the selection advisory committee.

(Code 1988, § 2-139; Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-126. - Approval of contracts.

(a) All city projects that require the contracting for professional and technical services in an amount of $100,000.00 or more shall be performed under separate contract, and each contract shall require final approval by the city council.

(b) Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the Mayor or city manager or their designees.

(c) This section shall apply only to the primary professional firm. Any subcontractor shall be evaluated as a part of the primary contract.

(Code 1988, § 2-140, Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-127. - Bid and performance bonds on supply or service contracts.

Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing manager or head of a using agency deems advisable to protect the city's interest. Any such bonding or security requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(Code 1988, § 25.5-54; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-128. - Contractor records.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions requiring the contractor and subcontractors at any tier to:

(1) Maintain for three years from the date of final payment under the contract all books, documents, papers, and records pertinent to the contract; and

(2) Provide to the city, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

(Code 1988, § 25.5-161)

Sec. 24-129. - Patents.

If a city contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions:

(1) Giving notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of and rights to any discovery or invention arising out of the contract; and

(2) Requiring a contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(Code 1988, § 25.5-162)

Sec. 24-130. - Copyrights and rights in data.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include a provision giving the contractor notice of the applicable regulations concerning the rights of the United States to any plans, drawings, specifications, computer programs, technical reports, operating manuals, and similar work products developed and paid for under the contract.

(Code 1988, § 25.5-163)

Sec. 24-131. - Notice of federal public policy requirements.

If the city contract is being funded in whole or in part by assistance from a federal agency, and the contract is subject to one or more federal public policy requirements, such as: (i) equal employment opportunity; (ii) fair labor standards; (iii) energy conservation; (iv) environmental protection; or (v) other similar socioeconomic programs, the purchasing manager shall include contract provisions giving the contractor notice of these requirements and, where appropriate, including in those contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

(Code 1988, § 25.5-164; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-132 - Buy American/Buy America requirements.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall adhere to the appropriate Buy American/Buy America requirements of the federal agency providing the assistance.

(Code 1988, § 25.5-165)

Sec. 24-133. - Energy conservation.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city's solicitation shall seek to promote energy conservation and shall comply with any mandatory standards and policies which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

(Code 1988, § 25.5-166)

Sec. 24-134. - Small, women-owned and minority business enterprises.

(a) Expand participation. If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager shall take affirmative steps to ensure that small, women-owned, and minority businesses are utilized when possible as sources of supplies, services, and construction items.

(b) Examples of affirmative steps. Affirmative steps to be taken shall include the following:

Including qualified small, women-owned, and minority businesses on solicitation lists;

(1) Ensuring that small, women-owned, and minority businesses are solicited whenever they are potential sources;

(2) When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, women-owned, and minority business participation;

(3) Where the requirement permits, establishing delivery schedules which will encourage participation by small, women-owned, and minority business; and

(4) Using the services and assistance of the small business administration or the office of minority business enterprise of the department of commerce, as required.

(c) Pass-through to subcontracts. A contractor awarded a federally funded contract shall take the affirmative steps, as linked in subsection (b) of this section, in awarding its subcontracts.

(Code 1988, § 25.5-167; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-135. - Labor surplus area businesses.

If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager is encouraged to procure supplies, services, and construction items from businesses located in labor surplus areas.

(Code 1988, § 25.5-168; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-136. - Architectural and engineering services

(a) If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall use qualifications-based competitive proposal procedures when contracting for architectural and engineering services as defined in 40 U.S.C. §541 et seq. and 49 U.S.C. §5325(d). Services subject to this requirement include but are not necessarily limited to program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

(b) Qualifications-based competitive proposal procedures require that:

(1) An offeror's qualifications be evaluated;

(2) Price be excluded as an evaluation factor;

(3) Negotiations be conducted with only the most qualified offeror; and

(4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the city.

(c) These qualifications-based competitive proposal procedures will be used for the procurement of the services listed above. This method of procurement will not be used to obtain other types of services even though a firm that provides architectural and engineering services is also a potential source to perform other types of services.

(Ord. No. 2132, § I, 9-7-04)

Sec. 24-137. - Cost or pricing data.

(a) Required submissions relating to award of contracts. A prospective contractor shall submit cost or pricing data when the city contract is federally funded or is to be awarded on a noncompetitive basis.

(b) Exceptions. Except for federally funded purchases, the submission of cost or pricing data relating to the award of a contract is not required when:

(1) The contract price is based on established catalogue prices or market prices;

(2) The contract price is set by law or regulation; or

(3) It is determined in writing by the purchasing manager that the requirements of subsection (a) of this section may be waived, and the determination states the reasons for such waiver.

(c) Required submissions relating to change orders or contract modifications. For federally funded purchases and as otherwise required by the purchasing manager, the contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract.

(d) Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

(e) Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(Code 1988, § 25.5-52; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § I, 9-7-10)

Sec. 24-138. - Cost or price analysis.

(a) Under this chapter, a cost analysis, or a price analysis, as appropriate, shall be conducted for contracts established through the application of sole source procurement. A written record of such cost analysis or price analysis shall be made a part of the contract file.

(b) For all federally funded purchases, a cost or price analysis must be conducted as required by applicable federal regulations for all related contracts including contract cost modifications. The cost or price analysis shall be public record.

(Code 1988, § 25.5-53; Ord. No. 2589, § II, 9-7-10)

Sec. 24-139. - Cancellation/rejection of invitation for bid or request for proposal; No Responsive Offers Received

(a) Under this chapter, an invitation for bid, a request for proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request of unsuccessful bidders or offerors.

(b) If no responsive offers are received, then the purchasing manager may purchase the required goods or services, with no change in the published specifications, in the open market at the best obtainable price. If the specifications are changed, or if so required by the purchasing manager, a purchase in the open market shall not be permitted and the competitive solicitation must be reissued.

(Code 1988, § 25.5-38; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-140. - Preferences.

(a) Preference factor. A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted.

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent deduction from the local business quote or bid, or five percent of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to resident businesses which has a valid resident business certificate issued by the New Mexico Taxation and Revenue department based upon a five percent of total evaluation points being added to the score of a proposal from a resident business and a preference factor shall applicable to resident veteran business which has a valid resident veteran business certificate issued by New Mexico Taxation and Revenue department based upon a ten percent of the total evaluation points being added to the score of a proposal from a resident veteran business.

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) New Mexico materials. Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed, or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to § 13-4-2, NMSA, 1978, as amended.

(c) Limitations. No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

(Code 1988, § 25.5-40; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. B), 8-6-12)

Sec. 24-141. Change Orders

(a) Changes in time. Extensions of time on construction contracts or professional/technical service contracts, may be granted by the Project Manager, subject to appropriate approvals, on a case-by-case basis for the following reasons:

(1) One additional day for each delay in which the contractor could not perform contractual work and subsequent days as may be required to repair work damage by weather, as defined in General Conditions for Construction Contracts, 2004, during the term of the contract;
(2) City-requested changes to project specifications that incur time as a result;
(3) Other circumstances in which the City believes such an extension of time is in the best interest of the project and must be approved by the Department Director;
(4) Limitations on extensions of time addressed by this policy are as follows:
   a. An increase of 30 contractual days to the original contract time, shall be approved by the Program Manager;
   b. An increase of 31 to 60 contractual days to the original contract time shall be approved by the appropriate Department Director;

c. An increase of more than 60 contractual days to the original contract time, shall be approved by the City Manager.

(b) Changes in cost.

(1) Any changes in contract cost which includes base contract amount, contingency, and NMGRT, require the following approvals:

Change	**Approver**
Less than 5%	Program Manager
More than 5% less than 10%	Department Director
More than 10% less than 15%	Assistant City Manager
More than 15%	City Manager
Contract approved by City Council	City Council
Exceeds approved budget amount	City Council

(2) Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.

(3) Proposed construction work that deviates from the contract drawings and/or specifications shall be initiated with a field notice followed by a duly authorized change order when there is a change in cost and approved by the appropriate Approver.

(Code 1988, § 25.5-40; Ord. No. 2852, § 5-21-18)

Sec. 24-142. Suspension of Project

Due to reasons beyond the contractor's control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director, the purchasing manager, or the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Sec. 24-143. - Maximum practicable competition.

Under this chapter, all specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including, but not limited to those prepared for the city by architects, engineers, designers, and drafters.

(Code 1988, § 25.5-81)

Sec. 24-144. - Qualified products list.

The city may adopt qualified product lists that shall allow for maximum competition as is practical and that will satisfy the requirements of the city.

(Code 1988, § 25.5-82)

Sec. 24-145. - Brand name specification or equal specification.

(a) Use. Under this chapter, brand name or equal specifications may be used when the purchasing manager determines in writing that:

(1) No other design or performance specification or qualified products list is available;

(2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

(3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

(4) Use of a brand name or equal specification is in the city's best interest.

Samples of "or equal" materials should be submitted with the bid; however, they may be submitted after the bid opening if adequate time is allowed to evaluate the samples before the bid is awarded.

(b) Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references, and shall further state that substantially equivalent products to those designated will be considered for award.

(c) Required characteristics. Unless the purchasing manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(d) Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(e) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing manager makes a written determination that only the identified brand name item will satisfy the city's needs.

(f) Competition. The purchasing manager shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under sole source procurement.

(Code 1988, § 25.5-83; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-146. - Authority for cooperative procurement.

The purchasing manager may either participate in, sponsor, or administer a cooperative procurement agreement for the procurement of any city services, construction, or items of tangible personal property with any other state agency, local public body, or external procurement unit.

(Code 1988, § 25.5-131)

Secs. 24-147—24-160. - Reserved.

DIVISION 2. - PROCUREMENT OF CONSTRUCTION, ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES

Sec. 24-161. - Contracting for construction, architect-engineer, and land surveying selection procedure.

(a) Architect-engineer, and land surveying services shall be procured in accordance with this division.

(b) Construction projects may be awarded based on cost, qualifications, or both.

(c) Determination of award for architects, engineers, landscape architects and surveyors shall be based on qualifications. Cost will not be a criteria factor in the evaluation process, and it shall be negotiated during the award phase of the contract.

(d) Where the primary contract may be awarded through the procurement code without review by the selection advisory committee, nothing in this division shall require that the selection advisory committee separately review subcontractors who are an integral part of the primary contract.

(Code 1988, § 25.5-33, § 2-136; Ord. No. 1701, § I, 9-14-98; Ord. No. 1703, §§ I, II, X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2748, §§ I, II, 2-3-15)

Sec. 24-162. - Management of construction contracting.

The head of the city department responsible for a construction project shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the department head shall consider the city's requirements, its resources, and the potential contractor's capabilities.

(Code 1988, § 25.5-91; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-163. - Competitive sealed bidding.

Conditions for use. Where no factors other than cost will be considered, competitive sealed bidding shall be used.

(a) Invitation for bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.

(b) Public notice. For bids estimated to be $100,000.00 or more, adequate public notice of the invitation for bid shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the opening of the bid. The public notice shall state the place, date, and time of bid opening, and where bid documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(c) Bid opening. A bid shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. A late bid will not be accepted. Lateness will be determined by the purchasing manager's time clock, and the purchasing manager's determination of promptness or lateness will be final. The amount of each bid and such other relevant information as the purchasing manager deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection. A copy of the information may be obtained by sending a self-addressed stamped envelope with reference to the bid number and title to the purchasing department. This information will not be given over the telephone.

(d) Bid acceptance and bid evaluation. A bid shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bid. Original cover sheet and all documents must be provided fully executed, if not so provided bid will be rejected.

(e) Correction or withdrawal of bids; cancellation of awards. Correction or withdrawal of an inadvertently erroneous bid before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

(1) The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or

(2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing manager.

(f) Award. Unless otherwise determined impractical by the purchasing manager, bids resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsive/responsible local bidders, then award should go to qualified non-local manufacturers or businesses. Contracts shall be awarded to the most responsible and responsive bidder who provides the best value as set forth in the requirements and criteria specified in the invitation for bid.

(g) Multistep sealed bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(h) Federal funding. Any competitive, sealed bid procurement utilizing federal assistance requires at least two bids, firmed fixed-price contracts, and selection based principally on price.

(Code 1988, § 25.5-31; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, §§ II, III, 8-17-09; Ord. No. 2746, §§ I, II, 2-3-15; Ord. No. 2852, § 5-21-18)

Sec. 24-164. - Request for proposals.

(a) Conditions for use. When the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the request for proposal method set forth herein.

(b) Request for proposal. A proposal shall be solicited through a request for proposal.

(c) Public notice. For proposals estimated to be $100,000.00 or more, adequate public notice of the request for proposals shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the closing of the request for proposals. The public notice shall state the due date and time for proposal submission, and where proposal documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(d) Receipt of proposal. No proposal shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors prior to the deadline for receipt of the proposal by the purchasing manager. A register of proposals shall be prepared containing the name of each offeror. The register of proposals shall be open for public inspection not later than three days after the deadline for receipt of proposals. During the evaluation of proposals, and until approval of the recommendation of award by the city council, the contents of proposals may not be disclosed to the public. If a request for proposals is canceled and a similar RFP will be issued within six months, the contents of proposals received in response to the first request for proposals may not be disclosed until after approval by the city council of the recommendation of award for the second RFP or cancellation of the RFP.

(e) Evaluation factors. The request for proposal shall state the relative importance of price and other evaluation factors.

(f) Discussion with responsible offeror and revision to proposal. As provided in the request for proposal, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to ensure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors. Any modification received during the revision and negotiation stages will become a part of the permanent record.

(g) Award. Awards shall be made to the highest-ranking responsible offeror taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation except that, unless otherwise determined impractical by the purchasing manager, award(s) resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsible local manufacturers or local businesses, award shall be made to a responsible qualified non-local manufacturers or business. The contract file shall contain the basis on which the award is made.

(h) The procurement of lease financing shall be conducted utilizing request for proposal.

(i) Award recommendation shall be made to the city council by the purchasing manager.

(Code 1988, § 25.5-32; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, § IV, 8-17-09)

Sec. 24-165. - Selection advisory committee.

(a) There is a selection advisory committee comprised of three department heads: One designated by the committee chair, one from the end user department and one serving on a rotating basis from the total pool of directors. For each request for proposal, there are at least five subject matter experts designated by the director of the department that developed the RFP. There shall be no more than seven subject matter experts total. All external subject matter experts are non-voting technical advisors and are not included in the total number of subject matter experts. A pool of internal subject matter experts shall be maintained by department and can be used for the appropriate procurement.

(b) A member of the selection advisory committee shall serve until a successor is appointed. An alternate may be suggested by any member and submitted to the selection advisory committee chair for approval. Upon approval, the alternate will attend in that member's place.

(c) The assistant city managers shall serve as a nonvoting member and chair for the selection advisory committee.

(d) The city's purchasing manager or designee shall serve as staff coordinator for the selection advisory committee.

(Code 1988, § 2-137; Ord. No. 1701, § I, 9-14-98; Ord. No. 1703, §§ III, X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 1947, § 1, 3-3-03; Ord. No. 2643, § I, 1-17-12)

Sec. 24-166. - Notice of projects; recommendations.

(a) When the fee for professional or technical services is estimated to be $100,000 or more, the city shall cause to be published, at least two weeks before initial screening of professional firms or persons by the selection advisory committee, a legal advertisement containing a brief description of the work to be performed by the professional firms or persons and inviting interested firms to submit their qualifications for consideration by the selection advisory committee.

(b) If the estimated cost of the services is less than $100,000.00, review by the selection advisory committee is not required. The purchasing manager may select a qualified firm or firms to provide these services.

(c) When the fee for the professional/technical services is $100,000.00 or more, the selection advisory committee shall submit the name of the most qualified professional firm or firms or person to the city council, for purposes of review and approval by the council. Nothing in this subsection shall prohibit the submission of more than one firm.

Sec. 24-167. - Files of qualifications of firms and persons.

The purchasing manager may maintain a file of qualifications of all firms or persons qualified to perform professional and technical services for city projects. These files shall be updated at the request of the selections advisory committee to provide current qualification information. Interviews and presentation of qualifications shall be conducted at the direction of the selection advisory committee. Mailed inquiries may be solicited to provide specific information as may be considered necessary by the selection advisory committee.

(Code 1988, § 2-139; Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-168. - Approval of contracts.

(a) All city projects that require the contracting for construction in an amount of $75,000.00 or more shall be performed under separate contract, and each contract shall require final approval by the city council.

(b) Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the Mayor or city manager or their designees.

(c) This section shall apply only to the primary professional firm. Any subcontractor shall be evaluated as a part of the primary contract.

(Code 1988, § 2-140, Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-169. - Bid security.

(a) Bid security. For the purpose of this article, bid security is subject to the following:

(1) Required. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the purchasing manager to exceed $50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the state or the equivalent in cash or otherwise supplied in a form satisfactory to the city. Nothing in this subsection shall prevent the requirement of such bonds on construction contracts under $50,000.00 when the circumstances warrant.

(2) Amount. Bid security shall be in an amount equal to at least five percent of the amount of the bid.

(3) Rejection of bids for noncompliance. When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a non-substantial manner with the security requirements.

(4) Withdrawal of bids. If a bidder is permitted to withdraw its bid before award, no action shall be taken against the bidder or the bid security.

(5) Authority to require additional bonds. Nothing in this section shall be construed to limit the authority of the city to require a bid bond or other security in addition to those bonds, or in circumstances other than specified in subsection (a)(1) of this section.

Sec. 24-170 Contract performance and payment bonds.

(1) Required amounts. When a construction contract is awarded in excess of $50,000.00, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

a. A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract; and

b. A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100 percent of the price specified in the contract.

(2) Reduction of bond amounts. After notice to the city council, the purchasing manager is authorized to reduce the amount of performance and payment bonds to 50 percent of the contract price for each bond when a written determination is made that it is in the best interests of the city to do so.

(3) Authority to require additional bonds. Nothing in this subsection shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (b)(1) of this section.

(4) Right to file suit on payment bonds. Unless otherwise authorized by law, any person who has furnished labor or material to the contractor or subcontractors for the work provided in the

contract, for which a payment bond is furnished under this subsection, and who has not been paid in full within 90 days from the date on which that person performed the last of the labor or supplied the material shall have the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor but having no express or implied contract with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

(5) Location for filing suit on payment bonds. Unless otherwise authorized by law, every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the county or district in which the construction contract was to be performed.

(6) Copies of bond forms. Any person may request and obtain from the city a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

(Code 1988, § 25.5-92; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-171. - Contractor records.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions requiring the contractor and subcontractors at any tier to:

(1) Maintain for three years from the date of final payment under the contract all books, documents, papers, and records pertinent to the contract; and

(2) Provide to the city, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

(Code 1988, § 25.5-161)

Sec. 24-172. - Patents.

If a city contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions:

(1) Giving notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of and rights to any discovery or invention arising out of the contract; and

(2) Requiring a contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(Code 1988, § 25.5-162)

Sec. 24-173. - Copyrights and rights in data.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include a provision giving the contractor notice of the applicable regulations concerning the rights of the United States to any plans, drawings, specifications, computer programs, technical reports, operating manuals, and similar work products developed and paid for under the contract.

(Code 1988, § 25.5-163)

Sec. 24-174. - Notice of federal public policy requirements.

If the city contract is being funded in whole or in part by assistance from a federal agency, and the contract is subject to one or more federal public policy requirements, such as: (i) equal employment opportunity; (ii) fair labor standards; (iii) energy conservation; (iv) environmental protection; or (v) other similar socioeconomic programs, the purchasing manager shall include contract provisions giving the contractor notice of these requirements and, where appropriate, including in those contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

(Code 1988, § 25.5-164; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-175. - Buy American/Buy America requirements.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall adhere to the appropriate Buy American/Buy America requirements of the federal agency providing the assistance.

(Code 1988, § 25.5-165)

Sec. 24-176. - Energy conservation.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city's solicitation shall seek to promote energy conservation and shall comply with any mandatory standards and policies which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

(Code 1988, § 25.5-166)

Sec. 24-177. - Small, women-owned and minority business enterprises.

(a) Expand participation. If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager shall take affirmative steps to ensure that small, women-owned, and minority businesses are utilized when possible as sources of supplies, services, and construction items.

(b) Examples of affirmative steps. Affirmative steps to be taken shall include the following:

  (1) Including qualified small, women-owned, and minority businesses on solicitation lists;

  (2) Ensuring that small, women-owned, and minority businesses are solicited whenever they are potential sources;

  (3) When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, women-owned, and minority business participation;

  (4) Where the requirement permits, establishing delivery schedules which will encourage participation by small, women-owned, and minority business; and

(5) Using the services and assistance of the small business administration or the office of minority business enterprise of the department of commerce, as required.

(c) Pass-through to subcontracts. A contractor awarded a federally funded contract shall take the affirmative steps, as linked in subsection (b) of this section, in awarding its subcontracts.

(Code 1988, § 25.5-167; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-178. - Labor surplus area businesses.

If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager is encouraged to procure supplies, services, and construction items from businesses located in labor surplus areas.

(Code 1988, § 25.5-168; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-179. - Architectural and engineering services

(a) If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall use qualifications-based competitive proposal procedures when contracting for architectural and engineering services as defined in 40 U.S.C. §541 et seq. and 49 U.S.C. §5325(d). Services subject to this requirement include but are not necessarily limited to program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

(b) Qualifications-based competitive proposal procedures require that:

(1) An offeror's qualifications be evaluated;

(2) Price be excluded as an evaluation factor;

(3) Negotiations be conducted with only the most qualified offeror; and

(4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the city.

(c) These qualifications-based competitive proposal procedures will be used for the procurement of the services listed above. This method of procurement will not be used to obtain other types of services even though a firm that provides architectural and engineering services is also a potential source to perform other types of services.

(d) The city will use article III, source selection and contract information, division 1, professional and technical services procurement to procure architectural and engineering services in accordance with the city's procurement code as amended.

(Ord. No. 2132, § I, 9-7-04)

Sec. 24-180. - Cost or pricing data.

(a) Required submissions relating to award of contracts. A prospective contractor shall submit cost or pricing data when the city contract is federally funded or is to be awarded on a noncompetitive basis.

(b) Exceptions. Except for federally funded purchases, the submission of cost or pricing data relating to the award of a contract is not required when:

(1) The contract price is based on established catalogue prices or market prices;

(2) The contract price is set by law or regulation; or

(3) It is determined in writing by the purchasing manager that the requirements of subsection (a) of this section may be waived, and the determination states the reasons for such waiver.

(c) Required submissions relating to change orders or contract modifications. For federally funded purchases and as otherwise required by the purchasing manager, the contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract.

(d) Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

(e) Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(Code 1988, § 25.5-52; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § I, 9-7-10)

Sec. 24-181. - Cost or price analysis.

(a) Under this chapter, a cost analysis, or a price analysis, as appropriate, shall be conducted for contracts established through the application of section 24-95 (Sole source procurement). A written record of such cost analysis or price analysis shall be made a part of the contract file.

(b) For all federally funded purchases, a cost or price analysis must be conducted as required by applicable federal regulations for all related contracts including contract cost modifications. The cost or price analysis shall be public record.

(Code 1988, § 25.5-53; Ord. No. 2589, § II, 9-7-10)

Sec. 24-182. - Bid and performance bonds on supply or service contracts.

Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing manager or head of a using agency deems advisable to protect the city's interest. Any such bonding or security requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(Code 1988, § 25.5-54; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-183. - Cancellation/rejection of invitation for bid or request for proposal; No Responsive Offers Received

(a) Under this chapter, an invitation for bid, a request for proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request of unsuccessful bidders or offerors.

(b) If no responsive offers are received, then the purchasing manager may purchase the required goods or services, with no change in the published specifications, in the open market at the best obtainable price. If the specifications are changed, or if so required by the purchasing manager, a purchase in the open market shall not be permitted and the competitive solicitation must be reissued.

(Code 1988, § 25.5-38; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-184. - Preferences.

(a) Preference factor. A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted.

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent deduction from the local business quote or bid, or five percent of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to resident businesses which has a valid resident business certificate issued by the New Mexico Taxation and Revenue department based upon a five percent of total evaluation points being added to the score of a proposal from a resident business and a preference factor shall applicable to resident veteran business which has a valid resident veteran business certificate issued by New Mexico Taxation and Revenue department based upon a ten percent of the total evaluation points being added to the score of a proposal from a resident veteran business.

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) New Mexico materials. Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed, or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to § 13-4-2, NMSA, 1978, as amended.

(c) Limitations. No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

(Code 1988, § 25.5-40; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. B), 8-6-12)

Sec. 24-185 Change orders

(a) Changes in time. Extensions of time on construction contracts or professional/technical service contracts, may be granted by the Project Manager, subject to appropriate approvals, on a case-by-case basis for the following reasons:

(1) One additional day for each delay in which the contractor could not perform contractual work and subsequent days as may be required to repair work damage by weather, as defined in General Conditions for Construction Contracts, 2004, during the term of the contract;

(2) City-requested changes to project specifications that incur time as a result;

(3) Other circumstances in which the City believes such an extension of time is in the best interest of the project and must be approved by the Department Director;

(4) Limitations on extensions of time addressed by this policy are as follows:

a. An increase of 30 contractual days to the original contract time, shall be approved by the Program Manager;

b. An increase of 31 to 60 contractual days to the original contract time shall be approved by the appropriate Department Director;

c. An increase of more than 60 contractual days to the original contract time, shall be approved by the City Manager.

(b) Changes in cost

(1) Any changes in contract cost which includes base contract amount, contingency, and NMGRT, require the following approvals:

Change	**Approver**
Less than 5%	Program Manager
More than 5% less than 10%	Department Director
More than 10% less than 15%	Assistant City Manager
More than 15%	City Manager
Contract approved by City Council	City Council
Exceeds approved budget amount	City Council

(2) Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.

(3) Proposed construction work that deviates from the contract drawings and/or specifications shall be initiated with a field notice followed by a duly authorized change order when there is a change in cost and approved by the appropriate Approver and based on current thresholds.

(Code 1988, § 25.5-40; Ord. No. 2852, § 5-21-18)

Sec. 24-186. Suspension of Project

Due to reasons beyond the contractor's control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director, the purchasing manager, or the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Sec. 24-187. - Maximum practicable competition.

Under this chapter, all specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including, but not limited to those prepared for the city by architects, engineers, designers, and drafters.

(Code 1988, § 25.5-81)

Sec. 24-188. - Qualified products list.

The city may adopt qualified product lists that shall allow for maximum competition as is practical and that will satisfy the requirements of the city.

(Code 1988, § 25.5-82)

Sec. 24-189. - Brand name specification or equal specification.

(a) Use. Under this chapter, brand name or equal specifications may be used when the purchasing manager determines in writing that:

  (1) No other design or performance specification or qualified products list is available;

  (2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

  (3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

  (4) Use of a brand name or equal specification is in the city's best interest.

(b) Samples of "or equal" materials should be submitted with the bid; however, they may be submitted after the bid opening if adequate time is allowed to evaluate the samples before the bid is awarded.

(c) Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references, and shall further state that substantially equivalent products to those designated will be considered for award.

(d) Required characteristics. Unless the purchasing manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(e) Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(Code 1988, § 25.5-83; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-190. - Brand name specification.

(a) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing manager makes a written determination that only the identified brand name item will satisfy the city's needs.

(b) Competition. The purchasing manager shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under sole source procurement.

(Code 1988, § 25.5-84; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-191. - Authority for cooperative procurement.

The purchasing manager may either participate in, sponsor, or administer a cooperative procurement agreement for the procurement of any city services, construction, or items of tangible personal property with any other state agency, local public body, or external procurement unit in accordance with an agreement.

(Code 1988, § 25.5-131)

Secs. 24-192 – 24-195. Reserved.

DIVISION 3. - PROCUREMENT OF TANGIBLE GOODS

Sec. 24-196. - Contracting for tangible goods selection procedure.

(a) Tangible goods shall be procured in accordance with this division.

Sec. 24-197. - Competitive sealed bidding.

Conditions for use. Where no factors other than cost will be considered, competitive sealed bidding shall be used.

(a) Invitation for bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.

(b) Public notice. For bids estimated to be $100,000.00 or more, adequate public notice of the invitation for bid shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the opening of the bid. The public notice shall state the place, date, and time of bid opening, and where bid documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(c) Bid opening. A bid shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. A late bid will not be accepted. Lateness will be determined by the purchasing manager's time clock, and the purchasing manager's determination of promptness or lateness will be final. The amount of each bid and such other relevant information as the purchasing manager deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection. A copy of the information may be obtained by sending a self-addressed stamped envelope with reference to the bid number and title to the purchasing department. This information will not be given over the telephone.

(d) Bid acceptance and bid evaluation. A bid shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bid. Original cover sheet and all documents must be provided fully executed, if not so provided bid will be rejected.

(e) Correction or withdrawal of bids; cancellation of awards. Correction or withdrawal of an inadvertently erroneous bid before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

(1) The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or

(2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing manager.

(f) Award. Unless otherwise determined impractical by the purchasing manager, bids resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsive/responsible local bidders, then award should go to qualified non-local manufacturers or businesses. Contracts shall be awarded to the most responsible and responsive bidder who provides the best value as set forth in the requirements and criteria specified in the invitation for bid.

(g) Multistep sealed bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(h) Federal funding. Any competitive, sealed bid procurement utilizing federal assistance requires at least two bids, firmed fixed-price contracts, and selection based principally on price.

(Code 1988, § 25.5-31; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, §§ II, III, 8-17-09; Ord. No. 2746, §§ I, II, 2-3-15; Ord. No. 2852, § 5-21-18)

Sec. 24-198. - Notice of projects; recommendations.

(a) When the cost of tangible goods is estimated to be $100,000 or more, the city shall cause to be published, at least two weeks before initial screening of professional firms or persons by the selection advisory committee, a legal advertisement containing a brief description of the work to be performed by the professional firms or persons and inviting interested firms to submit their qualifications for consideration by the selection advisory committee.

Sec. 24-199. - Approval of contracts.

(a) Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the Mayor or city manager or their designees.

(Code 1988, § 2-140, Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-200. - Contractor records.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions requiring the contractor and subcontractors at any tier to:

(1) Maintain for three years from the date of final payment under the contract all books, documents, papers, and records pertinent to the contract; and

(2) Provide to the city, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

(Code 1988, § 25.5-161)

Sec. 24-201. - Patents.

If a city contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions:

(1) Giving notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of and rights to any discovery or invention arising out of the contract; and

(2) Requiring a contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(Code 1988, § 25.5-162)

Sec. 24-202. - Copyrights and rights in data.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include a provision giving the contractor notice of the applicable regulations concerning the rights of the United States to any plans, drawings, specifications, computer programs, technical reports, operating manuals, and similar work products developed and paid for under the contract.

(Code 1988, § 25.5-163)

Sec. 24-203. - Notice of federal public policy requirements.

If the city contract is being funded in whole or in part by assistance from a federal agency, and the contract is subject to one or more federal public policy requirements, such as: (i) equal employment opportunity; (ii) fair labor standards; (iii) energy conservation; (iv) environmental protection; or (v) other similar socioeconomic programs, the purchasing manager shall include contract provisions giving the contractor notice of these requirements and, where appropriate, including in those contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

(Code 1988, § 25.5-164; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-204. - Buy American/Buy America requirements.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall adhere to the appropriate Buy American/Buy America requirements of the federal agency providing the assistance.

(Code 1988, § 25.5-165)

Sec. 24-205. - Energy conservation.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city's solicitation shall seek to promote energy conservation and shall comply with any mandatory standards and policies which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

(Code 1988, § 25.5-166)

Sec. 24-206. - Small, women-owned and minority business enterprises.

(a) Expand participation. If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager shall take affirmative steps to ensure that small, women-owned, and minority businesses are utilized when possible as sources of supplies, services, and construction items.

(b) Examples of affirmative steps. Affirmative steps to be taken shall include the following:

(1) Including qualified small, women-owned, and minority businesses on solicitation lists;

(2) Ensuring that small, women-owned, and minority businesses are solicited whenever they are potential sources;

(3) When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, women-owned, and minority business participation;

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small, women-owned, and minority business; and

(5) Using the services and assistance of the small business administration or the office of minority business enterprise of the department of commerce, as required.

(c) Pass-through to subcontracts. A contractor awarded a federally funded contract shall take the affirmative steps, as linked in subsection (b) of this section, in awarding its subcontracts.

(Code 1988, § 25.5-167; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-207. - Labor surplus area businesses.

If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager is encouraged to procure supplies, services, and construction items from businesses located in labor surplus areas.

(Code 1988, § 25.5-168; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-208. - Cost or pricing data.

(a) Required submissions relating to award of contracts. A prospective contractor shall submit cost or pricing data when the city contract is federally funded or is to be awarded on a noncompetitive basis.

(b) Exceptions. Except for federally funded purchases, the submission of cost or pricing data relating to the award of a contract is not required when:

(1) The contract price is based on established catalogue prices or market prices;

(2) The contract price is set by law or regulation; or

(3) It is determined in writing by the purchasing manager that the requirements of subsection (a) of this section may be waived, and the determination states the reasons for such waiver.

(c) Required submissions relating to change orders or contract modifications. For federally funded purchases and as otherwise required by the purchasing manager, the contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract.

(d) Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

(e) Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(Code 1988, § 25.5-52; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § I, 9-7-10)

Sec. 24-209. - Cost or price analysis.

(a) Under this chapter, a cost analysis, or a price analysis, as appropriate, shall be conducted for contracts established through the application of section 24-95 (Sole source procurement). A written record of such cost analysis or price analysis shall be made a part of the contract file.

(b) For all federally funded purchases, a cost or price analysis must be conducted as required by applicable federal regulations for all related contracts including contract cost modifications. The cost or price analysis shall be public record.

(Code 1988, § 25.5-53; Ord. No. 2589, § II, 9-7-10)

Sec. 24-210. - Bid and performance bonds on supply or service contracts.

Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing manager or head of a using agency deems advisable to protect the city's interest. Any such bonding or security requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(Code 1988, § 25.5-54; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-211. - Cancellation/rejection of invitation for bid or request for proposal; No Responsive Offers Received

(a) Under this chapter, an invitation for bid, a request for proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request of unsuccessful bidders or offerors.

(b) If no responsive offers are received, then the purchasing manager may purchase the required goods or services, with no change in the published specifications, in the open market at the best obtainable price. If the specifications are changed, or if so required by the purchasing manager, a purchase in the open market shall not be permitted and the competitive solicitation must be reissued.

(Code 1988, § 25.5-38; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-212. - Preferences.

(a) Preference factor. A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted.

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent deduction from the local business quote or bid, or five percent of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to resident businesses which has a valid resident business certificate issued by the New Mexico Taxation and Revenue department based upon a five percent of total evaluation points being added to the score of a proposal from a resident business and a preference factor shall applicable to resident veteran business which has a valid resident veteran business certificate issued by New Mexico Taxation and Revenue department based upon a ten percent of the total evaluation points being added to the score of a proposal from a resident veteran business.

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) New Mexico materials. Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed, or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to § 13-4-2, NMSA, 1978, as amended.

(c) Limitations. No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

(Code 1988, § 25.5-40; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. B), 8-6-12)

Sec. 24-213 Change orders

(a) Changes in cost

(1) Any changes in base contract amount require the following approvals:

Change	Approver
Less than 5%	Program Manager
More than 5% less than 10%	Department Director
More than 10% less than 15%	Assistant City Manager
More than 15%	City Manager
Contract approved by City Council	City Council
Exceeds approved budget amount	City Council

(2) Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.

(Code 1988, § 25.5-40; Ord. No. 2852, § 5-21-18)

Sec. 24-214. Suspension of Project

Due to reasons beyond the contractor's control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director, the purchasing manager, or the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Sec. 24-215. - Maximum practicable competition.

Under this chapter, all specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including, but not limited to those prepared for the city by architects, engineers, designers, and drafters.

(Code 1988, § 25.5-81)

Sec. 24-216. - Qualified products list.

The city may adopt qualified product lists that shall allow for maximum competition as is practical and that will satisfy the requirements of the city.

(Code 1988, § 25.5-82)

Sec. 24-217. - Brand name specification or equal specification.

(a) Use. Under this chapter, brand name or equal specifications may be used when the purchasing manager determines in writing that:

(1) No other design or performance specification or qualified products list is available;

(2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

(3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

(4) Use of a brand name or equal specification is in the city's best interest.

(b) Samples of "or equal" materials should be submitted with the bid; however, they may be submitted after the bid opening if adequate time is allowed to evaluate the samples before the bid is awarded.

(c) Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references, and shall further state that substantially equivalent products to those designated will be considered for award.

(d) Required characteristics. Unless the purchasing manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(e) Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(Code 1988, § 25.5-83; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-218. - Brand name specification.

(a) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing manager makes a written determination that only the identified brand name item will satisfy the city's needs.

(b) Competition. The purchasing manager shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under sole source procurement.

(Code 1988, § 25.5-84; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-219. - Authority for cooperative procurement.

The purchasing manager may either participate in, sponsor, or administer a cooperative procurement agreement for the procurement of any city services, construction, or items of tangible personal property with any other state agency, local public body, or external procurement unit in accordance with an agreement.

(Code 1988, § 25.5-131)

Sec. 24-220. Reserved.

ARTICLE VI. – DEBARMENT OR SUSPENSION

Sec. 24-221. – Authority to suspend.

(a) The purchasing manager, after consulting with the city attorney and the contract administrator, as defined by the using department, is authorized to suspend a person for cause from consideration for the award of future city contracts for a specified period of time. The suspension may apply to a person in his/her individual as well as corporate capacity. The suspension shall be for a period of not more than three months.

(b) The causes for suspension shall include one or more of the following:

(1) Violation of any city or noncity contract provision, as follows, of a character which is regarded by the purchasing manager to be so serious as to justify suspension:

a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, including failure to pay subcontractors. Failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension.

(2) Any other cause the purchasing manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter.

(3) Violation of the ethical standards set forth in Article II of this chapter.

(Code 1988, § 25.5-101; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-222. – Authority to debar.

(a) The purchasing manager, after consulting with the city attorney and the contract administrator, as defined by the using department, is authorized to debar a person for cause from consideration for the award of future city contracts for a specified period of time. The debarment may apply to a person in his/her individual as well as corporate capacity. The debarment shall be for a period of not more than three years.

(b) The causes for debarment shall include one or more of the following:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a city contractor.

(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

(4) Violation of any city or noncity contract provision, as follows, of a character which is regarded by the purchasing manager to be so serious as to justify debarment action:

a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, including failure to pay subcontractors. Failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

(5) Any other cause the purchasing manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter.

(6) Violation of the ethical standards set forth in Article II of this chapter.

(7) Any violation of the drug-free workplace regulations.

(Code 1988, § 25.5-101; Ord. No. 1923, § 1, 6-17-02

Sec. 24-223. – Notice of decision.

(a) Mailing notice. Any written decision by the purchasing manager to debar a person under this article shall be sent by certified mail, return receipt requested, to the person affected by the decision, or by hand delivery and delivery receipt requested.

(b) Contents of notice. The written notice of the purchasing manager's decision shall set forth in detail all reasons for the debarment and shall inform the person of their rights concerning administrative appeal.

(Code 1988, § 25.5-102; Ord. No. 1923, § 1, 6-17-02)

Secs. 24-224 - Determination of responsibility in construction and consultant contracts.

(a) In all contracts related to capital projects, the purchasing manager may evaluate the past performance of an entity doing business with the city and determine if the contractor is not a responsible offeror. In the evaluation of the performance of the contractor, the following factors shall be considered:

(1) Timeliness of performance;

(2) Quality of performance;

(3) Compliance with all applicable City ordinances;

(4) Compliance with the labor laws regarding payment of wage rates;

(5) Compliance with all applicable municipal, state, and federal laws;

(6) Poor performance causing delays in performance by other contractors;

(7) Failure to comply with safety laws, rules and regulations;

(8) Failure to accept responsibility for managing claims arising out of the performance of their contracts;

(9) Or any other factor which, singly or in combination with the above, results in a determination by the department director that the proposed contracting entity is not a responsible offeror.

(b) Any such determination of non-responsibility made by the purchasing manager shall be sent to the contractor by certified mail, return receipt requested. A determination of non-responsibility shall continue until such time as the purchasing manager, based on contract performance occurring after the determination, then determines that offeror has improved its performance sufficient to be deemed responsible. Any determination of non-responsibility may be protested.

Secs. 24-225-24-230. - Reserved.

ARTICLE VII. - APPEALS AND REMEDIES

Sec. 24-231. - Bid protests.

(a) Right to protest. Any offeror who is aggrieved in connection with the procurement process of this chapter, including but not limited to the solicitation or award of a contract, may file a written protest with the purchasing manager. Such protest must be filed within five working days after the aggrieved bidder or offeror knows or should have known of the facts giving rise to the protest unless, otherwise specified in this chapter. If the protest concerns the awarding of a bid, the protest must be filed within five working days of receipt of the purchasing's manager's determination. The protestor shall set forth in detail all reasons for the protest. The protest shall:

(1) Include the name and address of the protestor;

(2) Identify the contracting activity and the number of the solicitation, if any, and if a contract has been awarded the contract number, if any;

(3) Contain a statement of the grounds for protest;

(4) Include supporting exhibits, evidence affidavits or documents to substantiate any claim unless not available within the filing time, in which case the expected availability date shall be indicated; and

(5) Specify the ruling requested from the purchasing manager.

(b) Bid protest appeal bond or security. The options for an appeal bond or security are an appellate bond through a bonding company authorized to do business in New Mexico; letter of credit or its equivalent from a federally insured financial institution; or cashier's check or its equivalent payable to the City of Las Cruces. Amount of appeal bond or security shall be determined as follows:

(1) One Thousand and No/100 Dollars ($1,000.00) for a bid protest to a contract expected to be awarded in an amount under One Hundred Thousand and No/100 Dollars ($100,000.00).

(2) Five Thousand and No/100 Dollars ($5,000.00) for a bid protest to a contract expected to be awarded in an amount between One Hundred Thousand and No/100 Dollars ($100,000.00) and Five Hundred Thousand and No/100 Dollars ($500,000.00).

(3) Ten Thousand and No/100 Dollars ($10,000.00) for a bid protest to a contract expected to be awarded in an amount in excess of Five Hundred Thousand and No/100 Dollars ($500,000.00).

(4) The purchasing manager will determine the amount of the appeal bond or security based on bids received, the engineer's estimate, and/or budgeted project funds, and that decision will be final.

(c) Duties of purchasing manager upon receipt of protest. Upon receipt of any protest filed in accordance with section (a) of this section, the purchasing manager shall review the facts giving rise to the protest and within 15 working days mail to the protestor and all other bidders, return receipt requested, a written determination concerning the validity of the protest. The determination shall set forth the rationale, the proposed action to be taken by the purchasing manager or the city and shall inform the protestor and other bidders of their right to appeal the purchasing manager's determination in accordance with the appeal procedures set forth in subsection (c) of this section. Failure to timely appeal the purchasing manager's determination shall bar further recourse by the protestor or any other bidder, and the purchasing manager's determination and proposed action shall be final.

(d) State of procurement during protest. If timely protest is made under subsection (a) of this section, the purchasing manager shall not proceed further with the solicitation or award of the contract until the appeal process has been concluded in accordance with this section or until the purchasing manager makes a determination based on the records that the award of the contract without delay is necessary to protect substantial interests of the city. If the purchasing manager determines an award without delay is necessary and the protestor later prevails in the appeal, the protestor shall be entitled only to reasonable costs, not to include attorney fees, associated with the preparation and submission of the bid.

(e) Appeal of purchasing manager's decision. Any protestor or other bidder aggrieved by the purchasing's manager's determination made pursuant to subsection (b) of this section may appeal such determination by filing, within five working days of receipt of such decision, a written notice of appeal with the city clerk, which shall set forth in detail all reasons for the appeal and whether or not the protestor will be represented by an attorney.

(f) Appeals board. All timely appeals of the purchasing manager's determination shall be heard by the appeals board within 15 working days after the filing of the notice of appeal with the city clerk. The appeals board shall consist of three members who are neither city employees nor city councilors and who shall be appointed by the city manager. The members may be paid or may serve voluntarily. The city clerk shall be responsible for notifying all protestors and other bidders of the time and place of the hearing.

(g) Hearing procedures. The hearing shall be informal but shall provide at a minimum for the swearing in and cross examination of witnesses by the city or any party having filed an appeal. The board may develop rules for the conduct of protest meetings. After concluding the hearing, the appeals board shall issue a written determination, within 15 working days of holding a hearing, of either upholding or reversing the purchasing manager's determination. The determination shall be final.

(h) Costs. The losing party to the appeal shall be responsible for the reasonable costs of the appeal as determined by the appeals board. The board's determination of costs shall be based on the costs and expenses incurred by the board, including but not limited to the board's salary, attorneys' fees, reproduction, and transcription costs.

(Code 1988, § 25.5-111; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-232. – Debarment appeal.

(a) Timely appeal. The person debarred may appeal the determination of the purchasing manager by filing, within five working days of the receipt of the determination, a written notice of appeal and filing an appeals bond with the city clerk in an amount to be set by resolution of the city council. Any notice of appeal not filed within the five-working-day period shall not be timely. The notice of appeal shall be filed with the city clerk and shall set forth in detail all reasons for the appeal. No debarred person shall contact orally or in writing any member of the appeals board outside of the adjudicatory process.

(b) Appeals board. All timely appeals of the purchasing manager’s determination shall be heard by the appeals board within 15 working days after filing the notice of appeal with the city clerk. The appeals board shall consist of three members who are neither city employees nor city councilors and who shall be appointed by the city manager. The members may receive travel expenses or per diem or may serve voluntarily.

(c) Notification of hearing. The city clerk shall be responsible for notifying the debarred person of the time and place of the hearing, which shall be opened to the public and conducted in compliance with the Open Meetings Act.

(d) Record of hearing. The city shall provide a clerk who shall record the hearing and prepare a nonverbatim account of the hearing. Copies of the recordings and nonverbatim account shall be provided to the debarred person for a reasonable reproduction cost.

(e) Conduct of hearing. The hearing shall be informal but shall provide at a minimum for the swearing in and cross examination of witnesses by the parties involved. The appeals board shall have the authority to call for the attendance of witnesses and the production of documents, to swear witnesses, to call witnesses itself, to examine witnesses including the debarred person, and to hear all evidence properly brought before it. The formal rules of evidence shall not apply to this proceeding. The appeals board may adopt additional rules for hearings not inconsistent with this chapter.

(f) Legal representation. The debarred person may be represented before the appeals board by a representative of his choice. The representative shall be identified, and their name made known to the board three days prior to the hearing. If the representative of the person who has appealed is an attorney, the purchasing manager may be represented by the city attorney.

(g) Written decision of board. After concluding the hearing, the appeals board shall issue a written decision either upholding or reversing the purchasing manager's determination within 15 working days of the completion of the hearing. The decision of the board shall be based upon the evidence received at the hearing and shall be final.

(h) Costs. The losing party to the appeal shall be responsible for the reasonable costs of the appeal as determined by the appeals board. The board's determination of costs shall be based on the costs and expenses incurred by the board, including but not limited to the board's salary, attorneys' fees, reproduction, and transcription costs.

(Code 1988, § 25.5-103; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-233. - Remedies for solicitations or awards in violation of law.

(a) Prior to bid opening or closing date for receipt of proposals. If, prior to the bid opening or the closing date for receipt of proposals, the purchasing manager, after consultation with the city attorney, determines that a solicitation made under this chapter is in violation of federal, state, or municipal law, the solicitation shall be canceled or revised to comply with applicable law.

(b) Prior to award. If, after bid opening or the closing date for receipt of proposals, the purchasing manager, after consultation with the city attorney, determines that a solicitation or a proposed award of a contract made under this chapter is in violation of federal, state, or municipal law, the solicitation or proposed award shall be canceled.

(c) After award. If, after an award, the purchasing manager, after consultation with the city attorney, determines that a solicitation or award of a contract made under this chapter was in violation of applicable law, then:

(1) If the person awarded the contract has not acted fraudulently or in bad faith, the contract may be:

a. Ratified and affirmed, provided it is determined that doing so is in the best interests of the city; or

b. Terminated, and the person awarded the contract shall be compensated for actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or

(2) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the city.

(Code 1988, § 25.5-113; Ord. No. 1923, § 1, 6-17-02)

ATTACHMENT "A"

PART II – MUNICIPAL CODE
Chapter 24 – PROCUREMENT CODE

ARTICLE I. - IN GENERAL

Sec. 24-1. - Purpose.

The purpose of this chapter is to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity.

(Code 1988, § 25.5-1)

Sec. 24-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

All definitions listed within New Mexico Statutes sections 13-1-21 through 13-1-199, NMSA, 1978, plus, sections 13-4-1 through 13-4-43, NMSA, 1978, are incorporated herein by reference. Wherever difference exists between such statutory definitions and any definitions within this chapter, the definition of this chapter shall prevail.

Advertising means a public medium promoting a product, service, or event, including radio, television, print and electronic.

Agreement means two or more persons having common understanding about responsibilities, obligations, duties, and rights.

Approved equal means approved specifications as established by the industry or the using agency.

Award means the issuance of a validly executed contract which may include a purchase order.

Bid means a response to a competitive sealed procurement solicitation.

Bidder means a person who submits a quote/bid in response to a solicitation for respective, competitive quotes/bids.

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other disposition of the property subject to the trust.

Brand name or equal specifications means a specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet city requirements, and which provides for the submission of equivalent products.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Calendar days means all days in a month including weekend, holidays, etc.

Construction Manager At Risk (CMAR) means the construction manager commits to deliver the project within a Guaranteed Maximum Price (GMP) based on the construction documents and specifications.

Contingency means an amount set aside to address unforeseen issues.

Contract means agreement between two or more persons authorized to legally bind their interests by setting forth what each person will or will not do in the procurement of tangible personal property, professional or nonprofessional services, or construction.

Contract administration means a contract administration system designed to ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.

Contract limitations and change orders means a construction related written order directing the contractor to make a change, which the contract authorizes with or without the contractor's consent.

Defective pricing means when a contractor has more current, complete, and accurate cost and pricing data and does not disclose it resulting in a significant increase in price.

Employee means an individual drawing salary or wages from the city, whether elected or not; any uncompensated individual performing personal services for the city or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the city; and any uncompensated individual serving as an elected official of the city.

Financial interest means:

(1) Ownership of one percent or more of any property or business; or

(2) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

Gratuity means anything of value that is presented or promised in anticipation of receiving a consideration, whether or not the consideration is less than, equal to or greater than the value presented or promised.

Immediate family means an employee's spouse, son, daughter, or parent as defined in FMLA regulations. FMLA defines the term "parent" as "a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when he or she was a minor."

Invitation for bid/invitation to bid (IFB or ITB) means all documents, whether attached or incorporated by reference, used for soliciting sealed bids whereby award is based upon the lowest price that meets specifications.

Local business means a business that has a valid city business certificate or license issued through the City of Las Cruces.

Non-procurement contracts means any agreement that was not the result of a procurement, for example memoranda of understanding, grant pass-through or fiscal agent agreements, or contracts that don't involve expenditures for goods or services.

Offeror means a person submitting a proposal in response to a competitive request for proposals.

Person means any business, individual, union, committee, club, or other organization, or group of individuals.

Pricing data means factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

Professional services means the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services.

Procurement means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, service, or construction, including needs analysis, specification development, competitive or noncompetitive solicitation of sources, contract development, negotiation and execution, and all phases of contract administration.

Proposal means a response to a competitive sealed procurement solicitation.

Public agency means an administrative division of city, state, or federal government.

Qualified products list means an approved list of tangible goods, services, or construction items described by model or catalog numbers, which, prior to competitive solicitation, a determination was made that the list met applicable specification requirements.

Quote means a response to a procurement solicitation less than $100,000 conducted for the purchase of goods/services/construction, whereby award is based upon the lowest price that meets specifications as deemed practical.

Request for proposals (RFP) means a competitive solicitation of proposals conducted for the purchase of goods/services/construction whereby the responses are evaluated considering multiple, weighted criteria and the resulting contract is awarded based upon the response ranked highest considering such criteria.

Supplies includes tangible goods including, but is not limited to, equipment, materials, rolling stock, books, fuel, tools, printed media.

Tangible goods means physical objects or items (like equipment and inventory) that can be touched and has a real, physical presence.

Technical services means research and development (R&D) work, the development and installation of management information systems (MIS), materials requirement planning (MRP) systems, and the development of technical manuals, printing services, and repair services.

Using agency means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this chapter.

Working days means only those days per City calendar in which City staff are available to address, observe, or otherwise handle contractual issues as they arise. The following days are normally not considered working days: City Holidays, Saturdays, Sundays, and days in which the City Manager has closed City Offices due to inclement weather or some other specified emergencies.

(Code 1988, § 25.5-3; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. A), 8-6-12)

Sec. 24-3. - Applicability.

(a) This chapter applies to contracts for the procurement of supplies, services, and construction entered into by the city after the effective date of the ordinance from which this chapter derives. It shall apply to every expenditure of public funds by the city or a public agency for public purchasing irrespective of the source of the funds, except for procurement that is exempt as set forth herein.

(b) When the procurement involves the expenditure of federal or state assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal and state law and regulations. Nothing in this chapter shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

All the dollar thresholds mentioned in this code exclude taxes, freight, and shipping charges.

(Code 1988, § 25.5-2; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-4. - Authorized exemptions from competitive procurement, subject to review and written determination by the purchasing manager. All other applicable contract requirements of this article are required.

(1) Procurement of goods, services or construction from state agencies, public bodies, or external procurement units.

(2) Procurement of publicly provided or publicly regulated gas, electricity, water, sewer or refuse collection services.

(3) Purchases of books and periodicals from publishers or copyright holders thereof to include publications offered on CDs, videos, or the Internet.

(4) Travel or shipping by common carrier or by private conveyance, or to meals and lodging.

(5) Purchase of live animal(s).

(6) Art objects or artifacts or for their creation including exhibits.

(7) Procurement from self-determination corporations or other such enterprises designed and operated to assist in the care or maintenance of the sick and indigent and the prevention thereof and aided by state or federal antipoverty programs or through private philanthropy.

(8) Leases, exchanges or purchases of real property or a permanent interest in land.

(9) Services of bond underwriters and debt rating agencies.

(10) Agreement for the services of attorneys, legal assistants, and expert witnesses. Services of expert witnesses needed in conjunction with litigation, court reporting services and legislative activities. Contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees.

(11) Purchases, rentals, leases (personal and real property), and professional/technical services contracts necessary for the investigation of criminal activities. The police department may purchase such materials and services without quotations, requests for proposals, or bids if such would compromise a criminal investigation as determined by the chief of police in writing. All funds expended for this type of activity will be properly receipted and accounted for with supporting documentation. All documentation will be maintained by the police department and shall be subject to internal audit. Rentals, leases, and professional/technical services will be limited to the term of an investigation.

(12) Contracts with professional entertainers.

(13) Advertising in all media.

(14) Promotional goods intended for resale or for the procurement of printing services for materials produced and intended for resale.

(15) Subscription services.

(16) Contracts for retirement and other benefits.

(17) Services provided by lobbyists or legislative experts.

(18) Contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration.

(19) Procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act.

(20) Procurement of surety bonds.

(21) Procurement of parts and labor or maintenance agreement to repair disabled equipment or machinery if the equipment or machinery is repaired by a franchised dealer or by a factory authorized repair shop.

(22) Payments for conference registrations, offsite training courses, or similar minor purchases where prepayments are required, or which are administrative in nature and non-competitive as determined by the purchasing manager.

(23) Payments for membership dues.

(24) Existing contracts. The purchasing manager may contract for services, construction, or goods without the use of competitive bids or competitive proposals at a price equal to or less than:

a. The current federal or state supply contract or catalogue price, whichever is lower, and the purchase order adequately identifies the contract relied upon. A copy of the federal supply contract or catalogue shall be made part of the procurement record.

b. The current contract price held by other intrastate or interstate governmental bodies and their agencies. A copy of the contract relied upon shall be made part of the procurement record.

c. A bid awarded by the city to the same contractor, for the same materials or services, within the past 24 months. A copy of the original documentation is to become a permanent part of the procurement record providing the vendor wishes to extend. Resulting contract(s) shall not exceed 48 months after the initial contract execution date.

(25) Cooperative procurements through other government entities and cooperatives.

(Code 1988, § 25.5-181; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-5. - Small purchases.

(a) Purchase splitting is prohibited. Separate purchases of the same or similar goods, services, or construction, whether from the same or different businesses, within a time frame established by the purchasing manager, shall be considered a single purchase for purposes of this article.

(b) Authority. Any contract less than $100,000.00 for supplies, services, and construction, may be made in accordance with the procedures set forth in this section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

(1) Purchases $50,000.00 or more but less than $100,000.00. Unless determined impractical by the purchasing manager, no less than three sources shall be solicited to submit written quotations. Award shall be based on the lowest price meeting specifications. A record of the solicitation and written responses shall be maintained as public record.

(2) Purchases $25,000.00 or more but less than $50,000.00. Unless determined impractical by the purchasing manager, written quotes from no less than two sources shall be obtained. Award

shall be based upon the lowest price meeting specifications. Solicitations, responses and/or other pricing documentation shall be recorded and maintained as public record.

(3) Purchases less than $25,000.00. Unless otherwise determined impractical by the purchasing manager, for a purchase of supplies, services, or construction estimated to be less than $25,000.00, written quotes from no less than one source shall be obtained. Purchase is to be made only by authorized city employees at the best obtainable price considering time and process efficiencies.

(c) Professional/technical services less than $100,000.00. Unless otherwise determined impractical by the purchasing manager, professional/technical services estimated to be less than $100,000.00 may be purchased in accordance with the following:

(1) All professional/technical services estimated to be less than $100,000.00 shall be procured by either the purchasing manager or authorized department employee calling a reasonable number of firms to obtain written offers when practical. Procurement over this amount shall be by competitive sealed proposal.

(2) The purchasing manager or designee shall provide such information as is necessary to provide the potential offeror the opportunity to provide a proper and timely response. Included in the information shall be the factors to be evaluated and the relative weights assigned each factor.

(3) The types of questions to be asked of the potential offeror may include, but not be limited to:

a. The specialized design and technical competence of the business, including a joint venture or association, regarding the type of services required.

b. Capacity and capability of the business to perform the work, including any specialized services, within the time limitation, if any.

c. Past record of performance or contracts with government agencies or private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules.

d. Proximity to or familiarity with the area in which the project is located.

e. The anticipated price, if price is a factor, for services based upon the information provided by the purchasing manager as to the scope of work.

f. Other criteria determined to be essential to the particular contract or project.

(4) The award shall be based on the highest-ranking respondent considering the evaluation factors provided in the solicitation. The city may negotiate with any responding offeror with the intent to obtain best and final offer of the offeror.

(Code 1988, § 25.5-34; Ord. No. 1703, § IX, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, § V, 8-17-09; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-6. - Fiscal responsibility.

(a) When the aggregate sum of contract modifications, change orders, or contract price adjustments exceeds $100,000.00, all subsequent contract modifications, change orders, or contract price adjustments shall be subject to city council approval, except for those contracts that will be or are approved under the contract limitations and change order policy.

(b) Aggregate contract modifications, change orders, or price adjustments up to $100,000.00 shall be authorized by the city manager conditioned upon the award limitations.

(Code 1988, § 25.5-93; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-7. - Sole source procurement.

A contract may be awarded without competition when the purchasing manager determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, service, or construction item; or when it is likely that award to any other source would result in:

(a) Substantial duplication of cost to the city that is not expected to be recovered through competition; or

(b) Unacceptable delays in fulfilling the city's requirement.

The purchasing manager may conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurement shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification number of each contract file.

(Code 1988, § 25.5-35; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-8. - Rapid procurement; Emergency procurement.

(a) Purchases of goods, services, and construction for any amount where Advertising and the solicitation of offers would entail unnecessary and detrimental delay and loss to the city, may be made by the purchasing office, at the best obtainable price in accordance with procedures approved by the purchasing manager. Complete documentation of all proposed prices submitted by offerors must be maintained in the purchasing office for public inspection.

(b) Notwithstanding any other section of this chapter, the city manager may authorize the purchasing manager or designee to make emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety, provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the items procured under the contract, and the identification number of the contract file. If the city manager determines that urgent and compelling reasons require emergency contractual, professional, and technical services, the city manager, notwithstanding any section of this division, may approve such services, provided that the city manager shall notify the city council of the action citing the compelling and urgent reasons for the action. A complete report shall be submitted to the city council by the using department within a week of the procurement.

(Code 1988, § 25.5-36; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-9 – Contingency

Construction contracts shall be budgeted with no more than a 20% contingency fund for new construction and no more than a 20% contingency fund for rehabilitation projects. Professional and/or Technical service contracts shall be budgeted with no more than a 10% contingency fund.

Sec. 24-10—Purchase Card Program.

The Purchase Card (P-Card) program is intended for use whenever purchase orders are not applicable as determined by the purchasing manager or designee. The P-Card Procedure Manual shall govern P-Card and Department Card (D-Card) issuance, application, usage, monthly statement processing, card maintenance, card violations, disputed or fraudulent charges, and receipt retention.

Secs. 24-11 – 24-30. - Reserved.

ARTICLE II. - ETHICS AND PROHIBITIONS IN PROCUREMENT

Sec. 24-31. - Direct contact.

Direct contact with city elected officials or city staff~~, other than the purchasing manager,~~ during the bid/proposal process from development of specifications through contract award, will render the bid/proposal as noncompliant and no further consideration will be given the bid/proposal. For the purposes of this section, “direct contact” is defined as any potential respondent contacting city elected officials and/or city staff, including city contractors, for the purpose of obtaining a competitive advantage over other prospective vendors. Direct contact includes, but is not limited to, inquiring about project specifications that are not subject to public record, responses submitted by other competitors, compensation details, or any other information not available to the public. The purchasing manager shall have the sole authority to determine whether direct contact has occurred.

(Ord. No. 1923, § 1, 6-17-02)

Sec. 24-32. - Criminal penalties.

To the extent that violations of the ethical standards of conduct set forth in this Procurement Code constitute violations of the state Criminal Code, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this article. Criminal, civil, and administrative sanctions against employees or nonemployees which are in existence on the effective date of the ordinance from which this chapter derives shall not be impaired.

(Code 1988, § 25.5-141)

Sec. 24-33. - Employee conflict of interest.

(a) It shall be unethical for any city employee to participate directly or indirectly in a procurement contract when the city employee knows that:

(1) The city employee or any member of the city employee's immediate family has a financial interest pertaining to the procurement contract; or

(2) Any other person, business, or organization with whom the city employee or any member of a city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

(b) A city employee or any member of a city employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

(c) If an employee becomes aware of a potential conflict of interest related to a procurement, they shall disclose such potential conflict to the purchasing manager immediately.

(Code 1988, § 25.5-142)

Sec. 24-34. - Gratuities and kickbacks.

(a) Gratuities. It shall be unlawful for any person to offer, give, or agree to give to any current or former city employee or for any current or former city employee to solicit, accept or agree to accept a gratuity in exchange for consideration pertaining to a city procurement. Consideration shall include but is not limited to a decision, approval, disapproval, recommendation, or action that influences a procurement solicitation, contract award or the administration of a contract. No sample or sampling of a product or service shall be accepted by a city employee unless the purchasing manager determines that the sample or sampling is to be used in city activities for evaluation or product qualification purposes.

(b) Kickbacks. It shall be unlawful for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontract under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(c) Contract clause. The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor. Any person convicted of violating this section shall be guilty of a petty misdemeanor.

(Code 1988, § 25.5-143; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-35. - Contingent fees.

It shall be unlawful for a person to be retained or to retain a person to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Any person convicted of violating this section shall be guilty of a petty misdemeanor.

(Code 1988, § 25.5-144; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-36. - Contemporaneous employment.

It shall be unethical for any city employee who is participating directly or indirectly in the procurement process to become or to be, while such a city employee, the employee of any person contracting with the governmental body by whom the employee is employed.

(Code 1988, § 25.5-145)

Sec. 24-37. - Waivers from employee conflict of interest and contemporaneous employment.

The city council may grant a waiver from the employee conflict of interest provision or the contemporaneous employment provision upon making a written determination that:

(1) The contemporaneous employment or financial interest of the city employee has been publicly disclosed;

(2) The city employee will be able to perform his procurement functions without actual or apparent bias or favoritism; and

(3) The award will be in the best interests of the city.

(Code 1988, § 25.5-146)

Sec. 24-38. - Use of confidential information.

It shall be unlawful for any city employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person. Any person convicted of violating this section shall be guilty of a petty misdemeanor.

(Code 1988, § 25.5-147; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-39. - Recovery of value transferred or received in breach of ethical standards.

(a) Authority. The value of anything transferred or received in breach of the ethical standards of this chapter by a city employee may be recovered from the city employee.

(b) Recovery of kickbacks by city. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

(Code 1988, § 25.5-148)

Secs. 24-40—24-60. - Reserved.

ARTICLE III. - PURCHASING MANAGER

Sec. 24-61. - Position created.

There is created the position of purchasing manager, who shall be the city's principal public purchasing official.

(Code 1988, § 25.5-21; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-62. - Authority, duties.

(a) Principal public purchasing official. Except as otherwise provided in this chapter, the purchasing manager shall serve as the principal public purchasing official for the city and shall be responsible for the procurement of supplies, services, and construction in accordance with this chapter.

(b) Duties. In accordance with this chapter and subject to the supervision of the city manager, the purchasing manager shall:

(1) Procure or supervise the procurement of all supplies, services, and construction needed by the city.

(2) Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services and construction.

(3) Provide a quarterly report of all procurements equaling $100,000.00 and above to the city council as a non-action item.

(c) Operational procedures. Consistent with this chapter the purchasing manager may adopt operational procedures relating to the execution of his/her duties.

(Code 1988, § 25.5-22; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-63. - Authority to award.

(a) In the discretion of the purchasing manager, if no acceptable bid or offer is received on the solicitation the purchasing office may purchase the required goods or services in the open market at the best obtainable price or re-advertise the request for bid or proposal.

(b) The purchasing manager shall be authorized to enter into all budgeted purchase contracts subject to the following conditions:

(1) For purchases of non-construction, non-capital improvement related goods or services of $50,000.00 but less than $100,000.00, the purchasing manager shall obtain approval from the city manager prior to issuing a purchase order. Purchases below $50,000.00 will be processed by the purchasing manager.

(2) For purchases of non-construction, non-capital improvement related goods or services equaling $100,000 or more, the purchasing manager shall obtain approval from the city council prior to contracting.

(3) For purchases of current year capital improvement projects, capital equipment and vehicles already approved in budget, no council or city manager action is required. These procurements will be processed by the purchasing manager.

(4) For purchases of capital improvement projects, capital equipment and vehicles of $100,000.00 and above which are not included in current year approved budget, city council approval is required.

(5) For purchases of goods and services funded through grants or state appropriations previously accepted by council and amended into the budget, no council approval will be required. Procurements will be processed by the purchasing manager.

(6) For the purpose of this section, aggregate cost shall not be the determinative on multi-year contracts.

(7) Signing of contracts. Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the mayor or city manager or their designees.

(Code 1988, § 25.5-39; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-64. - Delegation to others.

The purchasing manager may delegate authority to purchase supplies, services, or construction items to other city officials, if such delegation is deemed necessary for the effective procurement of those items. Notwithstanding debarment or suspension, procurement authority with respect to certain supplies, services or construction may be delegated to other city officials by the city manager with the approval of the city council, when such delegation is deemed necessary for the effective procurement of these supplies, services, or construction.

(Code 1988, § 25.5-23; Ord. No. 1923, § 1, 6-17-02)

Secs. 24-65—24-90. - Reserved.

ARTICLE IV. - CONTRACT INFORMATION

Sec. 24-91. - Types of contracts.

(a) General authority. Subject to the limitations of this section, any type of contract which is appropriate to the procurement, and which will promote the best interests of the city may be used, provided that the use of a cost-plus-a-percentage-of-cost contract be approved by the city council. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

(b) Multiterm contracts.

(1) Specified period. Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the city, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds thereof.

(2) Determination prior to use. Prior to the utilization of a multiterm contract, it shall be determined in writing that:

a. Estimated requirements cover the period of the contract and are reasonably firm and continuing; and

b. Such a contract will serve the best interests of the city by encouraging effective competition or otherwise promoting economies in city procurement.

(c) Multiple source contracting.

(1) Generally. A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the city's actual requirements is limited by the provision of Uniform Commercial Code subsection 2-306(1).

(2) Limitations on use. A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Multiple source awards shall not be made when a single award will meet the city's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.

(3) Eligible users. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that the city shall reserve the right to take bids separately if:

a. A particular quantity requirement arises which exceeds its normal requirement, or an amount specified in the contract; and

b. The purchasing manager approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the city.

(4) Intent to use. If a multiple source award is anticipated prior to issuing a solicitation, the city shall reserve the right to make such an award, and the criteria for award shall be stated in the solicitation.

(5) Determination required. The purchasing manager shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

(Code 1988, § 25.5-61; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-92. - Contract clauses.

(a) Required generally. All city contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The purchasing manager, after consultation with the city attorney, may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:

(1) Statement of work, delivery schedules, and period of performance;

(2) The unilateral right of the city to order in writing changes in the work within the scope of the contract;

(3) The unilateral right of the city to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;

(4) Variations occurring between estimated quantities of work in the contract and actual quantities;

(5) Defective pricing;

(6) Liquidated damages to include administrative contractual or legal remedies for violation of contract terms;

(7) Specified excuses for delay or nonperformance;

(8) Termination of the contract for default or cause;

(9) Termination of the contract in whole or in part for the convenience of the city;

(10) Suspension of work on a construction project ordered by the city; and

(11) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract when:

a. The contract is negotiated;

b. The contractor provides the site or design; or

c. The parties have otherwise agreed with respect to the risk of differing site conditions.

(b) Price adjustments.

(1) Adjustments in price resulting from the use of contract clauses required by subsection (a) of this section shall be computed in one or more of the following ways:

a. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

b. By unit prices specified in the contract or subsequently agreed upon;

c. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

d. In such other manner as the contracting parties may mutually agree;

e. In the absence of agreement by the parties, by a unilateral determination by the city of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the city, as accounted for in accordance with industry price list, catalogue or market prices and subject to the appeals and remedies in article VII of this chapter; or

f. For all federally funded purchases, cost or price analysis shall be the only means from which pricing shall be determined.

(2) A contractor shall be required to submit cost or pricing data for any adjustment in contract price.

(c) Standard clauses and modification. The purchasing manager, after consultation with the city attorney, may establish standard contract clauses for use in city contracts. If the purchasing manager establishes any standard clauses addressing the subjects set forth in subsection (a) of this section, such clauses may be varied, provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that notice of any such material variation be stated in the invitation for bids or request for proposals.

(Code 1988, § 25.5-62; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § III, 9-7-10)

Sec. 24-93. - Approval of accounting system.

Except with respect to firm fixed-price city contracts, no contract type shall be used unless it has been determined in writing by the purchasing manager that the proposed contractor's accounting system:

(1) Will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

(2) Is adequate to allocate costs in accordance with generally accepted cost accounting principles.

(Code 1988, § 25.5-65; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-94. - Right of inspection.

The city may, at reasonable times, inspect the plant, place of business, storage site, or work site of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the city.

(Code 1988, § 25.5-66)

Sec. 24-95. - Right to audit records.

(a) Audit of cost or pricing data. The city may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost of pricing data is required shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three years from the date of final payment under the contract.

(b) Contract audit. The city shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

(Code 1988, § 25.5-67)

Sec. 24-96. - Reporting of anticompetitive practices.

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors for a city contract, a notice of the relevant facts shall be transmitted to the state attorney general by the city attorney.

(Code 1988, § 25.5-68)

Sec. 24-97. - City records.

(a) Contract file. All determinations and other written records pertaining to the solicitation, award, or performance of a city contract shall be maintained for the city in a contract file by the purchasing manager.

(b) Retention of procurement records. All procurement records shall be retained and disposed of by the city in accordance with records retention and guidelines and schedules set by the city clerk.

(Code 1988, § 25.5-69; Ord. No. 1923, § 1, 6-17-02)

Secs. 24-98 – 24-120. Reserved.

ARTICLE V. - SOURCE SELECTION

DIVISION 1. - PROFESSIONAL AND TECHNICAL SERVICES PROCUREMENT

Sec. 24-121. - Contracting for designated professional services; selection procedure.

(a) Criteria. Professional and technical services shall be procured in accordance with this division.

(b) Determination of award for professional and technical services shall be based on qualifications. Cost will not be a criteria factor in the evaluation process, and it shall be negotiated during the award phase of the contract.

(c) Where the primary contract may be awarded through the procurement code without review by the selection advisory committee, nothing in this division shall require that the selection advisory committee separately review subcontractors who are an integral part of the primary contract.

Sec. 24-122. - Request for proposals.

(a) Conditions for use. When the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the request for proposal method set forth herein.

(b) Request for proposal. A proposal shall be solicited through a request for proposal.

(c) Public notice. For proposals estimated to be $100,000.00 or more, adequate public notice of the request for proposals shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the closing of the request for proposals. The public notice shall state the due date and time for proposal submission, and where proposal documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(d) Receipt of proposal. No proposal shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors prior to the deadline for receipt of the proposal by the purchasing manager. A register of proposals shall be prepared containing the name of each offeror. The register of proposals shall be open for public inspection not later than three days after the deadline for receipt of proposals. During the evaluation of proposals, and until approval of the recommendation of award by the city council, the contents of proposals may not be disclosed to the public. If a request for proposals is canceled and a similar RFP will be issued within six months, the contents of proposals received in response to the first request for proposals may not be disclosed until after approval by the city council of the recommendation of award for the second RFP or cancellation of the RFP.

(e) Evaluation factors. The request for proposal shall state the relative importance of price and other evaluation factors.

(f) Discussion with responsible offeror and revision to proposal. As provided in the request for proposal, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to ensure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors. Any modification received during the revision and negotiation stages will become a part of the permanent record.

(g) Award. Awards shall be made to the highest-ranking responsible offeror taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation except that, unless otherwise determined impractical by the purchasing manager, award(s) resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsible local manufacturers or local businesses, award shall be made to a responsible qualified non-local manufacturer or business. The contract file shall contain the basis on which the award is made.

(h) The procurement of lease financing shall be conducted utilizing request for proposal.

(i) Award recommendation shall be made to the city council by the purchasing manager.

(Code 1988, § 25.5-32; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, § IV, 8-17-09)

Sec. 24-123. - Selection advisory committee.

(a) There is a selection advisory committee comprised of three department heads: one designated by the committee chair, one from the end user department and one serving on a rotating basis from the total pool of directors. For each request for proposal, there are at least five subject matter experts designated by the director of the department that developed the RFP. There shall be no more than seven subject matter experts total. All external subject matter experts are non-voting technical advisors and are not included in the total number of subject matter experts. A pool of internal subject matter experts shall be maintained by departments and can be used for the appropriate procurement.

(b) A member of the selection advisory committee shall serve until a successor is appointed. An alternate may be suggested by any member and submitted to the selection advisory committee chair for approval. Upon approval, the alternate will attend in that member's place.

(c) The assistant city managers shall serve as a nonvoting member and chair for the selection advisory committee.

(d) The city's purchasing manager or designee shall serve as staff coordinator for the selection advisory committee.

(Code 1988, § 2-137; Ord. No. 1701, § I, 9-14-98; Ord. No. 1703, §§ III, X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 1947, § 1, 3-3-03; Ord. No. 2643, § I, 1-17-12; Ord. No. 2852, § 5-21-18)

Sec. 24-124. - Notice of projects; recommendations.

(a) When the fee for professional and/or technical services is estimated to be $100,000.00 or more, the city shall cause to be published, at least two weeks before initial screening of professional firms or persons by the selection advisory committee, a legal advertisement containing a brief description of the work to be performed by the professional firms or persons and inviting interested firms to submit their qualifications for consideration by the selection advisory committee.

(b) If the estimated cost of the services is less than $100,000.00, review by the selection advisory committee is not required. The purchasing manager may select a qualified firm or firms to provide these services based on adopted purchasing procedures.

(c) When the fee for the professional/technical services is $100,000.00 or more, the selection advisory committee shall submit the name of the most qualified professional firm or firms or person to the city council, for purposes of review and approval by the council. Nothing in this subsection shall prohibit the submission of more than one firm.

Sec. 24-125. - Files of qualifications of firms and persons.

The purchasing manager may maintain a file of qualifications of all firms or persons qualified to perform professional and technical services for city projects. These files shall be updated at the request of the selections advisory committee to provide current qualification information. Interviews and presentation of qualifications shall be conducted at the direction of the selection advisory committee. Mailed inquiries may be solicited to provide specific information as may be considered necessary by the selection advisory committee.

(Code 1988, § 2-139; Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-126. - Approval of contracts.

(a) All city projects that require the contracting for professional and technical services in an amount of $100,000.00 or more shall be performed under separate contract, and each contract shall require final approval by the city council.

(b) Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the Mayor or city manager or their designees.

(c) This section shall apply only to the primary professional firm. Any subcontractor shall be evaluated as a part of the primary contract.

(Code 1988, § 2-140, Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-127. - Bid and performance bonds on supply or service contracts.

Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing manager or head of a using agency deems advisable to protect the city's interest. Any such bonding or security requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(Code 1988, § 25.5-54; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-128. - Contractor records.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions requiring the contractor and subcontractors at any tier to:

(1) Maintain for three years from the date of final payment under the contract all books, documents, papers, and records pertinent to the contract; and

(2) Provide to the city, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

(Code 1988, § 25.5-161)

Sec. 24-129. - Patents.

If a city contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions:

(1) Giving notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of and rights to any discovery or invention arising out of the contract; and

(2) Requiring a contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(Code 1988, § 25.5-162)

Sec. 24-130. - Copyrights and rights in data.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include a provision giving the contractor notice of the applicable regulations concerning the rights of the United States to any plans, drawings, specifications, computer programs, technical reports, operating manuals, and similar work products developed and paid for under the contract.

(Code 1988, § 25.5-163)

Sec. 24-131. - Notice of federal public policy requirements.

If the city contract is being funded in whole or in part by assistance from a federal agency, and the contract is subject to one or more federal public policy requirements, such as: (i) equal employment opportunity; (ii) fair labor standards; (iii) energy conservation; (iv) environmental protection; or (v) other similar socioeconomic programs, the purchasing manager shall include contract provisions giving the contractor notice of these requirements and, where appropriate, including in those contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

(Code 1988, § 25.5-164; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-132 - Buy American/Buy America requirements.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall adhere to the appropriate Buy American/Buy America requirements of the federal agency providing the assistance.

(Code 1988, § 25.5-165)

Sec. 24-133. - Energy conservation.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city's solicitation shall seek to promote energy conservation and shall comply with any mandatory standards and policies which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

(Code 1988, § 25.5-166)

Sec. 24-134. - Small, women-owned and minority business enterprises.

(a) Expand participation. If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager shall take affirmative steps to ensure that small, women-owned, and minority businesses are utilized when possible as sources of supplies, services, and construction items.

(b) Examples of affirmative steps. Affirmative steps to be taken shall include the following:

Including qualified small, women-owned, and minority businesses on solicitation lists;

(1) Ensuring that small, women-owned, and minority businesses are solicited whenever they are potential sources;

(2) When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, women-owned, and minority business participation;

(3) Where the requirement permits, establishing delivery schedules which will encourage participation by small, women-owned, and minority business; and

(4) Using the services and assistance of the small business administration or the office of minority business enterprise of the department of commerce, as required.

(c) Pass-through to subcontracts. A contractor awarded a federally funded contract shall take the affirmative steps, as linked in subsection (b) of this section, in awarding its subcontracts.

(Code 1988, § 25.5-167; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-135. - Labor surplus area businesses.

If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager is encouraged to procure supplies, services, and construction items from businesses located in labor surplus areas.

(Code 1988, § 25.5-168; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-136. - Architectural and engineering services

(a) If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall use qualifications-based competitive proposal procedures when contracting for architectural and engineering services as defined in 40 U.S.C. §541 et seq. and 49 U.S.C. §5325(d). Services subject to this requirement include but are not necessarily limited to program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

(b) Qualifications-based competitive proposal procedures require that:

(1) An offeror's qualifications be evaluated;

(2) Price be excluded as an evaluation factor;

(3) Negotiations be conducted with only the most qualified offeror; and

(4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the city.

(c) These qualifications-based competitive proposal procedures will be used for the procurement of the services listed above. This method of procurement will not be used to obtain other types of services even though a firm that provides architectural and engineering services is also a potential source to perform other types of services.

(Ord. No. 2132, § I, 9-7-04)

Sec. 24-137. - Cost or pricing data.

(a) Required submissions relating to award of contracts. A prospective contractor shall submit cost or pricing data when the city contract is federally funded or is to be awarded on a noncompetitive basis.

(b) Exceptions. Except for federally funded purchases, the submission of cost or pricing data relating to the award of a contract is not required when:

(1) The contract price is based on established catalogue prices or market prices;

(2) The contract price is set by law or regulation; or

(3) It is determined in writing by the purchasing manager that the requirements of subsection (a) of this section may be waived, and the determination states the reasons for such waiver.

(c) Required submissions relating to change orders or contract modifications. For federally funded purchases and as otherwise required by the purchasing manager, the contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract.

(d) Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

(e) Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(Code 1988, § 25.5-52; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § I, 9-7-10)

Sec. 24-138. - Cost or price analysis.

(a) Under this chapter, a cost analysis, or a price analysis, as appropriate, shall be conducted for contracts established through the application of sole source procurement. A written record of such cost analysis or price analysis shall be made a part of the contract file.

(b) For all federally funded purchases, a cost or price analysis must be conducted as required by applicable federal regulations for all related contracts including contract cost modifications. The cost or price analysis shall be public record.

(Code 1988, § 25.5-53; Ord. No. 2589, § II, 9-7-10)

Sec. 24-139. - Cancellation/rejection of invitation for bid or request for proposal; No Responsive Offers Received

(a) Under this chapter, an invitation for bid, a request for proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request of unsuccessful bidders or offerors.

(b) If no responsive offers are received, then the purchasing manager may purchase the required goods or services, with no change in the published specifications, in the open market at the best obtainable price. If the specifications are changed, or if so required by the purchasing manager, a purchase in the open market shall not be permitted and the competitive solicitation must be reissued.

(Code 1988, § 25.5-38; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-140. - Preferences.

(a) Preference factor. A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted.

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent deduction from the local business quote or bid, or five percent of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to resident businesses which has a valid resident business certificate issued by the New Mexico Taxation and Revenue department based upon a five percent of total evaluation points being added to the score of a proposal from a resident business and a preference factor shall applicable to resident veteran business which has a valid resident veteran business certificate issued by New Mexico Taxation and Revenue department based upon a ten percent of the total evaluation points being added to the score of a proposal from a resident veteran business.

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) New Mexico materials. Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed, or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to § 13-4-2, NMSA, 1978, as amended.

(c) Limitations. No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

(Code 1988, § 25.5-40; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. B), 8-6-12)

Sec. 24-141. Change Orders

(a) Changes in time. Extensions of time on construction contracts or professional/technical service contracts, may be granted by the Project Manager, subject to appropriate approvals, on a case-by-case basis for the following reasons:

(1) One additional day for each delay in which the contractor could not perform contractual work and subsequent days as may be required to repair work damage by weather, as defined in General Conditions for Construction Contracts, 2004, during the term of the contract;
(2) City-requested changes to project specifications that incur time as a result;
(3) Other circumstances in which the City believes such an extension of time is in the best interest of the project and must be approved by the Department Director;
(4) Limitations on extensions of time addressed by this policy are as follows:
a. An increase of 30 contractual days to the original contract time, shall be approved by the Program Manager;
b. An increase of 31 to 60 contractual days to the original contract time shall be approved by the appropriate Department Director;

c. An increase of more than 60 contractual days to the original contract time, shall be approved by the City Manager.

(b) Changes in cost.

(1) Any changes in contract cost which includes base contract amount, contingency, and NMGRT, require the following approvals:

Change	**Approver**
Less than 5%	Program Manager
More than 5% less than 10%	Department Director
More than 10% less than 15%	Assistant City Manager
More than 15%	City Manager
Contract approved by City Council	City Council
Exceeds approved budget amount	City Council

(2) Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.

(3) Proposed construction work that deviates from the contract drawings and/or specifications shall be initiated with a field notice followed by a duly authorized change order when there is a change in cost and approved by the appropriate Approver.

(Code 1988, § 25.5-40; Ord. No. 2852, § 5-21-18)

Sec. 24-142. Suspension of Project

Due to reasons beyond the contractor's control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director, the purchasing manager, or the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Sec. 24-143. - Maximum practicable competition.

Under this chapter, all specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including, but not limited to those prepared for the city by architects, engineers, designers, and drafters.

(Code 1988, § 25.5-81)

Sec. 24-144. - Qualified products list.

The city may adopt qualified product lists that shall allow for maximum competition as is practical and that will satisfy the requirements of the city.

(Code 1988, § 25.5-82)

Sec. 24-145. - Brand name specification or equal specification.

(a) Use. Under this chapter, brand name or equal specifications may be used when the purchasing manager determines in writing that:

(1) No other design or performance specification or qualified products list is available;

(2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

(3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

(4) Use of a brand name or equal specification is in the city's best interest.

Samples of "or equal" materials should be submitted with the bid; however, they may be submitted after the bid opening if adequate time is allowed to evaluate the samples before the bid is awarded.

(b) Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references, and shall further state that substantially equivalent products to those designated will be considered for award.

(c) Required characteristics. Unless the purchasing manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(d) Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(e) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing manager makes a written determination that only the identified brand name item will satisfy the city's needs.

(f) Competition. The purchasing manager shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under sole source procurement.

(Code 1988, § 25.5-83; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-146. - Authority for cooperative procurement.

The purchasing manager may either participate in, sponsor, or administer a cooperative procurement agreement for the procurement of any city services, construction, or items of tangible personal property with any other state agency, local public body, or external procurement unit.

(Code 1988, § 25.5-131)

Secs. 24-147—24-160. - Reserved.

DIVISION 2. - PROCUREMENT OF CONSTRUCTION, ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES

Sec. 24-161. - Contracting for construction, architect-engineer, and land surveying selection procedure.

(a) Architect-engineer, and land surveying services shall be procured in accordance with this division.

(b) Construction projects may be awarded based on cost, qualifications, or both.

(c) Determination of award for architects, engineers, landscape architects and surveyors shall be based on qualifications. Cost will not be a criteria factor in the evaluation process, and it shall be negotiated during the award phase of the contract.

(d) Where the primary contract may be awarded through the procurement code without review by the selection advisory committee, nothing in this division shall require that the selection advisory committee separately review subcontractors who are an integral part of the primary contract.

(Code 1988, § 25.5-33, § 2-136; Ord. No. 1701, § I, 9-14-98; Ord. No. 1703, §§ I, II, X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2748, §§ I, II, 2-3-15)

Sec. 24-162. - Management of construction contracting.

The head of the city department responsible for a construction project shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the department head shall consider the city's requirements, its resources, and the potential contractor's capabilities.

(Code 1988, § 25.5-91; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-163. - Competitive sealed bidding.

Conditions for use. Where no factors other than cost will be considered, competitive sealed bidding shall be used.

(a) Invitation for bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.

(b) Public notice. For bids estimated to be $100,000.00 or more, adequate public notice of the invitation for bid shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the opening of the bid. The public notice shall state the place, date, and time of bid opening, and where bid documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(c) Bid opening. A bid shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. A late bid will not be accepted. Lateness will be determined by the purchasing manager's time clock, and the purchasing manager's determination of promptness or lateness will be final. The amount of each bid and such other relevant information as the purchasing manager deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection. A copy of the information may be obtained by sending a self-addressed stamped envelope with reference to the bid number and title to the purchasing department. This information will not be given over the telephone.

(d) Bid acceptance and bid evaluation. A bid shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bid. Original cover sheet and all documents must be provided fully executed, if not so provided bid will be rejected.

(e) Correction or withdrawal of bids; cancellation of awards. Correction or withdrawal of an inadvertently erroneous bid before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

(1) The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or

(2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing manager.

(f) Award. Unless otherwise determined impractical by the purchasing manager, bids resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsive/responsible local bidders, then award should go to qualified non-local manufacturers or businesses. Contracts shall be awarded to the most responsible and responsive bidder who provides the best value as set forth in the requirements and criteria specified in the invitation for bid.

(g) Multistep sealed bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(h) Federal funding. Any competitive, sealed bid procurement utilizing federal assistance requires at least two bids, firmed fixed-price contracts, and selection based principally on price.

(Code 1988, § 25.5-31; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, §§ II, III, 8-17-09; Ord. No. 2746, §§ I, II, 2-3-15; Ord. No. 2852, § 5-21-18)

Sec. 24-164. - Request for proposals.

(a) Conditions for use. When the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the request for proposal method set forth herein.

(b) Request for proposal. A proposal shall be solicited through a request for proposal.

(c) Public notice. For proposals estimated to be $100,000.00 or more, adequate public notice of the request for proposals shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the closing of the request for proposals. The public notice shall state the due date and time for proposal submission, and where proposal documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(d) Receipt of proposal. No proposal shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors prior to the deadline for receipt of the proposal by the purchasing manager. A register of proposals shall be prepared containing the name of each offeror. The register of proposals shall be open for public inspection not later than three days after the deadline for receipt of proposals. During the evaluation of proposals, and until approval of the recommendation of award by the city council, the contents of proposals may not be disclosed to the public. If a request for proposals is canceled and a similar RFP will be issued within six months, the contents of proposals received in response to the first request for proposals may not be disclosed until after approval by the city council of the recommendation of award for the second RFP or cancellation of the RFP.

(e) Evaluation factors. The request for proposal shall state the relative importance of price and other evaluation factors.

(f) Discussion with responsible offeror and revision to proposal. As provided in the request for proposal, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to ensure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors. Any modification received during the revision and negotiation stages will become a part of the permanent record.

(g) Award. Awards shall be made to the highest-ranking responsible offeror taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation except that, unless otherwise determined impractical by the purchasing manager, award(s) resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsible local manufacturers or local businesses, award shall be made to a responsible qualified non-local manufacturers or business. The contract file shall contain the basis on which the award is made.

(h) The procurement of lease financing shall be conducted utilizing request for proposal.

(i) Award recommendation shall be made to the city council by the purchasing manager.

(Code 1988, § 25.5-32; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, § IV, 8-17-09)

Sec. 24-165. - Selection advisory committee.

(a) There is a selection advisory committee comprised of three department heads: One designated by the committee chair, one from the end user department and one serving on a rotating basis from the total pool of directors. For each request for proposal, there are at least five subject matter experts designated by the director of the department that developed the RFP. There shall be no more than seven subject matter experts total. All external subject matter experts are non-voting technical advisors and are not included in the total number of subject matter experts. A pool of internal subject matter experts shall be maintained by department and can be used for the appropriate procurement.

(b) A member of the selection advisory committee shall serve until a successor is appointed. An alternate may be suggested by any member and submitted to the selection advisory committee chair for approval. Upon approval, the alternate will attend in that member's place.

(c) The assistant city managers shall serve as a nonvoting member and chair for the selection advisory committee.

(d) The city's purchasing manager or designee shall serve as staff coordinator for the selection advisory committee.

(Code 1988, § 2-137; Ord. No. 1701, § I, 9-14-98; Ord. No. 1703, §§ III, X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 1947, § 1, 3-3-03; Ord. No. 2643, § I, 1-17-12)

Sec. 24-166. - Notice of projects; recommendations.

(a) When the fee for professional or technical services is estimated to be $100,000 or more, the city shall cause to be published, at least two weeks before initial screening of professional firms or persons by the selection advisory committee, a legal advertisement containing a brief description of the work to be performed by the professional firms or persons and inviting interested firms to submit their qualifications for consideration by the selection advisory committee.

(b) If the estimated cost of the services is less than $100,000.00, review by the selection advisory committee is not required. The purchasing manager may select a qualified firm or firms to provide these services.

(c) When the fee for the professional/technical services is $100,000.00 or more, the selection advisory committee shall submit the name of the most qualified professional firm or firms or person to the city council, for purposes of review and approval by the council. Nothing in this subsection shall prohibit the submission of more than one firm.

Sec. 24-167. - Files of qualifications of firms and persons.

The purchasing manager may maintain a file of qualifications of all firms or persons qualified to perform professional and technical services for city projects. These files shall be updated at the request of the selections advisory committee to provide current qualification information. Interviews and presentation of qualifications shall be conducted at the direction of the selection advisory committee. Mailed inquiries may be solicited to provide specific information as may be considered necessary by the selection advisory committee.

(Code 1988, § 2-139; Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-168. - Approval of contracts.

(a) All city projects that require the contracting for construction in an amount of $75,000.00 or more shall be performed under separate contract, and each contract shall require final approval by the city council.

(b) Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the Mayor or city manager or their designees.

(c) This section shall apply only to the primary professional firm. Any subcontractor shall be evaluated as a part of the primary contract.

(Code 1988, § 2-140, Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-169. - Bid security.

(a) Bid security. For the purpose of this article, bid security is subject to the following:

(1) Required. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the purchasing manager to exceed $50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the state or the equivalent in cash or otherwise supplied in a form satisfactory to the city. Nothing in this subsection shall prevent the requirement of such bonds on construction contracts under $50,000.00 when the circumstances warrant.

(2) Amount. Bid security shall be in an amount equal to at least five percent of the amount of the bid.

(3) Rejection of bids for noncompliance. When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a non-substantial manner with the security requirements.

(4) Withdrawal of bids. If a bidder is permitted to withdraw its bid before award, no action shall be taken against the bidder or the bid security.

(5) Authority to require additional bonds. Nothing in this section shall be construed to limit the authority of the city to require a bid bond or other security in addition to those bonds, or in circumstances other than specified in subsection (a)(1) of this section.

Sec. 24-170 Contract performance and payment bonds.

(1) Required amounts. When a construction contract is awarded in excess of $50,000.00, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

a. A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract; and

b. A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100 percent of the price specified in the contract.

(2) Reduction of bond amounts. After notice to the city council, the purchasing manager is authorized to reduce the amount of performance and payment bonds to 50 percent of the contract price for each bond when a written determination is made that it is in the best interests of the city to do so.

(3) Authority to require additional bonds. Nothing in this subsection shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (b)(1) of this section.

(4) Right to file suit on payment bonds. Unless otherwise authorized by law, any person who has furnished labor or material to the contractor or subcontractors for the work provided in the

contract, for which a payment bond is furnished under this subsection, and who has not been paid in full within 90 days from the date on which that person performed the last of the labor or supplied the material shall have the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor but having no express or implied contract with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

(5) Location for filing suit on payment bonds. Unless otherwise authorized by law, every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the county or district in which the construction contract was to be performed.

(6) Copies of bond forms. Any person may request and obtain from the city a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

(Code 1988, § 25.5-92; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-171. - Contractor records.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions requiring the contractor and subcontractors at any tier to:

(1) Maintain for three years from the date of final payment under the contract all books, documents, papers, and records pertinent to the contract; and

(2) Provide to the city, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

(Code 1988, § 25.5-161)

Sec. 24-172. - Patents.

If a city contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions:

(1) Giving notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of and rights to any discovery or invention arising out of the contract; and

(2) Requiring a contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(Code 1988, § 25.5-162)

Sec. 24-173. - Copyrights and rights in data.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include a provision giving the contractor notice of the applicable regulations concerning the rights of the United States to any plans, drawings, specifications, computer programs, technical reports, operating manuals, and similar work products developed and paid for under the contract.

(Code 1988, § 25.5-163)

Sec. 24-174. - Notice of federal public policy requirements.

If the city contract is being funded in whole or in part by assistance from a federal agency, and the contract is subject to one or more federal public policy requirements, such as: (i) equal employment opportunity; (ii) fair labor standards; (iii) energy conservation; (iv) environmental protection; or (v) other similar socioeconomic programs, the purchasing manager shall include contract provisions giving the contractor notice of these requirements and, where appropriate, including in those contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

(Code 1988, § 25.5-164; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-175. - Buy American/Buy America requirements.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall adhere to the appropriate Buy American/Buy America requirements of the federal agency providing the assistance.

(Code 1988, § 25.5-165)

Sec. 24-176. - Energy conservation.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city's solicitation shall seek to promote energy conservation and shall comply with any mandatory standards and policies which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

(Code 1988, § 25.5-166)

Sec. 24-177. - Small, women-owned and minority business enterprises.

(a) Expand participation. If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager shall take affirmative steps to ensure that small, women-owned, and minority businesses are utilized when possible as sources of supplies, services, and construction items.

(b) Examples of affirmative steps. Affirmative steps to be taken shall include the following:

   (1) Including qualified small, women-owned, and minority businesses on solicitation lists;

   (2) Ensuring that small, women-owned, and minority businesses are solicited whenever they are potential sources;

   (3) When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, women-owned, and minority business participation;

   (4) Where the requirement permits, establishing delivery schedules which will encourage participation by small, women-owned, and minority business; and

(5) Using the services and assistance of the small business administration or the office of minority business enterprise of the department of commerce, as required.

(c) Pass-through to subcontracts. A contractor awarded a federally funded contract shall take the affirmative steps, as linked in subsection (b) of this section, in awarding its subcontracts.

(Code 1988, § 25.5-167; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-178. - Labor surplus area businesses.

If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager is encouraged to procure supplies, services, and construction items from businesses located in labor surplus areas.

(Code 1988, § 25.5-168; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-179. - Architectural and engineering services

(a) If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall use qualifications-based competitive proposal procedures when contracting for architectural and engineering services as defined in 40 U.S.C. §541 et seq. and 49 U.S.C. §5325(d). Services subject to this requirement include but are not necessarily limited to program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

(b) Qualifications-based competitive proposal procedures require that:

(1) An offeror's qualifications be evaluated;

(2) Price be excluded as an evaluation factor;

(3) Negotiations be conducted with only the most qualified offeror; and

(4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the city.

(c) These qualifications-based competitive proposal procedures will be used for the procurement of the services listed above. This method of procurement will not be used to obtain other types of services even though a firm that provides architectural and engineering services is also a potential source to perform other types of services.

(d) The city will use article III, source selection and contract information, division 1, professional and technical services procurement to procure architectural and engineering services in accordance with the city's procurement code as amended.

(Ord. No. 2132, § I, 9-7-04)

Sec. 24-180. - Cost or pricing data.

(a) Required submissions relating to award of contracts. A prospective contractor shall submit cost or pricing data when the city contract is federally funded or is to be awarded on a noncompetitive basis.

(b) Exceptions. Except for federally funded purchases, the submission of cost or pricing data relating to the award of a contract is not required when:

(1) The contract price is based on established catalogue prices or market prices;

(2) The contract price is set by law or regulation; or

(3) It is determined in writing by the purchasing manager that the requirements of subsection (a) of this section may be waived, and the determination states the reasons for such waiver.

(c) Required submissions relating to change orders or contract modifications. For federally funded purchases and as otherwise required by the purchasing manager, the contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract.

(d) Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

(e) Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(Code 1988, § 25.5-52; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § I, 9-7-10)

Sec. 24-181. - Cost or price analysis.

(a) Under this chapter, a cost analysis, or a price analysis, as appropriate, shall be conducted for contracts established through the application of section 24-95 (Sole source procurement). A written record of such cost analysis or price analysis shall be made a part of the contract file.

(b) For all federally funded purchases, a cost or price analysis must be conducted as required by applicable federal regulations for all related contracts including contract cost modifications. The cost or price analysis shall be public record.

(Code 1988, § 25.5-53; Ord. No. 2589, § II, 9-7-10)

Sec. 24-182. - Bid and performance bonds on supply or service contracts.

Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing manager or head of a using agency deems advisable to protect the city's interest. Any such bonding or security requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(Code 1988, § 25.5-54; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-183. - Cancellation/rejection of invitation for bid or request for proposal; No Responsive Offers Received

(a) Under this chapter, an invitation for bid, a request for proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request of unsuccessful bidders or offerors.

(b) If no responsive offers are received, then the purchasing manager may purchase the required goods or services, with no change in the published specifications, in the open market at the best obtainable price. If the specifications are changed, or if so required by the purchasing manager, a purchase in the open market shall not be permitted and the competitive solicitation must be reissued.

(Code 1988, § 25.5-38; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-184. - Preferences.

(a) Preference factor. A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted.

    (1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent deduction from the local business quote or bid, or five percent of total evaluation points being added to the score of a proposal from a local business.

    (2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to resident businesses which has a valid resident business certificate issued by the New Mexico Taxation and Revenue department based upon a five percent of total evaluation points being added to the score of a proposal from a resident business and a preference factor shall applicable to resident veteran business which has a valid resident veteran business certificate issued by New Mexico Taxation and Revenue department based upon a ten percent of the total evaluation points being added to the score of a proposal from a resident veteran business.

    (3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) New Mexico materials. Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed, or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to § 13-4-2, NMSA, 1978, as amended.

(c) Limitations. No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

(Code 1988, § 25.5-40; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. B), 8-6-12)

Sec. 24-185 Change orders

(a) Changes in time. Extensions of time on construction contracts or professional/technical service contracts, may be granted by the Project Manager, subject to appropriate approvals, on a case-by-case basis for the following reasons:

(1) One additional day for each delay in which the contractor could not perform contractual work and subsequent days as may be required to repair work damage by weather, as defined in General Conditions for Construction Contracts, 2004, during the term of the contract;

(2) City-requested changes to project specifications that incur time as a result;

(3) Other circumstances in which the City believes such an extension of time is in the best interest of the project and must be approved by the Department Director;

(4) Limitations on extensions of time addressed by this policy are as follows:

a. An increase of 30 contractual days to the original contract time, shall be approved by the Program Manager;

b. An increase of 31 to 60 contractual days to the original contract time shall be approved by the appropriate Department Director;

c. An increase of more than 60 contractual days to the original contract time, shall be approved by the City Manager.

(b) Changes in cost

(1) Any changes in contract cost which includes base contract amount, contingency, and NMGRT, require the following approvals:

Change	**Approver**
Less than 5%	Program Manager
More than 5% less than 10%	Department Director
More than 10% less than 15%	Assistant City Manager
More than 15%	City Manager
Contract approved by City Council	City Council
Exceeds approved budget amount	City Council

(2) Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.

(3) Proposed construction work that deviates from the contract drawings and/or specifications shall be initiated with a field notice followed by a duly authorized change order when there is a change in cost and approved by the appropriate Approver and based on current thresholds.

(Code 1988, § 25.5-40; Ord. No. 2852, § 5-21-18)

Sec. 24-186. Suspension of Project

Due to reasons beyond the contractor's control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director, the purchasing manager, or the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Sec. 24-187. - Maximum practicable competition.

Under this chapter, all specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including, but not limited to those prepared for the city by architects, engineers, designers, and drafters.

(Code 1988, § 25.5-81)

Sec. 24-188. - Qualified products list.

The city may adopt qualified product lists that shall allow for maximum competition as is practical and that will satisfy the requirements of the city.

(Code 1988, § 25.5-82)

Sec. 24-189. - Brand name specification or equal specification.

(a) Use. Under this chapter, brand name or equal specifications may be used when the purchasing manager determines in writing that:

 (1) No other design or performance specification or qualified products list is available;

 (2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

 (3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

 (4) Use of a brand name or equal specification is in the city's best interest.

(b) Samples of "or equal" materials should be submitted with the bid; however, they may be submitted after the bid opening if adequate time is allowed to evaluate the samples before the bid is awarded.

(c) Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references, and shall further state that substantially equivalent products to those designated will be considered for award.

(d) Required characteristics. Unless the purchasing manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(e) Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(Code 1988, § 25.5-83; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-190. - Brand name specification.

(a) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing manager makes a written determination that only the identified brand name item will satisfy the city's needs.

(b) Competition. The purchasing manager shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under sole source procurement.

(Code 1988, § 25.5-84; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-191. - Authority for cooperative procurement.

The purchasing manager may either participate in, sponsor, or administer a cooperative procurement agreement for the procurement of any city services, construction, or items of tangible personal property with any other state agency, local public body, or external procurement unit in accordance with an agreement.

(Code 1988, § 25.5-131)

Secs. 24-192 – 24-195. Reserved.

DIVISION 3. - PROCUREMENT OF TANGIBLE GOODS

Sec. 24-196. - Contracting for tangible goods selection procedure.

(a) Tangible goods shall be procured in accordance with this division.

Sec. 24-197. - Competitive sealed bidding.

Conditions for use. Where no factors other than cost will be considered, competitive sealed bidding shall be used.

(a) Invitation for bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.

(b) Public notice. For bids estimated to be $100,000.00 or more, adequate public notice of the invitation for bid shall be given at a reasonable time not less than seven calendar days prior to the date set forth for the opening of the bid. The public notice shall state the place, date, and time of bid opening, and where bid documents may be inspected or obtained. Public notice shall be published in a local newspaper of general circulation. All other public notice may include publication in regional newspapers of general circulation or posting through an electronic medium which is accessible to the general public.

(c) Bid opening. A bid shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. A late bid will not be accepted. Lateness will be determined by the purchasing manager's time clock, and the purchasing manager's determination of promptness or lateness will be final. The amount of each bid and such other relevant information as the purchasing manager deems appropriate, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection. A copy of the information may be obtained by sending a self-addressed stamped envelope with reference to the bid number and title to the purchasing department. This information will not be given over the telephone.

(d) Bid acceptance and bid evaluation. A bid shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bid. Original cover sheet and all documents must be provided fully executed, if not so provided bid will be rejected.

(e) Correction or withdrawal of bids; cancellation of awards. Correction or withdrawal of an inadvertently erroneous bid before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

(1) The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or

(2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing manager.

(f) Award. Unless otherwise determined impractical by the purchasing manager, bids resulting in contract(s) totaling less than $100,000.00 in the aggregate shall be awarded only to qualified local manufacturers or local businesses. If there are not any responsive/responsible local bidders, then award should go to qualified non-local manufacturers or businesses. Contracts shall be awarded to the most responsible and responsive bidder who provides the best value as set forth in the requirements and criteria specified in the invitation for bid.

(g) Multistep sealed bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(h) Federal funding. Any competitive, sealed bid procurement utilizing federal assistance requires at least two bids, firmed fixed-price contracts, and selection based principally on price.

(Code 1988, § 25.5-31; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2532, §§ II, III, 8-17-09; Ord. No. 2746, §§ I, II, 2-3-15; Ord. No. 2852, § 5-21-18)

Sec. 24-198. - Notice of projects; recommendations.

(a) When the cost of tangible goods is estimated to be $100,000 or more, the city shall cause to be published, at least two weeks before initial screening of professional firms or persons by the selection advisory committee, a legal advertisement containing a brief description of the work to be performed by the professional firms or persons and inviting interested firms to submit their qualifications for consideration by the selection advisory committee.

Sec. 24-199. - Approval of contracts.

(a) Contracts, except state and federal agency and other non-procurement contracts, will be signed by the purchasing manager or his designee. State, federal agency and other non-procurement contracts will be signed by the Mayor or city manager or their designees.

(Code 1988, § 2-140, Ord. No. 1703, § X, 10-19-98; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2746, §§ I, II, 2-3-15)

Sec. 24-200. - Contractor records.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions requiring the contractor and subcontractors at any tier to:

(1) Maintain for three years from the date of final payment under the contract all books, documents, papers, and records pertinent to the contract; and

(2) Provide to the city, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purposes of examining, auditing, and copying them.

(Code 1988, § 25.5-161)

Sec. 24-201. - Patents.

If a city contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, the contract shall include provisions:

(1) Giving notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of and rights to any discovery or invention arising out of the contract; and

(2) Requiring a contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(Code 1988, § 25.5-162)

Sec. 24-202. - Copyrights and rights in data.

If a city contract is being funded in whole or in part by assistance from a federal agency, the contract shall include a provision giving the contractor notice of the applicable regulations concerning the rights of the United States to any plans, drawings, specifications, computer programs, technical reports, operating manuals, and similar work products developed and paid for under the contract.

(Code 1988, § 25.5-163)

Sec. 24-203. - Notice of federal public policy requirements.

If the city contract is being funded in whole or in part by assistance from a federal agency, and the contract is subject to one or more federal public policy requirements, such as: (i) equal employment opportunity; (ii) fair labor standards; (iii) energy conservation; (iv) environmental protection; or (v) other similar socioeconomic programs, the purchasing manager shall include contract provisions giving the contractor notice of these requirements and, where appropriate, including in those contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

(Code 1988, § 25.5-164; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-204. - Buy American/Buy America requirements.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city shall adhere to the appropriate Buy American/Buy America requirements of the federal agency providing the assistance.

(Code 1988, § 25.5-165)

Sec. 24-205. - Energy conservation.

If a city contract is being funded in whole or in part by assistance from a federal agency, the city's solicitation shall seek to promote energy conservation and shall comply with any mandatory standards and policies which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PL 94-163).

(Code 1988, § 25.5-166)

Sec. 24-206. - Small, women-owned and minority business enterprises.

(a) Expand participation. If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager shall take affirmative steps to ensure that small, women-owned, and minority businesses are utilized when possible as sources of supplies, services, and construction items.

(b) Examples of affirmative steps. Affirmative steps to be taken shall include the following:

(1) Including qualified small, women-owned, and minority businesses on solicitation lists;

(2) Ensuring that small, women-owned, and minority businesses are solicited whenever they are potential sources;

(3) When economically feasible, dividing total requirements into smaller tasks or quantities to permit maximum small, women-owned, and minority business participation;

(4) Where the requirement permits, establishing delivery schedules which will encourage participation by small, women-owned, and minority business; and

(5) Using the services and assistance of the small business administration or the office of minority business enterprise of the department of commerce, as required.

(c) Pass-through to subcontracts. A contractor awarded a federally funded contract shall take the affirmative steps, as linked in subsection (b) of this section, in awarding its subcontracts.

(Code 1988, § 25.5-167; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-207. - Labor surplus area businesses.

If a city contract is being funded in whole or in part by assistance from a federal agency, the purchasing manager is encouraged to procure supplies, services, and construction items from businesses located in labor surplus areas.

(Code 1988, § 25.5-168; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-208. - Cost or pricing data.

(a) Required submissions relating to award of contracts. A prospective contractor shall submit cost or pricing data when the city contract is federally funded or is to be awarded on a noncompetitive basis.

(b) Exceptions. Except for federally funded purchases, the submission of cost or pricing data relating to the award of a contract is not required when:

(1) The contract price is based on established catalogue prices or market prices;

(2) The contract price is set by law or regulation; or

(3) It is determined in writing by the purchasing manager that the requirements of subsection (a) of this section may be waived, and the determination states the reasons for such waiver.

(c) Required submissions relating to change orders or contract modifications. For federally funded purchases and as otherwise required by the purchasing manager, the contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract.

(d) Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

(e) Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(Code 1988, § 25.5-52; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2589, § I, 9-7-10)

Sec. 24-209. - Cost or price analysis.

(a) Under this chapter, a cost analysis, or a price analysis, as appropriate, shall be conducted for contracts established through the application of section 24-95 (Sole source procurement). A written record of such cost analysis or price analysis shall be made a part of the contract file.

(b) For all federally funded purchases, a cost or price analysis must be conducted as required by applicable federal regulations for all related contracts including contract cost modifications. The cost or price analysis shall be public record.

(Code 1988, § 25.5-53; Ord. No. 2589, § II, 9-7-10)

Sec. 24-210. - Bid and performance bonds on supply or service contracts.

Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing manager or head of a using agency deems advisable to protect the city's interest. Any such bonding or security requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(Code 1988, § 25.5-54; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-211. - Cancellation/rejection of invitation for bid or request for proposal; No Responsive Offers Received

(a) Under this chapter, an invitation for bid, a request for proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request of unsuccessful bidders or offerors.

(b) If no responsive offers are received, then the purchasing manager may purchase the required goods or services, with no change in the published specifications, in the open market at the best obtainable price. If the specifications are changed, or if so required by the purchasing manager, a purchase in the open market shall not be permitted and the competitive solicitation must be reissued.

(Code 1988, § 25.5-38; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-212. - Preferences.

(a) Preference factor. A preference factor may be applicable to quotes, bids or proposals received in response to procurement solicitations conducted.

(1) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to local businesses based upon a five percent deduction from the local business quote or bid, or five percent of total evaluation points being added to the score of a proposal from a local business.

(2) Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference factor shall be applicable to resident businesses which has a valid resident business certificate issued by the New Mexico Taxation and Revenue department based upon a five percent of total evaluation points being added to the score of a proposal from a resident business and a preference factor shall applicable to resident veteran business which has a valid resident veteran business certificate issued by New Mexico Taxation and Revenue department based upon a ten percent of the total evaluation points being added to the score of a proposal from a resident veteran business.

(3) A preference factor for Section 3 firms as defined in the Housing and Urban Development Act of 1968, 12 U.S.C. 17801u (Section 3), as amended, shall be applicable pursuant to that Act whenever a contract resulting from a competitive procurement solicitation is funded through a grant from the U.S. Housing and Urban Development Department.

(b) New Mexico materials. Except for competitive procurement solicitations that are subject to 53 FR 8033 (Common Rule) as promulgated through the U.S. Office of Management and Budget, a preference for the use of materials produced, grown, processed, or manufactured in New Mexico by citizens or residents of New Mexico shall apply pursuant to § 13-4-2, NMSA, 1978, as amended.

(c) Limitations. No bidder/offeror entitled to preference pursuant to this section shall receive more than a ten percent preference on any one bid/proposal submitted. Only the principal bidder/offeror or one of the principal bidders/offerors, not a subcontractor, may qualify for a preference.

(Code 1988, § 25.5-40; Ord. No. 1923, § 1, 6-17-02; Ord. No. 2658, § I (exh. B), 8-6-12)

Sec. 24-213 Change orders

(a) Changes in cost

(1) Any changes in base contract amount require the following approvals:

Change	Approver
Less than 5%	Program Manager
More than 5% less than 10%	Department Director
More than 10% less than 15%	Assistant City Manager
More than 15%	City Manager
Contract approved by City Council	City Council
Exceeds approved budget amount	City Council

(2) Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.

(Code 1988, § 25.5-40; Ord. No. 2852, § 5-21-18)

Sec. 24-214. Suspension of Project

Due to reasons beyond the contractor’s control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director, the purchasing manager, or the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Sec. 24-215. - Maximum practicable competition.

Under this chapter, all specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including, but not limited to those prepared for the city by architects, engineers, designers, and drafters.

(Code 1988, § 25.5-81)

Sec. 24-216. - Qualified products list.

The city may adopt qualified product lists that shall allow for maximum competition as is practical and that will satisfy the requirements of the city.

(Code 1988, § 25.5-82)

Sec. 24-217. - Brand name specification or equal specification.

(a) Use. Under this chapter, brand name or equal specifications may be used when the purchasing manager determines in writing that:

(1) No other design or performance specification or qualified products list is available;

(2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;

(3) The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

(4) Use of a brand name or equal specification is in the city's best interest.

(b) Samples of "or equal" materials should be submitted with the bid; however, they may be submitted after the bid opening if adequate time is allowed to evaluate the samples before the bid is awarded.

(c) Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references, and shall further state that substantially equivalent products to those designated will be considered for award.

(d) Required characteristics. Unless the purchasing manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(e) Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(Code 1988, § 25.5-83; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-218. - Brand name specification.

(a) Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing manager makes a written determination that only the identified brand name item will satisfy the city's needs.

(b) Competition. The purchasing manager shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under sole source procurement.

(Code 1988, § 25.5-84; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-219. - Authority for cooperative procurement.

The purchasing manager may either participate in, sponsor, or administer a cooperative procurement agreement for the procurement of any city services, construction, or items of tangible personal property with any other state agency, local public body, or external procurement unit in accordance with an agreement.

(Code 1988, § 25.5-131)

Sec. 24-220. Reserved.

ARTICLE VI. – DEBARMENT OR SUSPENSION

Sec. 24-221. – Authority to suspend.

(a) The purchasing manager, after consulting with the city attorney and the contract administrator, as defined by the using department, is authorized to suspend a person for cause from consideration for the award of future city contracts for a specified period of time. The suspension may apply to a person in his/her individual as well as corporate capacity. The suspension shall be for a period of not more than three months.

(b) The causes for suspension shall include one or more of the following:

(1) Violation of any city or noncity contract provision, as follows, of a character which is regarded by the purchasing manager to be so serious as to justify suspension:

a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, including failure to pay subcontractors. Failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension.

(2) Any other cause the purchasing manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter.

(3) Violation of the ethical standards set forth in Article II of this chapter.

(Code 1988, § 25.5-101; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-222. – Authority to debar.

(a) The purchasing manager, after consulting with the city attorney and the contract administrator, as defined by the using department, is authorized to debar a person for cause from consideration for the award of future city contracts for a specified period of time. The debarment may apply to a person in his/her individual as well as corporate capacity. The debarment shall be for a period of not more than three years.

(b) The causes for debarment shall include one or more of the following:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a city contractor.

(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

(4) Violation of any city or noncity contract provision, as follows, of a character which is regarded by the purchasing manager to be so serious as to justify debarment action:

a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, including failure to pay subcontractors. Failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

(5) Any other cause the purchasing manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter.

(6) Violation of the ethical standards set forth in Article II of this chapter.

(7) Any violation of the drug-free workplace regulations.

(Code 1988, § 25.5-101; Ord. No. 1923, § 1, 6-17-02

Sec. 24-223. – Notice of decision.

(a) Mailing notice. Any written decision by the purchasing manager to debar a person under this article shall be sent by certified mail, return receipt requested, to the person affected by the decision, or by hand delivery and delivery receipt requested.

(b) Contents of notice. The written notice of the purchasing manager's decision shall set forth in detail all reasons for the debarment and shall inform the person of their rights concerning administrative appeal.

(Code 1988, § 25.5-102; Ord. No. 1923, § 1, 6-17-02)

Secs. 24-224 - Determination of responsibility in construction and consultant contracts.

(a) In all contracts related to capital projects, the purchasing manager may evaluate the past performance of an entity doing business with the city and determine if the contractor is not a responsible offeror. In the evaluation of the performance of the contractor, the following factors shall be considered:

(1) Timeliness of performance;

(2) Quality of performance;

(3) Compliance with all applicable City ordinances;

(4) Compliance with the labor laws regarding payment of wage rates;

(5) Compliance with all applicable municipal, state, and federal laws;

(6) Poor performance causing delays in performance by other contractors;

(7) Failure to comply with safety laws, rules and regulations;

(8) Failure to accept responsibility for managing claims arising out of the performance of their contracts;

(9) Or any other factor which, singly or in combination with the above, results in a determination by the department director that the proposed contracting entity is not a responsible offeror.

(b) Any such determination of non-responsibility made by the purchasing manager shall be sent to the contractor by certified mail, return receipt requested. A determination of non-responsibility shall continue until such time as the purchasing manager, based on contract performance occurring after the determination, then determines that offeror has improved its performance sufficient to be deemed responsible. Any determination of non-responsibility may be protested.

Secs. 24-225-24-230. - Reserved.

ARTICLE VII. - APPEALS AND REMEDIES

Sec. 24-231. - Bid protests.

(a) Right to protest. Any offeror who is aggrieved in connection with the procurement process of this chapter, including but not limited to the solicitation or award of a contract, may file a written protest with the purchasing manager. Such protest must be filed within five working days after the aggrieved bidder or offeror knows or should have known of the facts giving rise to the protest unless, otherwise specified in this chapter. If the protest concerns the awarding of a bid, the protest must be filed within five working days of receipt of the purchasing's manager's determination. The protestor shall set forth in detail all reasons for the protest. The protest shall:

(1) Include the name and address of the protestor;

(2) Identify the contracting activity and the number of the solicitation, if any, and if a contract has been awarded the contract number, if any;

(3) Contain a statement of the grounds for protest;

(4) Include supporting exhibits, evidence affidavits or documents to substantiate any claim unless not available within the filing time, in which case the expected availability date shall be indicated; and

(5) Specify the ruling requested from the purchasing manager.

(b) Bid protest appeal bond or security. The options for an appeal bond or security are an appellate bond through a bonding company authorized to do business in New Mexico; letter of credit or its equivalent from a federally insured financial institution; or cashier's check or its equivalent payable to the City of Las Cruces. Amount of appeal bond or security shall be determined as follows:

(1) One Thousand and No/100 Dollars ($1,000.00) for a bid protest to a contract expected to be awarded in an amount under One Hundred Thousand and No/100 Dollars ($100,000.00).

(2) Five Thousand and No/100 Dollars ($5,000.00) for a bid protest to a contract expected to be awarded in an amount between One Hundred Thousand and No/100 Dollars ($100,000.00) and Five Hundred Thousand and No/100 Dollars ($500,000.00).

(3) Ten Thousand and No/100 Dollars ($10,000.00) for a bid protest to a contract expected to be awarded in an amount in excess of Five Hundred Thousand and No/100 Dollars ($500,000.00).

(4) The purchasing manager will determine the amount of the appeal bond or security based on bids received, the engineer's estimate, and/or budgeted project funds, and that decision will be final.

(c) Duties of purchasing manager upon receipt of protest. Upon receipt of any protest filed in accordance with section (a) of this section, the purchasing manager shall review the facts giving rise to the protest and within 15 working days mail to the protestor and all other bidders, return receipt requested, a written determination concerning the validity of the protest. The determination shall set forth the rationale, the proposed action to be taken by the purchasing manager or the city and shall inform the protestor and other bidders of their right to appeal the purchasing manager's determination in accordance with the appeal procedures set forth in subsection (c) of this section. Failure to timely appeal the purchasing manager's determination shall bar further recourse by the protestor or any other bidder, and the purchasing manager's determination and proposed action shall be final.

(d) State of procurement during protest. If timely protest is made under subsection (a) of this section, the purchasing manager shall not proceed further with the solicitation or award of the contract until the appeal process has been concluded in accordance with this section or until the purchasing manager makes a determination based on the records that the award of the contract without delay is necessary to protect substantial interests of the city. If the purchasing manager determines an award without delay is necessary and the protestor later prevails in the appeal, the protestor shall be entitled only to reasonable costs, not to include attorney fees, associated with the preparation and submission of the bid.

(e) Appeal of purchasing manager's decision. Any protestor or other bidder aggrieved by the purchasing's manager's determination made pursuant to subsection (b) of this section may appeal such determination by filing, within five working days of receipt of such decision, a written notice of appeal with the city clerk, which shall set forth in detail all reasons for the appeal and whether or not the protestor will be represented by an attorney.

(f) Appeals board. All timely appeals of the purchasing manager's determination shall be heard by the appeals board within 15 working days after the filing of the notice of appeal with the city clerk. The appeals board shall consist of three members who are neither city employees nor city councilors and who shall be appointed by the city manager. The members may be paid or may serve voluntarily. The city clerk shall be responsible for notifying all protestors and other bidders of the time and place of the hearing.

(g) Hearing procedures. The hearing shall be informal but shall provide at a minimum for the swearing in and cross examination of witnesses by the city or any party having filed an appeal. The board may develop rules for the conduct of protest meetings. After concluding the hearing, the appeals board shall issue a written determination, within 15 working days of holding a hearing, of either upholding or reversing the purchasing manager's determination. The determination shall be final.

(h) Costs. The losing party to the appeal shall be responsible for the reasonable costs of the appeal as determined by the appeals board. The board's determination of costs shall be based on the costs and expenses incurred by the board, including but not limited to the board's salary, attorneys' fees, reproduction, and transcription costs.

(Code 1988, § 25.5-111; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-232. – Debarment appeal.

(a) Timely appeal. The person debarred may appeal the determination of the purchasing manager by filing, within five working days of the receipt of the determination, a written notice of appeal and filing an appeals bond with the city clerk in an amount to be set by resolution of the city council. Any notice of appeal not filed within the five-working-day period shall not be timely. The notice of appeal shall be filed with the city clerk and shall set forth in detail all reasons for the appeal. No debarred person shall contact orally or in writing any member of the appeals board outside of the adjudicatory process.

(b) Appeals board. All timely appeals of the purchasing manager’s determination shall be heard by the appeals board within 15 working days after filing the notice of appeal with the city clerk. The appeals board shall consist of three members who are neither city employees nor city councilors and who shall be appointed by the city manager. The members may receive travel expenses or per diem or may serve voluntarily.

(c) Notification of hearing. The city clerk shall be responsible for notifying the debarred person of the time and place of the hearing, which shall be opened to the public and conducted in compliance with the Open Meetings Act.

(d) Record of hearing. The city shall provide a clerk who shall record the hearing and prepare a nonverbatim account of the hearing. Copies of the recordings and nonverbatim account shall be provided to the debarred person for a reasonable reproduction cost.

(e) Conduct of hearing. The hearing shall be informal but shall provide at a minimum for the swearing in and cross examination of witnesses by the parties involved. The appeals board shall have the authority to call for the attendance of witnesses and the production of documents, to swear witnesses, to call witnesses itself, to examine witnesses including the debarred person, and to hear all evidence properly brought before it. The formal rules of evidence shall not apply to this proceeding. The appeals board may adopt additional rules for hearings not inconsistent with this chapter.

(f) Legal representation. The debarred person may be represented before the appeals board by a representative of his choice. The representative shall be identified, and their name made known to the board three days prior to the hearing. If the representative of the person who has appealed is an attorney, the purchasing manager may be represented by the city attorney.

(g) Written decision of board. After concluding the hearing, the appeals board shall issue a written decision either upholding or reversing the purchasing manager's determination within 15 working days of the completion of the hearing. The decision of the board shall be based upon the evidence received at the hearing and shall be final.

(h) Costs. The losing party to the appeal shall be responsible for the reasonable costs of the appeal as determined by the appeals board. The board's determination of costs shall be based on the costs and expenses incurred by the board, including but not limited to the board's salary, attorneys' fees, reproduction, and transcription costs.

(Code 1988, § 25.5-103; Ord. No. 1923, § 1, 6-17-02)

Sec. 24-233. - Remedies for solicitations or awards in violation of law.

(a) Prior to bid opening or closing date for receipt of proposals. If, prior to the bid opening or the closing date for receipt of proposals, the purchasing manager, after consultation with the city attorney, determines that a solicitation made under this chapter is in violation of federal, state, or municipal law, the solicitation shall be canceled or revised to comply with applicable law.

(b) Prior to award. If, after bid opening or the closing date for receipt of proposals, the purchasing manager, after consultation with the city attorney, determines that a solicitation or a proposed award of a contract made under this chapter is in violation of federal, state, or municipal law, the solicitation or proposed award shall be canceled.

(c) After award. If, after an award, the purchasing manager, after consultation with the city attorney, determines that a solicitation or award of a contract made under this chapter was in violation of applicable law, then:

   (1) If the person awarded the contract has not acted fraudulently or in bad faith, the contract may be:

      a. Ratified and affirmed, provided it is determined that doing so is in the best interests of the city; or

      b. Terminated, and the person awarded the contract shall be compensated for actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or

   (2) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the city.

(Code 1988, § 25.5-113; Ord. No. 1923, § 1, 6-17-02)

3110; Council Bill 26-018

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	March 16, 2026	**Adopted:**	April 20, 2026
Drafter:	Laura Holguin	**Department:**	Financial Services

Title:	**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2026 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $22,150,000 FOR THE PURPOSE OF (1) CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING, MAKING ADDITIONS TO OR MAKING IMPROVEMENTS TO PUBLIC FACILITIES; (2) CONSTRUCTING, RECONSTRUCTING, RESURFACING, MAINTAINING, REPAIRING OR OTHERWISE IMPROVING STREETS OR ROADWAYS AND CONSTRUCTING DRAINAGE IMPROVEMENTS; (3) ACQUIRING AND EQUIPPING PUBLIC SAFETY VEHICLES; (4) FUNDING THE RESERVE FUND FOR THE SERIES 2026 BONDS; AND (5) PAYING THE EXPENSES RELATED TO THE ISSUANCE OF THE SERIES 2026 BONDS; PROVIDING THAT THE SERIES 2026 BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE REVENUES DERIVED FROM (1) A FIRST LIEN, BUT NOT AN EXCLUSIVE FIRST LIEN, ON THE 0.3250% MUNICIPAL GROSS RECEIPTS TAX IMPOSED PURSUANT TO ORDINANCE NO. 3072 AND (2) A SUBORDINATE LIEN, BUT NOT AN EXCLUSIVE SUBORDINATE LIEN, ON THE 0.50% MUNICIPAL GROSS RECEIPTS TAX REVENUES IMPOSED PURSUANT TO ORDINANCE NOS. 385 AND 427; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE AND BOND PURCHASE AGREEMENT FOR THE SALE OF THE SERIES 2026 BONDS TO THE PURCHASER.**

TYPE OF ACTION: ☐ **Administrative** ☒ **Legislative** ☐ **Quasi-Judicial**

PURPOSE(S) OF ACTION:

Authorize issuance of debt

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

A proposed resolution at the City Council meeting on April 6, 2026, requesting approval to authorize City staff to submit an application for financial assistance of a GRT Improvement Revenue Bonds Series 2026 from New Mexico Finance Authority (NMFA) for the purpose of financing capital improvements and maintenance for public safety, streets, parks, and other public facilities and critical infrastructure.

Approval of the Ordinance authorizes the execution and delivery of the GRT Improvement Revenue Bonds Series 2026 agreement between the City and NMFA in an aggregate principal amount not to exceed $22,150,000 for the purpose of (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to public facilities; (2) constructing, reconstructing, resurfacing, maintaining, repairing or otherwise improving streets or roadways and constructing drainage improvements; (3) acquiring and equipping public safety vehicles. The revenue pledge to finance capital improvements and maintenance for public safety, streets, parks, and other public facilities and critical infrastructure is the 2024 municipal gross receipts tax in the amount of 0.325%.

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☒ Yes

☐ No

Does this action amend the Capital Improvement Plan (CIP)?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance and allow the City to accept the GRT Improvement Revenue Bonds Series 2026 from NMFA and proceed with capital projects.
2. Vote "No"; this will not approve the Ordinance and not allow the City to accept the GRT Improvement Revenue Bonds Series 2026 from NMFA and use the funding mechanism to proceed with capital projects.
3. Vote to "Amend"; this will delay the execution and delivery of the GRT Improvement Revenue Bonds Series 2026 from NMFA and the capital projects and require Council direction to staff.
4. Vote to "Table"; this will delay the financing opportunity and require Council direction to staff.

ORDINANCE 3110; COUNCIL BILL 26-018

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2026 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $22,150,000 FOR THE PURPOSE OF (1) CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING, MAKING ADDITIONS TO OR MAKING IMPROVEMENTS TO PUBLIC FACILITIES; (2) CONSTRUCTING, RECONSTRUCTING, RESURFACING, MAINTAINING, REPAIRING OR OTHERWISE IMPROVING STREETS OR ROADWAYS AND CONSTRUCTING DRAINAGE IMPROVEMENTS; (3) ACQUIRING AND EQUIPPING PUBLIC SAFETY VEHICLES; (4) FUNDING THE RESERVE FUND FOR THE SERIES 2026 BONDS; AND (5) PAYING THE EXPENSES RELATED TO THE ISSUANCE OF THE SERIES 2026 BONDS; PROVIDING THAT THE SERIES 2026 BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE REVENUES DERIVED FROM (1) A FIRST LIEN, BUT NOT AN EXCLUSIVE FIRST LIEN, ON THE 0.3250% MUNICIPAL GROSS RECEIPTS TAX IMPOSED PURSUANT TO ORDINANCE NO. 3072 AND (2) A SUBORDINATE LIEN, BUT NOT AN EXCLUSIVE SUBORDINATE LIEN, ON THE 0.50% MUNICIPAL GROSS RECEIPTS TAX REVENUES IMPOSED PURSUANT TO ORDINANCE NOS. 385 AND 427; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE AND BOND PURCHASE AGREEMENT FOR THE SALE OF THE SERIES 2026 BONDS TO THE PURCHASER.

The City Council is informed that:

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico and is operating as a home rule City pursuant to Article X, Section 6 of the Constitution of the State and the Charter of the City; and

WHEREAS, pursuant to Ordinance No. 3072, Council Bill 25-001 (the “0.3250% Tax Ordinance”), and the approval of voters on November 5, 2024, the City imposed a municipal gross receipts tax in the amount of 0.3250% of the gross receipts tax reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act for the privilege of engaging in business in the City and distributed monthly from the Revenue Division of the New Mexico Taxation and Revenue Department to the City with certain specified exemptions and deductions (the “Pledged 0.3250% MGRT Revenues”); and

WHEREAS, pursuant to Sections 7-19D-1 et seq. NMSA 1978, the City previously enacted (i) Ordinance No. 385 adopted on July 6, 1981 with an effective date of January 1, 1982 (the “MGRT Ordinance No. 385”) which imposes an increment of municipal gross receipts tax at a rate of 0.25% of the gross receipts reported or required to be reported by persons engaging in business within the City, with certain specified exemptions and deductions, and (ii) Ordinance No. 427 adopted on June 7, 1982 with an effective date of January 1, 1983 (the “MGRT Ordinance No. 427” and together with MGRT Ordinance No. 385, the “0.50% Tax Ordinances” and, together with the 0.3250% Tax Ordinance, the “Tax Ordinances”) which imposes an increment of municipal gross receipts tax at a rate of 0.25% of the gross receipts reported or required to be reported by persons engaging in business within the City, with certain specified exemptions and deductions (collectively, the “Pledged 0.50% MGRT Revenues” and, together with the Pledged 0.3250% MGRT Revenues, the “Pledged Revenues”); and

WHEREAS, Section 7-19D-9(G), NMSA 1978, provides as follows: Any law which imposes or authorizes the imposition of a municipal gross receipts tax or which affects the municipal gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds which may be secured by a pledge of such municipal gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor; and

WHEREAS, the Pledged Revenues are collected by the Revenue Division of the New Mexico Taxation and Revenue Department (the "Department"), and are remitted to the City pursuant to Section 7-1-6.12 NMSA 1978, as amended, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, less any deduction for administrative costs determined and made by the Department and any additional administrative fee withheld pursuant to Section 7-1-6.41 NMSA 1978; and

WHEREAS, Section 3-31-6(C) NMSA 1978, provides as follows:

C. Any law which authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978, or which affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor; and

WHEREAS, the Pledged 0.3250% MGRT Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, the City Council pursuant to Ordinance No. 3089 adopted on January 6, 2025, as supplemented by the Pricing Certificate executed on February 6, 2025 (collectively the "2025 Senior 0.50% MGRT Ordinance") has previously issued its Taxable Municipal Gross Receipts Tax (One-Half Percent) Gross Receipts Tax Bonds, Series 2025 (the "2025 Senior MGRT 0.50% Bonds") payable from and constituting a first lien, but not an exclusive first lien, on the Pledged 0.50% MGRT Revenues; and

WHEREAS, the Council hereby determines that the issuance of the "City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026" (the "Bonds", the "Series 2026 Bonds" or the "2026 Bonds" as further defined herein) for the purpose of (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to public facilities; (2) constructing, reconstructing, resurfacing, maintaining, repairing or otherwise improving streets or roadways and constructing drainage improvements; (3) acquiring and equipping public safety vehicles; (4) funding the Reserve Fund for the Series 2026 Bonds; and (5) paying the Expenses related to the issuance of the Series 2026 Bonds (collectively, the "Project") is in the best interest of the City and its citizens; and

WHEREAS, the City Council has determined and hereby determines that it is in the best interests of the City and its residents that the Series 2026 Bonds be issued with a first lien, but not an exclusive first lien, on the Pledged 0.3250% MGRT Revenues and a subordinate lien, but not an exclusive subordinate lien, on the Pledged 0.50% MGRT Revenues; and

WHEREAS, the City Council has determined that it may lawfully pledge the Pledged Revenues for the repayment of the Series 2026 Bonds; and

WHEREAS, the Series 2026 Bonds shall be a special, limited obligation of the City, payable solely from the Pledged Revenues and shall not constitute a general obligation of the City, or a debt or pledge of the faith and credit of the City or the State; and

WHEREAS, other than the Pledged Revenues, no tax revenues or other revenues collected by the City will be pledged to the Series 2026 Bonds; and

WHEREAS, the proposed forms of this Bond Ordinance and Intercept Agreement have been on deposit with the City Clerk and presented to the City Council; and

WHEREAS, the City Council expects to sell the Series 2026 Bonds in a private placement to the New Mexico Finance Authority (the "Purchaser"), as determined pursuant to the Pricing Certificate supplementing this Bond Ordinance, and to delegate authority to the City Manager or City Financial Services Director (the "Delegate") to execute and deliver the Pricing Certificate to the Purchaser, as authorized by Section 6-14-10.2

NMSA 1978, provided that the final terms of the Series 2026 Bonds set forth in the Pricing Certificate be within the parameters set forth in this Ordinance; and

WHEREAS, the specific principal amounts, interest rates, maturity dates, prices and other final terms and other features of the Series 2026 Bonds, including, without limitation, provisions concerning the 2026 Reserve Fund, a Bond Insurance Policy and a Reserve Fund Insurance Policy (if any) will be established in the Pricing Certificate; and

WHEREAS, the City Council has determined that it is in the best interests of the City to authorize the issuance of the Series 2026 Bonds pursuant to this Bond Ordinance.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT

Section 1. Definitions. As used in this Bond Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Acquisition Fund" or "2026 Acquisition Fund" means the City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, Improvement Project Acquisition Fund" established by Section 16 of the Bond Ordinance.

"Act" means the general laws of the State, including Sections 3-31-1 to 3-31-12 , 6-14-1 through 6-14-12 NMSA 1978, as amended and supplemented, the home rule powers of the City under the Charter and Article X, Section 6 of the Constitution of the State, and enactments of the City Council relating to the Pledged Revenues and the issuance of the Series 2026 Bonds, including this Bond Ordinance.

"Bond Insurance Policy" means the financial guaranty insurance policy, if any, issued by the Insurer insuring the payment when due of the principal of and interest on the Series 2026 Bonds as provided therein.

"Bond Ordinance" means this City Ordinance No. 3110 adopted on April 20, 2026, as supplemented by the Pricing Certificate.

"Bond Purchase Agreement" means the agreement between the City and the Purchaser providing for the sale of the Series 2026 Bonds by the City and the purchase of the Series 2026 Bonds by the Purchaser pursuant to the terms set forth therein and in the Pricing Certificate.

"Bondholder," "holder," "owner" or "Owner" means the registered owner of any Bond as shown on the registration books of the City for the Series 2026 Bonds, from time to time, maintained by the Registrar. Any reference to a majority or a particular percentage or proportion of the Bondholders shall mean the Holders at the particular time of a majority or of the specified percentage or proportion in aggregate principal amount of all Bonds then outstanding.

"Bonds" or "Series 2026 Bonds" or "2026 Bonds" means the City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026 authorized by this Bond Ordinance, as supplemented by the Pricing Certificate.

"Business Day" means a day on which commercial banks in the city in which the principal office of the Paying Agent and Registrar is located are open for conduct of substantially all of their business operations.

"Charter" means the home rule charter of the City submitted to Las Cruces City Commission on January 7, 1985, and approved by the voters of the City on March 5, 1985, as amended and supplemented.

"City" means the City of Las Cruces, in the County of Doña Ana and State of New Mexico.

"City Council" means the City Council of the City or any future successor governing body of the City.

"Code" means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of the Code, and all applicable regulations whether proposed, temporary or final, including regulations issued and proposed pursuant to the statutory predecessor of the Code, and, in addition, all official rulings and judicial determinations applicable to the Series 2026 Bonds, and under the statutory predecessor of the Code and any successor provisions to those sections or regulations.

"Continuing Disclosure Undertaking" means the continuing disclosure agreement, if any, with respect to the Series 2026 Bonds to be executed on the day of issuance and delivery of the Series 2026 Bonds to the Purchaser, if required by the Purchaser.

"Debt Service Fund" or "2026 Debt Service Fund" means the "City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, Debt Service Fund" established in Section 16 of this Bond Ordinance.

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

"Event of Default" means any of the events stated in Section 25 of this Bond Ordinance.

"Expenses" means the reasonable and necessary fees, costs and expenses incurred by the City with respect to the issuance of the Series 2026 Bonds, including, to the extent applicable, the fees, compensation, costs and expenses paid or to be paid to the Paying Agent and Registrar, the Insurer and legal fees, financial advisor fees, expenses and applicable gross receipts taxes, costs of printing and distributing the Preliminary Official Statement and the Official Statement, if any, rating fees and accounting fees and expenses.

"Fiscal Year" means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the City as its fiscal year.

"Fitch" means Fitch Ratings, Inc., its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"Herein," "hereby," "hereunder," "hereof," "hereinabove" and "hereafter" refer to the entire Bond Ordinance and not solely to the particular section or paragraph of this Bond Ordinance in which such word is used.

"Independent Accountant" means (A) an accountant employed by the State of New Mexico and under supervision of the State Auditor of the State of New Mexico, or (B) any certified public accountant, registered accountant, or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the City who (i) is, in fact, independent and not under the domination of the City, (ii) does not have any substantial interest, direct or indirect, with the City, and (iii) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City.

"Insured Bank" means a bank or savings and loan association insured by an agency of the United States.

"Intercept Agreement" means the Intercept Agreement, if any, dated the Closing Date between the City and the New Mexico Finance Authority providing for the direct payment, if required, by the New Mexico Department of Taxation and Revenue to the New Mexico Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest and any other amounts due on the Series 2026 Bonds, and any amendments or supplements to the Intercept Agreement.

"Interest Payment Date" means each June 1 and December 1, commencing December 1, 2026, or such other dates specified in the Pricing Certificate.

"Minimum Reserve" means an amount equal to the least of (i) ten percent of the principal amount of the outstanding Series 2026 Bonds, (ii) the maximum annual debt service on the outstanding Series 2026 Bonds, or (iii) 125% of the average annual debt service on the outstanding Series 2026 Bonds. The Minimum Reserve shall be recalculated every year on or about June 1

"Moody's" means Moody's Investor Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"NMSA 1978" means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

"Notice of Sale" means, if the Series 2026 Bonds are sold in a competitive sale, the official notice of sale of the Series 2026 Bonds.

"Official Statement" means the final disclosure document relating to the issuance and sale of the Series 2026 Bonds, if any.

"Outstanding" or "outstanding" when used in reference to bonds means, on any particular date, the aggregate of all Bonds delivered under this Bond Ordinance except:

those cancelled at or prior to such date or delivered or acquired by the City at or prior to such date for cancellation; those otherwise deemed to be paid in accordance with Section 28 or Section 31 of this Bond Ordinance; those in lieu of or in exchange or substitution for which other Bonds shall have been delivered, unless proof satisfactory to the City and the Paying Agent is presented that any Bond for which a new Bond was issued or exchanged is held by a bona fide holder or in due course.

"Parity Bonds" or "Parity Obligations" means any bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a lien, but not an exclusive lien, upon the Pledged Revenues on a parity with the lien thereon of the Series 2026 Bonds such lien being a first lien, but not an exclusive first lien, on the Pledged 0.3250% MGRT Revenues and a subordinate lien, but not an exclusive subordinate lien, on the Pledged 0.50% MGRT Revenues.

"Parity Subordinate 0.50% MGRT Bonds" means the Series 2026 Bonds and any bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a subordinate lien, but not an exclusive subordinate lien, on the Pledged 0.50% MGRT Revenues, subordinate to the lien thereon of the Senior 0.50% MGRT Bonds.

"Paying Agent" means the City Treasurer, as agent for the City for the payment of the Series 2026 Bonds or any other entity at the time appointed Paying Agent by resolution of the City Council.

"Permitted Investments" means an investment or security permitted by laws of the State and by policies of the City for investment of public money.

"Pledged 0.3250% MGRT Revenue Fund" means the 0.3250% Gross Receipts Tax Revenue Income Fund, created in Section 16 of this Bond Ordinance.

“Pledged 0.50% MGRT Revenue Fund” means the Gross Receipts Tax Revenue Fund established in Section 16 of Ordinance 3089 and continued in Section 16 of this Ordinance.

“Pledged 0.3250% MGRT Revenues” means the revenues derived from the municipal gross receipts tax imposed on all persons engaging in business in the City pursuant to Section 7-19D-9 NMSA 1978 and the Tax Ordinance and distributed to the City pursuant to Sections 7-1-6.1 and 7-1-6.12 NMSA 1978 in the total amount of 0.3250% of the gross receipts of a person engaging in business in the City, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, and after any disbursements for tax credits, refunds, payments of interest and administrative costs and fees pursuant to Section 7-1-6.41 NMSA 1978, which net revenues are pledged to the payment of the Series 2026 Bonds. The City is not pledging and the term “Pledged 0.3250% MGRT Revenues” does not include any gross receipts tax income received pursuant to any other statutes or ordinances, or any amounts derived from sources other than as described in this Ordinance; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance.

“Pledged 0.50% MGRT Revenues” means the revenues derived from two one-quarter percent increments of municipal gross receipts taxes imposed pursuant to the 0.50% Tax Ordinances, (a) which taxes equal a combined 0.50% of the gross receipts reported or required to be reported by persons engaging in business in the City subject to the exemptions specified in Section 7-19D-5 NMSA 1978 and as required by Section 7-19D-4 NMSA 1978, (b) which amounts are dedicated to general fund purposes and (c) which amounts are collected pursuant to Section 7-19D-7 NMSA 1978 and remitted to the City monthly by the Revenue Division of the Taxation and Revenue Department of the State of New Mexico pursuant to Sections 7-1-6.1 and 7-1-6.12 NMSA 1978, as amended, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, as amended, less any deduction for administrative costs withheld pursuant to Section 7-1-6.41 NMSA 1978; The City is not pledging and the term “Pledged 0.50% MGRT Revenues” does not include any gross receipts tax income received pursuant to any other statutes or ordinances, or any amounts derived from sources other than as described in this Ordinance; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance.

“Pledged Revenue Funds” means, collectively, the Pledged 0.3250% MGRT Revenue Fund and the Pledged 0.50% MGRT Revenue Fund created and continued in Section 16 of this Bond Ordinance.

“Pledged Revenues” means, collectively, the Pledged 0.3250% MGRT Revenues and the Pledged 0.50% MGRT Revenues.

“Preliminary Official Statement” means the initial disclosure document relating to the issuance and sale of the Series 2026 Bonds, if any.

“Pricing Certificate” means one or more certificates executed by the City Manager or City Finance Director, dated on or before the date of delivery of the Series 2026 Bonds, setting forth the following final terms of the Series 2026 Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; (ix) the amount of the 2026 Minimum Reserve, if any, and whether such 2026 Reserve Fund shall be funded with proceeds of the Series 2026 Bonds or through the deposit of a Reserve Fund Insurance Policy; and (x) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Series 2026 Bonds, all subject to the parameters and conditions contained in this Ordinance.

“Purchaser” means the New Mexico Finance Authority or such other purchaser as set forth in the Pricing Certificate.

“Rating Category” means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

“Registrar” means the City Treasurer, as agent for the City for transfer and exchange of the Series 2026 Bonds or any other entity at the time appointed by resolution of the City Council.

“Reserve Fund Insurance Policy” means any insurance policy, surety bond or letter of credit deposited in or credited to the 2026 Reserve Fund in lieu of or in partial substitution for cash or allowable investments on deposit in the 2026 Reserve Fund.

“S&P” means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“Senior 0.50% MGRT Bonds” or “Senior 0.50% MGRT Obligations” means the 2025 Senior 0.50% MGRT authorized by Ordinance No. 3089 adopted on January 6, 2025, as supplemented by the Pricing Certificate executed on February 6, 2025, authorized in the original aggregate principal amount of $18,255,000, and any other obligations hereafter issued constituting a first lien, but not an exclusive first lien, on the Pledged 0.50% MGRT Revenues.

“2025 Senior 0.50% MGRT Bond Ordinance” means Ordinance No. 3089 adopted on January 6, 2025, as supplemented by the Pricing Certificate executed on February 6, 2025, authorizing the issuance and delivery of the 2025 Senior MGRT 0.50% Bonds.

“2025 Senior 0.50% MGRT Bonds” means the City of Las Cruces, New Mexico Taxable Municipal Gross Receipts Tax (One-Half Percent) Revenue Bonds, Series 2025 issued in the original aggregate principal amount of $18,255,000 payable from and constituting a first lien, but not an exclusive first lien, on the Pledged 0.50% MGRT Revenues.

“State” means the State of New Mexico.

“Subordinate Bonds” or “Subordinate Obligations” means bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a lien upon the Pledged Revenues subordinate and junior to the lien thereon of the Parity Bonds.

“Subordinate 0.3250% MGRT Obligations” means bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a lien upon the Pledged Revenue subordinate and junior to the lien thereon of the Parity Bonds.

“0.3250% MGRT Tax Ordinance” means Ordinance No. 3072, Council Bill 25-001 adopted on July 15, 2024, and as approved by voters on November 5, 2024, imposing a municipal gross receipts tax at the rate of 0.3250%.

“0.50% MGRT Tax Ordinances” means, collectively, (i) City Ordinance No. 385 adopted by the City Council on July 6, 1981 with an effective date of January 1, 1982, and (ii) City Ordinance No. 427 adopted by the City Council on June 7, 1982 with an effective date of January 1, 1983, pursuant to Sections 7-19D-1 et. seq. NMSA 1978, as amended.

“Tax Ordinances” means, collectively, the 0.3250% MGRT Tax Ordinance and the 0.50% MGRT Tax Ordinances.

“2026 Improvement Project” or “Project” means (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to public facilities; (2) constructing, reconstructing, resurfacing, maintaining, repairing or otherwise improving streets or roadways and constructing drainage improvements; (3) acquiring and equipping public safety vehicles; (4) funding the Reserve Fund for the Series 2026 Bonds; and (5) paying the Expenses related to the issuance of the Series 2026 Bonds.

"2026 Reserve Fund" or "Reserve Fund" means the "City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, Reserve Fund" established by Section 16 of this Bond Ordinance.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Bond Ordinance) by the City Council and the officers of the City, directed toward the Improvement Project, the issuance of the Series 2026 Bonds for the Improvement Project and the sale of the Series 2026 Bonds to the Purchaser be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the 2026 Improvement Project. The 2026 Improvement Project and the method of financing the 2026 Improvement Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Bond proceeds allocated to the 2026 Improvement Project as set forth in the Pricing Certificate and any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds.

Section 4. Findings; Declaration. The City Council hereby declares that it has considered all relevant information and data and hereby makes the following findings:

The 2026 Improvement Project is needed to meet the needs of the City and its inhabitants.

Moneys available for the 2026 Improvement Project from all sources other than the issuance of Bonds are not sufficient to defray the cost of the 2026 Improvement Project.

The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Series 2026 Bonds. It is economically feasible to defray, in part, the cost of the 2026 Improvement Project by the issuance of the Series 2026 Bonds. The issuance of the Series 2026 Bonds pursuant to the Act, to provide funds to finance the costs of the 2026 Improvement Project is necessary and in the interest of the public health, safety and welfare of the residents of the City. The City is current in the accumulation of all amounts which are required to have been accumulated in the debt service funds and the reserve funds, if any, for the outstanding Senior 0.50% MGRT Bonds.

Section 5. Bonds – Authorization, Parameters and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the City Council. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the City, it is hereby declared necessary that the City, pursuant to the Act, issue one series of its negotiable, fully registered, revenue bonds to be designated the "City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026" in an aggregate principal amount not to exceed $22,150,000, and the issuance, sale and delivery of the Series 2026 Bonds is hereby authorized.

B. Parameters Authorized; Details of Bonds. There is hereby authorized and created a series of bonds designated as the City of Las Cruces, New Mexico, Gross Receipts Tax Improvement Revenue Bonds, Series 2026. The Series 2026 Bonds shall be issued subject to the following parameters:

(i) The Series 2026 Bonds shall be issued in an aggregate principal amount not to exceed $22,150,000 for the 2026 Improvement Project.

(ii) The net effective interest rate on the Series 2026 Bonds shall not exceed 12% per annum.

(iii) The final maturity of the Series 2026 Bonds shall not be later than June 1, 2041.

(iv) The Series 2026 Bonds shall be sold with an underwriting or purchaser's discount not to exceed 1.00%.

(iv) The Series 2026 Bonds shall be payable solely from, and shall constitute a first lien, but not an exclusive first lien, upon the Pledged 0.3250% MGRT Revenues and a subordinate lien, but not an exclusive subordinate lien, upon the Pledged 0.50% MGRT Revenues.

(v) The Series 2026 Bonds shall be sold to the Purchaser pursuant to private placement with the Purchaser.

(vi) The maximum sale price of the Series 2026 Bonds shall be not more than $22,150,000, exclusive of premium payable in connection with the issuance of the Series 2026 Bonds.

(vii) The Series 2026 Bonds shall be in substantially the form set forth in this Ordinance.

C. The Delegate will set the date to determine the terms and provisions of the Series 2026 Bonds for the purchase of the Series 2026 Bonds by the Finance Authority as provided in this Section ("Pricing Date") upon no less than five (5) business days' prior notice (or such other prior notice as accepted by the Finance Authority) of such Pricing Date to the Finance Authority. The Delegate is hereby authorized pursuant to this Bond Ordinance to approve the final terms of the Series 2026 Bonds as permitted by Section 6-14-10.2 NMSA 1978, and to execute and deliver the Pricing Certificate and a Bond Purchase Agreement. The form of the Intercept Agreement submitted with the adoption of this Ordinance are hereby approved with such changes as are approved by the Delegate consistent with the parameters outlined in this Ordinance.

D. The Series 2026 Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in such numbers and denominations as may be requested by the Purchaser, but exchangeable for other fully registered Bonds of any denominations which are multiples of $5,000. The Series 2026 Bonds shall be numbered separately and consecutively, shall be dated the date of their delivery to the Purchaser, shall mature on June 1 of each year and shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on June 1 and December 1 in each year commencing on December 1, 2026 (or such other dates as specified in the Pricing Certificate) until their respective maturities. The Series 2026 Bonds shall bear the rates of interest, maturities and provisions for redemption prior to maturity as shall be established in the Pricing Certificate.

Section 6. Redemption of Bonds.

A. Notice of Redemption. In the event that the Series 2026 Bonds are subject to redemption prior to their scheduled maturities, as may be established in the Pricing Certificate, notice of redemption shall be given by the Registrar by sending a copy of such notice in the manner required by the Depository or by first-class, postage prepaid mail at least thirty (30) days prior to the redemption date to the registered owner of each Bond, or portion thereof, to be redeemed at the address shown as of the close of business of the Registrar on the fifth day prior to the mailing of notice on the registration books kept by the Registrar. The City shall give notice of optional redemption of the Series 2026 Bonds to the Registrar at least forty-five (45) days prior to the redemption date (unless such deadline is waived by the Registrar). The Registrar's failure to give such notice to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bonds for which proper notice was given. Notices of redemption shall specify the maturity dates and the number or numbers of the Series 2026 Bonds to be redeemed (if less than all are to be redeemed) and if less than the full amount of any Bond is to be redeemed, the amount of such Bond to be redeemed, the date fixed for redemption, and that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount to be redeemed plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated and if an amount of money sufficient to redeem all Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the Series 2026 Bonds to be redeemed shall be deemed not outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of the Series 2026 Bonds to be redeemed at the office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption with funds deposited with the Paying Agent by the City.

B. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 31) sufficient to pay the optional redemption price of the Series 2026 Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to paragraph A of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Series 2026 Bonds to be redeemed shall be selected in the manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received and the information required by paragraph A of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Series 2026 Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

Section 7. Filing of Manual Signatures. Prior to the execution of any Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor or Mayor Pro Tem and City Clerk may each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Series 2026 Bonds.

Section 8. Execution and Authentication of Bonds.

A. Execution. The Series 2026 Bonds shall be signed with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature, or the manual signature, of the Mayor or Mayor Pro Tem and shall be attested with the facsimile or manual signature of the City Clerk. There shall be affixed to each Bond the printed, engraved, stamped or otherwise placed facsimile of, or imprint of, the City's corporate seal. The Series 2026 Bonds shall be authenticated by the manual signature of an authorized officer of the Registrar. The Series 2026 Bonds when authenticated and bearing the manual or facsimile signatures of the officers in office at the time of signing thereof shall be valid and binding special obligations of the City, notwithstanding that before delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. The Mayor or Mayor Pro Tem and City Clerk, at the time of the execution of the Series 2026 Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Series 2026 Bonds or certificates pertaining to the Series 2026 Bonds.

B. Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Series 2026 Bonds issued hereunder.

Section 9. Negotiability. The Series 2026 Bonds shall be fully negotiable and shall have all the qualities of negotiable paper and the Bondholders shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code. Except as set forth herein, the Series 2026 Bonds outstanding shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Series 2026 Bonds. Section 10. Payment and Presentation of Bonds for Payment. Principal and interest on the Series 2026 Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal shall be payable in immediately available funds at maturity or redemption thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent or at the designated office of any successor Paying Agent. Upon any partial prior redemption of any Bond, the registered owner, in its discretion, may request the Registrar to authenticate a new Bond or to make a notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. Interest on the Series 2026 Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the 15th day of the calendar month next preceding the Interest Payment Date (the “Record Date”). Any interest which is not timely paid or provided for shall cease to be payable to the owner thereof (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond owners not less than ten (10) days prior thereto. If any Bond presented for payment remains unpaid at maturity or redemption, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

Section 11. Registration, Transfer, Exchange and Ownership of Bonds.

A. Registration, Transfer and Exchange. The City shall cause books for registration, transfer, and exchange of the Series 2026 Bonds as provided herein to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any fully registered Bond at the principal office of the Registrar duly endorsed by the registered owner or his attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and duly executed, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or registered owner, as appropriate, a new Bond or Bonds in authorized denominations, in fully registered form of the same aggregate principal amount, maturity and interest rate.

B. Limitations. The Registrar shall not be required to transfer or exchange any Bond (i) during the period of fifteen (15) days next preceding the mailing of notice calling any Bonds for redemption as herein provided, or (ii) after the mailing to registered owners of notice calling such Bonds or portion thereof for redemption as herein provided. The Registrar shall close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

C. Owner of the Series 2026 Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

D. Lost Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If any such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may request the Paying Agent to pay such bond in lieu of replacement.

E. Additional Bonds. Executed but unauthenticated Bonds are hereby authorized to be delivered to the Registrar in such quantities as may be convenient to be held in custody by the Registrar pending delivery as herein provided.

F. Charges. For each new Bond issued in connection with a transfer or exchange, the Registrar may make a charge to the owner of the Bond requesting such exchange or transfer sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

G. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having shareholders' equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than $50,000,000. It shall not be required that the same institution serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

H. Book Entry. The Series 2026 Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Series 2026 Bonds. A single certificate for each maturity date of the Series 2026 Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Series 2026 Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants (“Participants”). As a condition to delivery of the Series 2026 Bonds in book-entry form, the Purchaser will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee as the registered owner of the Series 2026 Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal, premium, if any, and interest payments to the beneficial owners of the Series 2026 Bonds (the “Beneficial Owners”) will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the “Indirect Participants”). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

If (i) the Series 2026 Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Series 2026 Bonds or (iii) the City determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the City or the Beneficial Owners, the City will either identify another Depository or certificates for the Series 2026 Bonds will be delivered to the Beneficial Owners or their nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and registration of those Bonds in the Beneficial Owners' or nominees' names, will become the owners of the Series 2026 Bonds for all purposes. In that event, the City shall mail an appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of bond certificates to Beneficial Owners or their nominees, as applicable.

Officers of the City are authorized to sign agreements with the Depository relating to the matters set forth in this Section.

Notwithstanding any other provision of this Bond Ordinance, so long as all of the Series 2026 Bonds are registered in the name of the Depository or its nominee, all payments of principal, premium, if any, and interest on the Series 2026 Bonds, and all notices with respect to the Series 2026 Bonds, shall be made and given by the Paying Agent, Registrar or the City to the Depository as provided in the Bond Ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Series 2026 Bonds in the manner provided in an agreement or letter of the City to the Depository.

Section 12. Special Limited Obligations. All of the Series 2026 Bonds and all payments of principal, premium, if any, and interest thereon whether at maturity or on a redemption date, together with any interest accruing thereon, shall be special limited obligations of the City and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 17 of this Bond Ordinance. The owner or owners of the Series 2026 Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Series 2026 Bonds shall not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City, and each of the Series 2026 Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Bond Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Series 2026 Bonds. Nothing herein shall prevent the City from applying other funds of the City legally available therefor to the payment of the Series 2026 Bonds, in its sole discretion.

Section 13. <u>Form of Bonds</u>. The forms, terms and provisions of the Series 2026 Bonds shall be substantially in the form set forth below, with such changes therein as are not inconsistent with the Bond Ordinance.

(Form of Bond)

NEITHER THIS BOND NOR ANY INTEREST IN THIS BOND MAY BE, DIRECTLY OR INDIRECTLY, OFFERED, SOLD, HYPOTHECATED, ENCUMBERED OR OTHERWISE TRANSFERRED OR DISPOSED OF (INDIVIDUALLY AND COLLECTIVELY, A ‘‘TRANSFER”) EXCEPT IN COMPLIANCE WITH SECURITIES ACT OF 1933, AS AMENDED (THE “ACT’’), AND APPLICABLE STATE SECURITIES LAWS AS ESTABLISHED TO THE SATISFACTION OF THE CITY, AND ANY SUCH PURPORTED TRANSFER OF THIS BOND WILL NOT BE EFFECTIVE UNLESS THE TRANSFEROR PROVIDES TO THE CITY AND THE PURCHASER (A) AN OPINION, IN FORM AND SUBSTANCE SATISFACTORY TO THE CITY, FROM LEGAL COUNSEL EXPERIENCED IN SECURITIES LAWS MATTERS, WHICH COUNSEL MUST BE SATISFACTORY TO THE CITY, TO THE EFFECT THE TRANSFER COMPLIES WITH THE ACT AND APPLICABLE STATE SECURITIES LAWS AND (B) WRITTEN REPRESENTATIONS FROM THE TRANSFEREE, IN FORM AND SUBSTANCE SATISFACTORY TO THE CITY, NECESSARY TO ESTABLISH SUCH COMPLIANCE.UNITED STATES OF AMERICA

STATE OF NEW MEXICO COUNTY OF DOÑA ANA

CITY OF LAS CRUCES, NEW MEXICO
GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS,
SERIES 2026

Bond No. _______			$_________
INTEREST RATE	MATURITY DATE	DATE OF BOND	CUSIP
% per annum	June 1, _____	_________ , 2026	_____

REGISTERED OWNER: ________________________________
PRINCIPAL AMOUNT: _________________________________

The City of Las Cruces (the "City"), in the County of Doña Ana and State of New Mexico, a municipal corporation duly organized and existing under the Constitution and laws of the State of New Mexico, for value received, hereby promises to pay, solely from the special funds available for the purpose as hereinafter set forth, to the registered owner named above or registered assigns, on the Maturity Date specified above, upon presentation and surrender hereof at the principal office of the City Treasurer, Las Cruces, New Mexico, as paying agent, or any successor paying agent (the "Paying Agent"), the Principal Amount stated above, in lawful money of the Unites States of America, and to pay from such sources interest on the unpaid principal amount at the Interest Rate on [_____1, 2026] and on [June 1] and [December 1] of each year (each an "Interest Payment Date") thereafter to its maturity, or until redeemed if called for redemption prior to maturity. This bond will bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from its date. Interest on this bond is payable by check mailed to the registered owner hereof (or by such other arrangement as may be mutually agreed to by the Paying Agent and the registered owner) as shown on the registration books for this issue maintained by the City Treasurer, Las Cruces, New Mexico, as registrar, or any successor registrar (the "Registrar") at the address appearing therein at the close of business on the fifteenth day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the owner hereof as of the Record Date but shall be payable to the owner hereof at the close of business on a special record date to be fixed by the Paying Agent for the payment of interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to owners of Bonds (defined below) as then shown on the Registrar's registration books not less than ten (10) days prior to the special record date. If, upon presentation at maturity or redemption, payment of this bond is not made as herein provided, interest hereon shall continue at the Interest Rate until the principal hereof is paid in full. The principal, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent or the Registrar. This bond is one of a duly authorized series of fully registered bonds of the City in the aggregate principal amount of $___________ issued in denominations of $5,000 or integral multiples thereof, designated as the City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026 (the "Series 2026 Bonds") issued under and pursuant to City Ordinance No. 3110, as supplemented by a Pricing Certificate dated _________________ , 2026 (as supplemented, the "Bond Ordinance").

This bond is one of a duly authorized series of fully registered bonds of the City in the aggregate principal amount of $___________ issued in denominations of $5,000 or integral multiples thereof, designated as the City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026 (the "Series 2026 Bonds") issued under and pursuant to City Ordinance No. 3110, as supplemented by a Pricing Certificate dated _________________ , 2026 (as supplemented, the "Bond Ordinance").

The Series 2026 Bonds maturing on and after June 1, ____, are subject to prior redemption at the City's option in one or more units of principal of $5,000 on and after [June 1], ____ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the Series 2026 Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each $5,000 unit of principal so redeemed plus accrued interest to the redemption date.

Redemption shall be made upon prior notice mailed to each registered owner of each Series 2026 Bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in the Bond Ordinance.

Notice of redemption of this bond will be given by providing at least thirty (30) days prior written notice in the manner required by the depository for the Series 2026 Bonds or by first-class postage prepaid mail to the owner hereof at the address shown on the registration books as of the fifth day prior to the mailing of notice as provided in the Bond Ordinance. Notices of redemption will specify the number or numbers and maturity date of the Series 2026 Bonds to be redeemed (if less than all are to be redeemed), the date fixed for redemption, the amount of such Bond to be redeemed (if less than the full amount of any Bond is to be redeemed), and shall further state that on such redemption date there will become and be due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount thereof plus accrued interest to the redemption date and that from and after such date, the redemption amount having been deposited and notice having been given, interest will cease to accrue. Upon any partial prior redemption of this bond, the registered owner, in its discretion, may request the Registrar to authenticate a new bond or to make an appropriate notation on this bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this bond must be presented to the Paying Agent prior to payment.

Books for the registration and transfer of the Series 2026 Bonds shall be kept by the Registrar. Upon the surrender for transfer or exchange of a Bond at the principal office of the Registrar, duly endorsed or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or owner a new Bond or Bonds in fully registered form of the same aggregate principal amount, maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond of any tax or other similar governmental charge required to be paid with respect to such exchange or transfer. The Registrar shall not be required (i) to transfer or exchange any Bond during the period of fifteen (15) days next preceding the mailing of notice calling any Bonds for redemption, or (ii) to transfer or exchange any Bond or part thereof called for redemption. The Registrar will close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

The person in whose name any Bond is registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of interest in the Bond Ordinance; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar will, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City, and is payable and collectible solely out of the revenues derived from the revenues from the Pledged Revenues (as such term is defined in the Bond Ordinance) and the bondholders may not look to any other general or other municipal fund for the payment of the interest and principal of this bond. The lien of the Series 2026 Bonds on the Pledged 0.3250% MGRT Revenues is an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged 0.3250% MGRT Revenues, and the lien of the Series 2026 Bonds on the Pledged 0.50% MGRT Revenues is an irrevocable and subordinate lien, but not necessarily an exclusive subordinate lien, on the Pledged 0.50% MGRT Revenues, subordinate to the lien thereon of the Senior 0.50% MGRT Bonds.

Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged Revenues having a lien thereon either on parity with or subordinate to the lien on the Pledged 0.3250% MGRT Revenues of the Series 2026 Bonds Upon satisfaction of the conditions set forth in the Bond Ordinance, additional bonds may be issued and made payable from the Pledged 0.50% MGRT Revenues having a lien thereon either on senior to, on a parity with or subordinate to the lien on the Pledged 0.50% MGRT Revenues of the Series 2026 Bonds Amounts and securities held in the 2026 Debt Service Fund and 2026 Reserve Fund (if any), as such terms are defined in the Bond Ordinance, have been exclusively pledged for payment of the principal of, premium, if any, and interest on the Series 2026 Bonds.

The Series 2026 Bonds are issued to provide funds to defray in part the costs of (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to public facilities; (2) constructing, reconstructing, resurfacing, maintaining, repairing or otherwise improving streets or roadways and constructing drainage improvements; (3) acquiring and equipping public safety vehicles; (4) funding the Reserve Fund for the Series 2026 Bonds; and (5) paying the Expenses related to the issuance of the Series 2026 Bonds.

The City covenants and agrees with the owner of this Bond and with each and every person who may become the owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

This Bond is subject to the condition, and every owner hereof by accepting the same agrees with the obligor and every subsequent owner hereof, that the principal of and interest on this bond shall be paid, and this bond is transferable, free from and without regard to any equities, set-offs or crossclaims between the obligor and the original or any other owner hereof.

It is hereby certified that all acts and conditions necessary to be done or performed by the City or to have happened precedent to and in the issuance of the Series 2026 Bonds to make them legal, valid and binding special obligations of the City have been performed and have happened as required by law, and that the Series 2026 Bonds do not exceed or violate any constitutional or statutory limitation of or pertaining to the City.

This Bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the Certificate of Authentication.

IN WITNESS WHEREOF, the City of Las Cruces, New Mexico has caused this bond to be signed and executed on the City's behalf with the facsimile or manual signature of the Mayor or Mayor Pro Tem and the facsimile or manual signature of the City Clerk and has caused the corporate seal of the City or a facsimile thereof to be affixed hereon, all as of the Date of Bond.

CITY OF LAS CRUCES, NEW MEXICO

By____
Mayor

By____
City Clerk

(SEAL)

(Form of Registrar's Certificate of Authentication)
Certificate of Authentication

This is one of the Series 2026 Bonds described in the Bond Ordinance, and this bond has been registered on the registration books kept by the undersigned as Registrar for the Series 2026 Bonds.

Date of Authentication:

City Treasurer of the City of Las Cruces,
New Mexico, as Registrar

By_______________________________________
Authorized Officer

(End of Form of Registrar's Certificate of Authentication)
(Form of Assignment)

For value received, _______________________________ hereby sells, assigns and transfer unto _______________________________________ the within bond and hereby irrevocably constitutes and appoints ______________________________________ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

Social Security or Tax Identification No. of Assignee____________________________________
Dated: __________________________
Signature Guarantee:

____

NOTE: The assignor's signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

(End of Form of Assignment)
(End of Form of Bond)

Section 14. Period of 2026 Improvement Project's Usefulness. It is hereby determined and recited that the period of usefulness of the 2026 Improvement Project financed with the proceeds of the Series 2026 Bonds will not expire prior to the final maturity date of the Series 2026 Bonds.

Section 15. Use of Bond Proceeds and Other Funds; Completion of 2026 Improvement Project. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Series 2026 Bonds, shall be used and paid solely for the valid costs of the 2026 Improvement Project.

A. Expenses. An amount specified in the Pricing Certificate necessary, together with other legally available funds of the City, shall be deposited in the 2026 Acquisition Fund held by the trustee for the Purchaser and used to pay Expenses. To the extent the amounts specified for Expenses are not so used, they shall be deposited in the Debt Service Fund.

B. Acquisition Fund. Proceeds derived from the sale of the Series 2026 Bonds in an amount to be specified in the Pricing Certificate shall be deposited promptly upon the receipt thereof in the 2026 Acquisition Fund to be held by the trustee for the Purchaser. Until the completion of the 2026 Improvement Project, the money in the 2026 Acquisition Fund shall be used and paid out solely for the purpose of the 2026 Improvement Project in compliance with applicable law.

C. Reserve Fund. No deposit of proceeds of the Series 2026 Bonds, Pledged Revenues or other City moneys into the Reserve Fund shall be required on the date of issuance of the Series 2026 Bonds or at any time thereafter, except in the circumstances and on the conditions described in paragraph E of Section 17 of this Bond Ordinance.

D. 2026 Improvement Project Completion. As soon as practicable after completion of the 2026 Improvement Project, and in any event not more than 60 days after completion of the 2026 Improvement Project, any proceeds remaining unspent (other than any amount retained by the City for any 2026 Improvement Project costs not then due and payable) shall be transferred and deposited in the 2026 Debt

Service Fund and used by the City to pay principal and interest on the Series 2026 Bonds as same become due.

E. Purchaser Not Responsible. The Purchaser of the Series 2026 Bonds shall in no manner be responsible for the application or disposal by the City or by its officers of the funds derived from the sale thereof or of any other funds herein designated.

F. Bond Insurance Policy and/or Reserve Fund Insurance Policy. A Bond Insurance Policy and/or Reserve Fund Insurance Policy may be obtained in connection with the issuance of each of the Series 2026 Bonds, as may be provided in the Pricing Certificate. The covenants of the City and other provisions required by the issuer of the Bond Insurance Policy and/or Reserve Fund Insurance Policy or otherwise necessary or advisable in connection with the Bond Insurance Policy and/or Reserve Fund Insurance Policy shall be included in the Pricing Certificate.

Section 16. Funds and Accounts. The City hereby creates the following special and separate funds and accounts:

A. 2026 Acquisition Fund. The “City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, Improvement Project Acquisition Fund” to be maintained by the City or by the trustee for the Purchaser.

B. Pledged Revenue Funds.

(1) Pledged 0.3250% MGRT Revenue Fund. The “City of Las Cruces, New Mexico Pledged 0.3250% MGRT Revenue Fund” (the “Pledged 0.3250% MGRT Revenue Fund”) to be maintained by the City, into which the City shall deposit the Pledged 0.3250% MGRT Revenues.

(2) Pledged 0.50% MGRT Revenue Fund. The “City of Las Cruces, New Mexico Pledged 0.50% MGRT Revenue Fund” (the “Pledged 0.50% MGRT Revenue Fund”) created by the 2025 Senior 0.50% MGRT Ordinance and continued hereby for the deposit of the Pledged 0.50% MGRT Revenues.

C. 2026 Debt Service Fund. The “City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, Debt Service Fund” (the “2026 Debt Service Fund”) to be maintained by the City or by the trustee for the Purchaser.

D. 2026 Reserve Fund. The “City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, Reserve Fund” (the “2026 Reserve Fund”) to be maintained by the City or by the trustee for the Purchaser.

Section 17. Deposit of Pledged Revenues and Flow of Funds.

A. Pledged Revenue Funds. So long as any of the Series 2026 Bonds are outstanding, the Pledged Revenues shall be set aside and deposited monthly into the Pledged Revenue Funds, and thereafter transferred to the Debt Service Fund, as hereinafter provided. Amounts on deposit in the Pledged 0.50% MGRT Revenue Fund shall be paid as set forth below after and subordinate to the payments required by outstanding Senior 0.50% MGRT Revenue Obligations.

B. Debt Service Fund. The following amounts shall be withdrawn first from the Pledged 0.3250% MGRT Revenue Fund, and then if the moneys in the Pledged 0.3250% MGRT Revenue Fund are not sufficient to make the required payment (on a parity with the other outstanding Parity Bonds), then from the moneys in the Pledged 0.50% MGRT Revenue Fund available on a parity with other outstanding Parity Subordinate 0.50% MGRT Bonds and Parity Bonds but after payments required by any outstanding Senior 0.50% MGRT Bonds there shall be transferred to the Debt Service Fund the following:

(1) Monthly, commencing on the first of the month immediately succeeding the delivery of the Series 2026 Bonds, an amount, in equal monthly installments, which is necessary to pay the first maturing installment of interest on the Series 2026 Bonds, and monthly thereafter commencing in the month of said interest payment date and in the month of each interest payment date thereafter, one-sixth (1/6th) of the amount necessary to pay the next maturing installment of interest on the outstanding Bonds.

(2) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Series 2026 Bonds, an amount, in equal monthly installments, which is necessary to pay the first maturing principal amount of the Series 2026 Bonds, and monthly thereafter commencing in the month of each principal payment date, one-twelfth (1/12th) of the amount which is necessary to pay the next maturing principal amount of the Series 2026 Bonds.

C. Credit. In making the deposits required to be made into the Debt Service Fund, if there are any amounts then on deposit in the Debt Service Fund available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to paragraph B above shall be reduced by the amount available in such fund and available for such purpose.

D. Transfer of Money out of Debt Service Fund. Each payment of principal and interest coming due on the Series 2026 Bonds shall be transferred from the Debt Service Fund by the City on the due date of such payment and used exclusively for such payments of principal and interest to the owners of the Series 2026 Bonds.

E. Reserve Fund. No deposit shall be required in the Reserve Fund so long as the Pledged Revenues in each Fiscal Year equal or exceed 150% of the maximum annual principal and interest coming due in any subsequent Fiscal Year on all outstanding Parity Bonds, Parity Subordinate 0.50% MGRT Obligations and Senior 0.50% MGRT Obligations. If the Pledged Revenues in any Fiscal Year are insufficient to meet the test set forth in the preceding sentence, the City shall begin making substantially equal monthly deposits in the Reserve Fund from the first legally available Pledged Revenues so that after 24 months an amount equal to the Minimum Reserve will be held in the Reserve Fund. After funding the Reserve Fund in an amount equal to the Minimum Reserve, no additional payments need be made into the Reserve Fund so long as the moneys therein shall equal not less than the Minimum Reserve. The moneys in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in paragraph (F) of this Section 17, only to prevent deficiencies in the payment of the principal of and interest on the Series 2026 Bonds resulting from failure to deposit into the Debt Service Fund sufficient funds to pay the principal and interest as the same accrue. In the event that the funding of the Reserve Fund is required, the City may satisfy that requirement by depositing a Reserve Fund Insurance Policy with coverage in the amount of the Minimum Reserve. The moneys and/or Reserve Fund Insurance Policy, if any, in the Reserve Fund are irrevocably and exclusively pledged to payment of the Series 2026 Bonds. The New Mexico Finance Authority, as purchaser and holder of the Series 2026 Bonds, shall have the right to waive the requirement of the funding of the 2026 Reserve Fund while the Series 2026 Bonds are outstanding.

(1) Thereafter, second and subordinate to the payments required by paragraph B hereof and concurrently with the payments required for any monthly reserve fund payments for Parity Obligations, Parity Subordinate 0.50% MGRT Obligations, there shall be credited monthly to the Reserve Fund, from the Pledged Revenues, such cash amount or amounts, if any, or a Reserve Fund Insurance Policy in a sufficient amount, or both, as are necessary to maintain the Reserve Fund as a continuing reserve in an amount not less than the Minimum Reserve to meet possible deficiencies in the Debt Service Fund. The moneys and a Reserve Fund Insurance Policy, if any, in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in paragraphs F and J of this Section, only to prevent deficiencies in the payment of the principal of and interest on the Series 2026 Bonds hereby authorized resulting from the failure to credit to the Debt Service Fund sufficient funds to pay the principal and interest as the same become due and payable. Cash amounts in the Reserve Fund which together with the amount of a Reserve Fund Insurance Policy, as applicable, in excess of the Minimum Reserve shall be withdrawn from the Reserve Fund and deposited into the Debt Service Fund (including investment income therefrom) and shall be used to pay the principal of or interest on the Series 2026 Bonds or any obligations refunding the Series 2026 Bonds.

(2) Any Reserve Fund Insurance Policy shall be held by the Paying Agent. In the event of a draw upon a Reserve Fund Insurance Policy, the Paying Agent shall deliver a demand for payment in substantially the form required by the Reserve Fund Insurance Policy issuer to be delivered to the Reserve Fund Insurance Policy issuer at least 3 days prior to the date on which the funds are required. In the event there is cash in the Reserve Fund at the time of a draw from a Reserve Fund Insurance Policy, such cash (including any investments) shall be drawn down completely before any demand is made on the Reserve Fund Insurance Policy. If the Reserve Fund contains reserve fund insurance policies from more than one Reserve Fund Insurance Policy issuer, any draw shall be on a pro-rata basis from such policies. After such a draw, any available Pledged Revenues, concurrently and on a parity with the payments in subparagraph (1) of this paragraph E, and the payments required to replenish the reserve fund for any additional Parity Obligations, Parity Subordinate 0.50% MGRT Obligations, shall be used first to reimburse each Reserve Fund Insurance Policy issuer for such payment of principal of and interest on the Series 2026 Bonds pursuant to the terms of the applicable agreement so as to reinstate each Reserve Fund Insurance Policy and thereafter to replenish any cash in the Reserve Fund

F. Defraying Delinquencies in the Debt Service Fund and Reserve Fund. If, on any Interest Payment Date, the amount on deposit in the Debt Service Fund is insufficient to pay principal of and interest on the Series 2026 Bonds then due, then an amount shall be paid into the Debt Service Fund on such date from the Reserve Fund (if moneys are then on deposit in the Reserve Fund) equal to the amount of the insufficiency. The money deposited in the Debt Service Fund from the Reserve Fund, if any, shall be replaced in the Reserve Fund in 24 substantially equal monthly deposits commencing on the first day of the first month immediately succeeding the draw on the Reserve Fund. Such accumulation shall be made from the Pledged Revenues second and subordinate to the payments required by paragraph B of this Section. If, in any month, the City shall, for any reason, fail to pay into the Reserve Fund the full amount required, the difference between the amount paid and the amount so stipulated shall be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied. The moneys in the Reserve Fund shall be used solely and only for the purpose of paying any deficiencies in the payment of the principal of and the interest on the Series 2026 Bonds; provided, however, that any moneys at any time in excess of the 2026 Minimum Reserve in the Reserve Fund may be withdrawn therefrom and applied to any other lawful purpose. Cash accumulated in the Reserve Fund shall not be invested in a manner which could cause the Series 2026 Bonds to become arbitrage bonds within the meaning of the Code. Any investments held in the Reserve Fund shall be valued annually, on or about June 1, at their current fair market value and, if the amount then on deposit in the Reserve Fund exceeds the 2026 Minimum Reserve, all amounts in excess of the 2026 Minimum Reserve shall be transferred to the Debt Service Fund and used to pay principal of and interest on the Series 2026 Bonds.

G. Payment of Additional Parity Obligations. Concurrently with the payment of the Pledged Revenues required by paragraph B, E, F and H of this Section, any amounts on deposit in the Pledged Revenue Funds shall be used by the City for the payment of principal of and interest on Parity Obligations, if any, currently outstanding or hereafter authorized to be issued and payable from the Pledged Revenues, as applicable, as the same accrue. If funds on deposit in the Pledged Revenue Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the Series 2026 Bonds and any other outstanding Parity Obligations, then the available funds in the Pledged 0.3250% MGRT Revenue Fund and the Pledged 0.50% MGRT Revenue Fund (after payment of amounts due on the Senior 0.50% MGRT Obligations) will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Bonds, for the payment of principal of and interest on all series of outstanding Parity Bonds and, second, to the extent of remaining available funds in the Pledged Revenue Funds on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Obligations.

H. Payment of Parity Subordinate 0.50% MGRT Obligations. Concurrently with the payment of Pledged 0.50% MGRT Revenues required by paragraphs B, E, F, and G of this Section any amounts on deposit in the Pledged 0. 50% MGRT Revenue Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to additional Parity Subordinate 0.50% MGRT Obligations, if any, hereafter authorized to be issued and payable from the Pledged 0.50% MGRT Revenue Fund as the same accrued. If funds on deposit in the Pledged 0.50% MGRT Revenue Fund are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the Series 2026 Bonds and any other outstanding Parity Subordinate 0.50% MGRT Obligations, then the available funds in the Pledged 0.50% Revenue Fund after payment of the Senior 0.50% MGRT Revenue Obligations, will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Subordinate 0.50% MGRT Bonds, for the payment of principal of and interest on all series of Parity Subordinate 0.50% MGRT Bonds, and second to the extent of remaining available funds in the Pledged 0.50% MGRT Revenue Fund, on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Subordinate 0.50% MGRT Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity 0.50% MGRT Revenue Obligations

I. Termination Upon Deposits to Maturity. No payment shall be made into the Debt Service Fund or the Reserve Fund if the amount in such funds totals a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest on the Series 2026 Bonds to their respective maturities or applicable redemption dates, in which case moneys in the Debt Service Fund and Reserve Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same accrue, and any moneys in excess thereof in the Debt Service Fund and the Reserve Fund may be used as provided below.

J. Payment of Subordinate Lien Obligations. Subsequent to the payments required by paragraphs B, E, F, G, and H of this Section, any balance remaining in the Pledged Revenue Funds, after making the payments hereinabove provided shall be used by the City for the payment of interest on and the principal of additional bonds or other obligations hereafter authorized, if any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of the Series 2026 Bonds, issued and payable from the Pledged Revenues, as the same become due. Payments with respect to principal, interest and reserve funds for any such subordinate lien obligations may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations.

Subsequent to the payments required by paragraphs B, E, F, G, and H of this Section, any balance remaining in the Pledged 0.50% MGRT Revenue Fund, after making the payments hereinabove provided shall be used by the City for the payment of interest on and the principal of outstanding super subordinate 0.50% MGRT Bonds or other obligations, if any, having a lien on any of the Pledged 0.50% MGRT Revenues subordinate to the lien thereon of the Parity Subordinate 0.50% MGRT Bonds (the "Super Subordinate 0.50% MGRT Bonds"), issued and payable from the Pledged 0.50% MGRT Revenues, as the same become due. Payments with respect to principal, interest and reserve funds for any such Super Subordinate 0.50% MGRT Bonds may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional Super Subordinate 0.50% MGRT Bonds.

K. Use of Surplus Revenues. After making all the payments hereinabove required to be made by this Section, the remaining Pledged Revenues, if any, in the Pledged Revenue Funds may be applied to any other lawful purpose as the City may from time to time determine.

Section 18. General Administration of Funds. The funds designated in Section 16 shall be administered and invested as follows:

A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be invested by the City in Permitted Investments or deposited in one or more bank accounts in an Insured Bank or Banks. Each fund or account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper fund or account on the first day of the month except when the first day shall not be a Business Day, then payment shall be made on the next succeeding Business Day. No later than two Business Days prior to each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Series 2026 Bonds shall be transferred to the Paying Agent. Nothing in this Bond Ordinance shall prevent the City from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Bond Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts or investments for other funds and accounts of the City.

B. Investment of Moneys. Moneys in the 2026 Reserve Fund shall be invested in accordance with paragraph C of this Section 18, and moneys in any other fund or account not immediately needed may be invested in any investment permitted by the laws of the State or by the Charter. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The City Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

C. Reserve Fund. Moneys, if any, in the 2026 Reserve Fund may be invested only in Permitted Investments with an average aggregate weighted term to maturity not greater than five years. The City shall annually on or about June 1 of each year, commencing on the first June 1 succeeding funding of the 2026 Reserve Fund, value the 2026 Reserve Fund on the basis of the current fair market value of deposits and investments credited to each of the 2026 Reserve Fund. If, upon any valuation, the value of the 2026 Reserve

Fund exceeds the 2026 Minimum Reserve, the excess amount shall be withdrawn and deposited into the 2026 Debt Service Fund; if the value is less than the applicable requirement, the City shall replenish such amounts from the first Pledged Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

At such time as the Series 2026 Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the 2026 Reserve Fund may be used to pay the final installments of principal and interest on the Series 2026 Bonds and otherwise may be withdrawn and transferred to the City to be used for any lawful purpose.

If moneys have been withdrawn from the 2026 Reserve Fund and deposited into the 2026 Debt Service Fund to prevent a default on the Series 2026 Bonds, then the City will pay, from Pledged Revenues or other monies legally available therefor, the full amount so withdrawn or so much as shall be required to restore the 2026 Reserve Fund to the 2026 Minimum Reserve. Such repayment shall be made as required by Section 17 of this Bond Ordinance.

Section 19. Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in 2026 Debt Service Fund and the 2026 Reserve Fund, if any, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Series 2026 Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Bond Ordinance. The Series 2026 Bonds constitute an irrevocable and first lien, but not an exclusive first lien, on the Pledged 0.3250% MGRT Revenues and an irrevocable and subordinate lien, but not an exclusive subordinate lien, on the Pledged 0.50% MGRT Revenues as set forth herein.

Section 20. Additional Obligations Payable from Pledged Revenues.

A. Parity Obligations. No provision of the Bond Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional Parity Obligations, nor to prevent the issuance of bonds or other obligations refunding all or a part of the Series 2026 Bonds; provided, however, that before any such additional Parity Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Sections 22 and 23 hereof), it must be determined that:

(1) The City is then current in all of the accumulations required to be made into the funds as provided in Section 17 of the Bond Ordinance; and

(2) No default shall exist in connection with any of the covenants or requirements of the Bond Ordinance; and

(3) Pledged Revenue Tests:

a. The Pledged Revenues received by the City for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing one hundred fifty percent (150%) of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding Bonds, Parity Obligations, the outstanding Senior 0.50% MGRT Obligations, the outstanding Parity Subordinate 0.50% Obligations, and the Parity Obligations proposed to be issued (excluding any reserves therefor) and,

b. For so long as any Senior 0.50% MGRT Bonds remain outstanding, the Pledged 0.50% MGRT Revenues received by the City for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing one hundred fifty percent (150%) of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on then then outstanding Bonds, the outstanding Parity Obligations, the outstanding Senior 0.50% MGRT Obligations, the outstanding Parity Subordinate 0.50% MGRT Obligations, and the Parity Obligations proposed to be issued (excluding any reserves therefor). If there are no outstanding Senior 0.50% MGRT Bonds outstanding at the time of issuance of the proposed Parity Obligations, the test set forth in the subparagraph (b) shall be inapplicable.

c. In making the computations required by this paragraph (3) to determine if Parity Obligations may be issued, Parity Obligations which bear a fluctuating interest rate shall be deemed to bear interest at the maximum rate of interest on the applicable bonds or other obligations permitted by the ordinance authorizing the issuance of such bonds or obligations.

B. Certificate or Opinion of Revenues. A written certificate or opinion by the City Finance Officer or an Independent Accountant that such annual Pledged Revenues are sufficient to pay such amounts shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver such additional bonds or other obligations on a parity with the Series 2026 Bonds herein authorized.

C. Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing bonds or other obligations payable from Pledged Revenues pledged by this Bond Ordinance and having a lien on any of the Pledged Revenues subordinate to the lien of the Series 2026 Bonds.

D. Superior Obligations Prohibited. The City shall not issue any obligation having a lien on any of the Pledged 0.3250% MGRT Revenues pledged by this Bond Ordinance which is prior and superior to the Series 2026 Bonds. The City may issue additional Senior 0.50% MGRT Bonds in conformance with the provisions of the ordinances authorizing the issuance of the outstanding Senior 0.50% MGRT Bonds.

Section 21. Additional Subordinate 0.50% MGRT Obligations Payable from Pledged 0.50% MGRT Revenues.

A. Parity Subordinate 0.50% MGRT Obligations. No provision of the Bond Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional Parity Subordinate 0.50% MGRT Obligations; provided, however, so long as any Senior 0.50% MGRT Obligations remain outstanding, that before any such additional Parity Subordinate 0.50% MGRT Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Subordinate 0.50% MGRT Obligations but including parity subordinate refunding bonds and obligations which refund super subordinate 0.50% MGRT obligations as provided in Section 23 hereof), it must be determined that:

(1) The City is then current in all of the accumulations required to be made into the funds as provided in Section 17 of the Bond Ordinance; and

(2) No default shall exist in connection with any of the covenants or requirements of the Bond Ordinance; and

(3) The Pledged 0.50% MGRT Revenues received by the City for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Subordinate 0.50% MGRT Obligations shall have been sufficient to pay an amount representing one hundred fifty percent (150%) of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding Bonds, the outstanding Parity Obligations, the outstanding Parity Subordinate 0.50% MGRT Bonds, the outstanding Senior 0.50% MGRT Obligations, and the Parity Subordinate 0.50% MGRT Obligations proposed to be issued (excluding any reserves therefor). In making the computations required by this paragraph to determine if Parity Subordinate 0.50% MGRT Obligations may be issued, Parity Subordinate 0.50% MGRT Obligations which bear a fluctuating interest rate shall be deemed to bear interest at the maximum rate of interest on the applicable bonds or other obligations permitted by the ordinance authorizing the issuance of such bonds or obligations.

B. Certificate or Opinion of Revenues. A written certificate or opinion by the City Finance Officer or an Independent Accountant that such annual Pledged 0.50% MGRT Revenues are sufficient to pay such amounts shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver such additional bonds or other obligations on a parity with the lien of the Series 2026 Bonds on the Pledged 0.50% MGRT Revenues herein authorized.

C. Super Subordinate Obligations Permitted. Nothing in this Bond Ordinance shall prevent the City from issuing Super Subordinate 0.50% MGRT Obligations by this Bond Ordinance and having a lien on any of the Pledged 0.50% MGRT Revenues subordinate to the lien of the Series 2026 Bonds.

D. Superior Obligations. The City shall may issue additional Senior 0.50% MGRT Bonds having a lien the Pledged 0.50% MGRT Revenues pledged by this Bond Ordinance which is prior and superior to the Series 2026 Bonds in conformance with the ordinances authorizing the issuance of the Senior 0.50% MGRT Bonds. If at the time of issuance of any proposed additional Parity Subordinate 0.50% MGRT Bonds, there are no outstanding Senior 0.50% MGRT Bonds, the tests outlined in this Section 21 for the issuance of additional Parity Subordinate 0.50% MGRT Bonds shall be of no further force or effect.

Section 22. Refunding Bonds Payable from Pledged 0.3250% MGRT Revenues and Pledged 0.50% MGRT Revenues. The provisions of Section 20 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after the Series 2026 Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, such bond or other obligations, or any part thereof, may be refunded (but the holders of bonds to be refunded may not be compelled to surrender their bonds, unless the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph D of Sections 20 and 21 hereof and in subparagraphs B and C of this Section.

B. Limitations Upon Issuance of Parity Refunding Obligations. No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with the Series 2026 Bonds herein authorized, unless:

(1) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(2) The refunding bonds or other refunding obligations are issued in compliance with Section 20 hereof.

C. Refunding Part of an Issue. The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of the bonds or other obligations of the same issue refunded thereby. If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

(1) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

(2) The refunding bonds or other refunding obligations are issued in compliance with Section 20 hereof; or

(3) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

D. Limitations Upon Issuance of Refunding Obligations. Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the City may provide by ordinance, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, the Series 2026 Bonds).

Section 23. Refunding Bonds Payable from Pledged 0.50% MGRT Revenues. The provisions of Section 21 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after the Series 2026 Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged 0.50% MGRT Revenues, such bond or other obligations, or any part thereof, may be refunded (but the holders of bonds to be refunded may not be compelled to surrender their bonds, unless the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph D of Section 21 hereof and in subparagraphs B and C of this Section.

B. Limitations Upon Issuance of Parity Subordinate 0.50% MGRT Refunding Obligations. No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with the Series 2026 Bonds herein authorized, unless:

(1) The outstanding obligations so refunded are Parity Subordinate 0.50% MGRT Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(2) The refunding bonds or other refunding obligations are issued in compliance with Section 21 hereof.

C. Refunding Part of an Issue. The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged 0.50% MGRT Revenues with the portion of any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of the bonds or other obligations of the same issue refunded thereby. If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged 0.50% MGRT Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

(1) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

(2) The refunding bonds or other refunding obligations are issued in compliance with Section 21 hereof; or

(3) The lien on the Pledged 0.50% MGRT Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

D. Limitations Upon Issuance of Refunding Obligations. Any refunding bonds or other refunding obligations payable from the Pledged 0.50% MGRT Revenues shall be issued with such details as the City may provide by ordinance, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, the Series 2026 Bonds).

Section 24. Equality of Parity Bonds.

A. The Parity Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance or the date incurred, it being the intention of the City Council that, except as set forth herein, there shall be no priority among the Parity Bonds regardless of whether they are actually issued and delivered or incurred at different times.

B. The Parity Subordinate 0.50% MGRT Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged 0.50% MGRT Revenues, regardless of the time or times of their issuance or the date incurred, it being the intention of the City Council that, except as set forth herein, there shall be no priority among the Parity Subordinate 0.50% MGRT Bonds regardless of whether they are actually issued and delivered or incurred at different times.

Section 25. Protective Covenants. The City hereby covenants and agrees with each and every holder of the Series 2026 Bonds issued hereunder:

A. Use of Bond Proceeds. The City will proceed without delay to apply the proceeds of the Series 2026 Bonds as set forth in Section 15 of this Bond Ordinance.

B. Payment of Bonds Herein Authorized. The City will promptly pay the principal of and the interest on every Series 2026 Bond at the place, on the date and in the manner specified herein and in the Series 2026 Bonds according to the true intent and meaning hereof.

C. City's Existence. The City will maintain its corporate identity and existence so long as any of the Series 2026 Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any owner of the Series 2026 Bonds.

D. Extension of Interest Payments. In order to prevent any accumulation of claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of time for the payment of any claim for interest on any of the Series 2026 Bonds, and the City will not directly or indirectly be a party to or approve any arrangements for any such extension.

E. Records. So long as any of the Series 2026 Bonds remain outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

F. Audits and Budgets. The City will, within two hundred and seventy (270) days following the close of each Fiscal Year, cause an audit of its books and accounts relating to the Pledged Revenues to be commenced by an Independent Accountant showing the receipts and disbursements in connection with such revenues.

G. Other Liens. Other than as described and identified by this Bond Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues.

H. Impairment of Contract. The City agrees that any law, ordinance or resolution of the City that in any manner affects the Pledged Revenues or the Series 2026 Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 30 of this Bond Ordinance.

I. Debt Service Fund and Reserve Fund. The 2026 Debt Service Fund and the 2026 Reserve Fund shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in this Bond Ordinance.

J. Surety Bonds. Each municipal official and employee being responsible for receiving Pledged Revenues shall be bonded at all times, which bond shall be conditioned upon the proper application of such funds.

K. Performing Duties. The City will faithfully and punctually perform all duties with respect to the Series 2026 Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the City relating to the Series 2026 Bonds.

L. Tax Covenants. The City covenants that it will restrict the use of the proceeds of the Series 2026 Bonds in such manner and to such extent, if any, as may be necessary so that the Series 2026 Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Mayor, Mayor Pro Tem and other officers of the City having responsibility for the issuance of the Series 2026 Bonds shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Series 2026 Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2026 Bonds, the facts, circumstances and estimates on which they are based, other facts and circumstances relevant to the tax treatment of interest on the Series 2026 Bonds, and making related covenants.

The City covenants that it (a) will take or cause to be taken such actions which may be required of it for the interest on the Series 2026 Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Series 2026 Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, if required, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor, Mayor Pro Tem and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.

In furtherance of the covenants set forth above, the City hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the “Rebate Fund”). Money and investments in the Rebate Fund shall not be used for the payment of the Series 2026 Bonds, and amounts credited to the Rebate Fund shall be free and clear under any pledge under this Bond Ordinance. Money in the Rebate Fund shall be invested in a manner provided in Section 18 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the City, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The City shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The City shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Series 2026 Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the City.

Section 26. Preliminary Official Statement and Continuing Disclosure Undertaking.

A. Preliminary Official Statement. If required by the Purchaser, the preparation of the Preliminary Official Statement is hereby requested and approved for use distribution and use in connection with the sale of the Series 2026 Bonds; provided, that the foregoing shall not be applicable in the event that the Series 2026 Bonds are purchased pursuant to a private placement for which the Preliminary Official Statement is not required.

B. Continuing Disclosure Undertaking; Disclosures to Finance Authority. If required by the Purchaser, the officers of the City are authorized to sign such documents and to take such actions in the future with respect to the City's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended; provided, that the foregoing shall not be applicable in the event that the Series 2026 Bonds are purchased pursuant to a private placement for which the Continuing Disclosure Undertaking is not required. Notwithstanding any other provisions of this Bond Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an “event of default” under Section 25 hereof, and holders and beneficial owners of Bonds shall be entitled to exercise only such rights with respect thereto as are provided in the Continuing Disclosure Undertaking.

If the Finance Authority is the purchaser of the Series 2026 Bonds, for so long as the Finance Authority is the holder of the Series 2026 Bonds, the City shall provide such disclosure and notifications as required by the Finance Authority for the purchase of the Series 2026 Bonds and as set forth in the Pricing Certificate. Failure of the City to comply with the disclosure obligations to the Finance Authority shall not be considered an “event of default” under Section 25 hereof, and the Finance Authority shall only be entitled to specific performance in the exercise of its rights to receive such disclosure.

Section 27. Events of Default. Each of the following events is hereby declared an “event of default”:

A. Nonpayment of Principal. Failure to pay the principal of any of the Series 2026 Bonds when the same becomes due and payable, either at maturity, or by proceedings for redemption, or otherwise.

B. Nonpayment of Interest. Failure to pay any installment of interest when the same becomes due and payable.

C. Incapable of Performing. If the City shall for any reason be rendered incapable of fulfilling its obligations hereunder.

D. Default of any Provision. Default by the City in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Series 2026 Bonds or in this Bond Ordinance on its part to be performed (other than a default set forth in subparagraphs A and B of this Section), and the continuance of such default for thirty (30) days after written notice specifying such default and requiring the same to be remedied has been given to the City by the holders of twenty-five percent (25%) in aggregate principal amount of the Series 2026 Bonds then outstanding.

E. Bankruptcy. The City (i) files a petition or application seeking reorganization or arrangement of debt under Federal Bankruptcy law, or other debtor relief under the laws of any jurisdiction, or (ii) is the subject of such petition or application which the City does not contest or is not dismissed or discharged within sixty (60) days.

Section 28. Remedies Upon Default. Upon the happening and continuance of any of the events of default as provided in Section 27 of this Bond Ordinance, then and in every case, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Series 2026 Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City, the City Council and its agents, officers and employees, but only in their official capacities, to protect and enforce the rights of any holder of Bonds under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder, or to require the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Series 2026 Bonds then outstanding. The failure of any Bondholder so to proceed shall not relieve the City or any of its officers, agents or employees of any responsibility for failure to perform, in their official capacities, any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 29. Duties Upon Default. Upon the happening of any of the events of default provided in Section 27 of this Bond Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the owners of the Series 2026 Bonds to protect and preserve the security created for the payment of the Series 2026 Bonds and to insure the payment of the principal of and interest on the Series 2026 Bonds promptly as the same become due. All proceeds derived therefrom, so long as any of the Series 2026 Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 17 of this Bond Ordinance. In the event the City fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Series 2026 Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of the Series 2026 Bonds as hereinabove provided.

Section 30. Bonds Not Presented When Due. If any Bonds shall not be duly presented for payment when due at maturity or on the redemption date thereof, and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the City to such owners for the payments of such Bonds shall be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an officer of the City.

Section 31. Delegated Powers; Authority to Make Budget Adjustments. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the title and general summary of the Bond Ordinance set out in Section 38 (with such changes, additions and deletions as they may determine), the printing of the Series 2026 Bonds, the preparation, printing, execution and distribution of the Preliminary Official Statement and final Official Statement, and the execution of the Continuing Disclosure Undertaking, Intercept Agreement, and of such documents or certificates as may be required by the Purchaser or bond counsel. The officers of the City are hereby authorized and directed to take all action necessary to make the budget adjustments needed to reflect the Bond proceeds.

Section 32. Amendment of Bond Ordinance. This Bond Ordinance may be amended without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein. Prior to the date of the initial delivery of the Series 2026 Bonds to the Purchaser, the provisions of this Bond Ordinance may be amended with the written consent of the Purchaser, with respect to any changes which are not inconsistent with the substantive provisions of this Bond Ordinance. In addition, this Bond Ordinance may be amended without receipt by the City of any additional consideration, but with the written consent of the holders of seventy-five percent (75%) of the Series 2026 Bonds then outstanding (not including Bonds which may be held for the account of the City); but no ordinance adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

A. An extension of the maturity of any Bond; or

B. A reduction of the principal amount or interest rate of any Bond; or

C. The creation of a lien upon the Pledged Revenues ranking prior to the lien or pledge created by this Bond Ordinance; or

D. A reduction of the principal amount of Bonds required for consent to such amendatory ordinance; or

E. The establishment of priorities as between Bonds issued and outstanding under the provisions of this Bond Ordinance; or

F. The modification of or otherwise affecting the rights of the holders of less than all the outstanding Bonds.

Section 33. Defeasance. When all principal and interest in connection with the Series 2026 Bonds hereby authorized have been duly paid, the pledge and lien on the Pledged Revenues for the payment of the Series 2026 Bonds shall thereby be discharged and the Series 2026 Bonds shall no longer be deemed to be outstanding within the meaning of this Bond Ordinance. Payment shall be deemed made with respect to any Bond or Bonds when the City has placed in escrow with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Obligations, as defined below) to meet all requirements of principal and interest as the same become due to their final maturities or upon designated redemption dates. Any Defeasance Obligations shall become due when needed in accordance with a schedule agreed upon between the City and such bank at the time of the creation of the escrow. Defeasance

Obligations within the meaning of this Section shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – "SLGs"), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

Section 34. Bond Ordinance Irrepealable. After any of the Series 2026 Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Series 2026 Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance of the Series 2026 Bonds as herein provided.

Section 35. Severability Clause. If any Section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 36. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 37. Effective Date. Upon due adoption of this Bond Ordinance, it shall be recorded in the book of ordinances of the City kept for that purpose, authenticated by the signatures of the Mayor or Mayor Pro Tem and City Clerk, and the title and general summary of the subject matter contained in this Bond Ordinance (set out in Section 38 below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Bond Ordinance shall be in full force and effect in accordance with law.

Section 38. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Las Cruces, New Mexico

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in an ordinance duly adopted and approved by the City Council of the City of Las Cruces, New Mexico, on April 20, 2026, relating to the authorization and issuance of the City's Gross Receipts Tax Improvement Revenue Bonds, Series 2026. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Las Cruces City Hall, 700 North Main Street Las Cruces, New Mexico.

The title of the Ordinance is:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF LAS CRUCES, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2026 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $22,150,000 FOR THE PURPOSE OF (1) CONSTRUCTING, PURCHASING, FURNISHING, EQUIPPING, REHABILITATING, MAKING ADDITIONS TO OR MAKING IMPROVEMENTS TO PUBLIC FACILITIES; (2) CONSTRUCTING, RECONSTRUCTING, RESURFACING, MAINTAINING, REPAIRING OR OTHERWISE IMPROVING STREETS OR ROADWAYS AND CONSTRUCTING DRAINAGE IMPROVEMENTS; (3) ACQUIRING AND EQUIPPING PUBLIC SAFETY VEHICLES; (4) FUNDING THE RESERVE FUND FOR THE SERIES 2026 BONDS; AND (5) PAYING THE EXPENSES RELATED TO THE ISSUANCE OF THE SERIES 2026 BONDS; PROVIDING THAT THE SERIES 2026 BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE REVENUES DERIVED FROM (1) A FIRST LIEN, BUT NOT AN EXCLUSIVE FIRST LIEN, ON THE 0.3250% MUNICIPAL GROSS RECEIPTS TAX IMPOSED PURSUANT TO ORDINANCE NO. 3072 AND (2) A SUBORDINATE LIEN, BUT NOT AN EXCLUSIVE SUBORDINATE LIEN, ON THE 0.50% MUNICIPAL GROSS RECEIPTS TAX REVENUES IMPOSED PURSUANT TO ORDINANCE NOS. 385 AND 427, ; DELEGATING AUTHORITY TO THE CITY MANAGER AND CITY FINANCIAL SERVICES DIRECTOR TO EXECUTE AND DELIVER A PRICING CERTIFICATE AND BOND PURCHASE AGREEMENT FOR THE SALE OF THE SERIES 2026 BONDS TO THE PURCHASER.

A general summary of the Ordinance is:

The Ordinance authorizes the issuance and sale of the City of Las Cruces, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2026, in an aggregate principal amount not to exceed $22,150,000 for the purpose of (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to public facilities; (2) constructing, reconstructing, resurfacing, maintaining, repairing or otherwise improving streets or roadways and constructing drainage improvements; (3) acquiring and equipping public safety vehicles; (4) funding the Reserve Fund for the Series 2026 Bonds; and (5) paying the Expenses related to the issuance of the Series 2026 Bonds; provides that the Series 2026 Bonds will be payable and collectible from a first lien, but not an exclusive first lien, on the revenues derived from the 0.3250% municipal gross receipts tax revenues of the City imposed pursuant to Ordinance No. 3072 and a subordinate lien, but not an exclusive subordinate lien, on the 0.50% municipal gross receipts tax imposed pursuant to Ordinance Nos. 385 and 427; provides that the maturity dates, interest rates, redemption provisions and other details of the Series 2026 Bonds will be as established in the Pricing Certificate, and delegates authority to the City Manager or City Financial Services Director to execute and deliver the Pricing Certificate; provides a form of the Series 2026 Bonds; approves preparation, execution and delivery of certain documents relating to the Series 2026 Bonds; makes covenants for the benefit of owners of the Series 2026 Bonds; ratifies action previously taken in connection with the Series 2026 Bonds; and repeals all action in conflict with the Ordinance.

This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary for Publication)

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

____

ATTEST:

____

Moved by:

Seconded by:

AYES

NAYS