

CITY COUNCIL AGENDA

Mayor
Ken Miyagishima

Monday, October 19, 2020 at 1:00 PM

Mayor Pro-Tem
Kassandra Gandara

Remote via Zoom

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

Councilors
Tessa Abeyta-Stuve
Gabriel Vasquez
Johana Bencomo
Gill Sorg
Yvonne Flores



**700 N. Main St.
PHONE (575) 541-2067**

**Meetings can be viewed live at
lascruces.civicweb.net**

Public comment can be submitted to the mayor (mayor@las-cruces.org) or city clerk (councilmtginput@las-cruces.org) via email.

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at [541-2115/V](tel:541-2115).

CONSENT AGENDA

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 Flores.
- 1.2. Pets of the Week.
- 1.3. Jobs of the Week.
- 1.4. Presentation of Certificates of Appreciation/Proclamations - Councilor Flores.

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

3. PUBLIC PARTICIPATION

4. ACCEPTANCE OF AGENDA:

THOSE ITEMS ON THE AGENDA INDICATED BY AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON BY ONE MOTION.

5. CITY COUNCIL MINUTES

- 5.1. (*)Regular City Council Meeting of September 21, 2020.
[City Council - Sep 21 2020 - Minutes - Pdf](#)

4 - 21

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

- 6.1. (*)RESOLUTION NO. 21-061: A RESOLUTION APPROVING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA INC. FOR THE SHELTER IMPROVEMENT PROJECT. 22 - 72

[Resolution No. 21-061 - Pdf](#)

- 6.2. (*)RESOLUTION NO. 21-062: A RESOLUTION APPROVING A CONTRACT FOR THE UPDATE OF ROADRUNNER TRANSIT'S SHORT RANGE TRANSIT PLAN TO ALLIANCE – TEXAS ENGINEERING CO. DBA ALLIANCE TRANSPORTATION GROUP, INC. OF AUSTIN, TEXAS FOR A TERM OF ONE YEAR, IN AN AMOUNT NOT TO EXCEED \$100,000.00 PLUS GROSS RECEIPTS TAX AS APPLICABLE, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 19-20-116). 73 - 97

[Resolution No. 21-062 - Pdf](#)

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

- 7.1. RESOLUTION NO. 21-063: A RESOLUTION APPROVING AGREEMENTS AND AMENDMENTS TO AGREEMENTS BETWEEN THE CITY OF LAS CRUCES (CITY) AND VARIOUS NON-PROFIT PARTNERS FOR EMERGENCY ASSISTANCE PROGRAMS TO ADDRESS THE COMMUNITY IMPACT OF COVID-19. 98 - 201

[Resolution No. 21-063 - Pdf](#)

- 7.2. RESOLUTION NO. 21-064: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2020-21 BUDGET AND, AS APPLICABLE, THE FY2020-21 CAPITAL IMPROVEMENT PLAN (CIP) AS OF OCTOBER 19, 2020. 202 - 236

[Resolution No. 21-064 - Pdf](#)

- 7.3. RESOLUTION NO. 21-065: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2021 BUDGET AND, AS APPLICABLE, THE FY2021 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE MONTH OF OCTOBER 2020. 237 - 381

[Resolution No. 21-065 - Pdf](#)

- 7.4. RESOLUTION NO. 21-066: A RESOLUTION AUTHORIZING A REAL ESTATE PURCHASE AGREEMENT BETWEEN PKL PROPERTY MANAGEMENT, LLC TO CITY OF LAS CRUCES FOR THE PURCHASE OF A 1.64 ACRE PARCEL OF LAND LOCATED AT 850 N. MOTEL BOULEVARD FOR THE PURCHASE PRICE OF ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND DOLLARS (\$1,272,000.00), IN ACCORDANCE WITH PROVISIONS OF THE LCMC 1997, SECTION 2-1312. 382 - 400

[Resolution No. 21-066 - Pdf](#)

- 7.5. COUNCIL BILL NO. 21-021; ORDINANCE NO. 2954: AN ORDINANCE 401 - 436
AUTHORIZING A LEASE TO PURCHASE AGREEMENT BETWEEN
CITY OF LAS CRUCES TO CHILDREN HEALING IN LAS CRUCES
AND DONA ANA COUNTY, A NEW MEXICO NON-PROFIT
CORPORATION (CHILD) FOR THE LEASE AND PURCHASE OF A
COMMERCIAL PROPERTY LOCATED AT 850 N. MOTEL
BOULEVARD IN ACCORDANCE WITH PROVISIONS OF THE LCMC
1997, SECTION 2-1312.
[Ordinance No. 2954 - Pdf](#)

8. BOARD APPOINTMENTS

9. NOTICE OF PROPOSED ORDINANCE(S)

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

- 9.1. COUNCIL BILL NO. 21-022; ORDINANCE NO. 2955: AN ORDINANCE 437 - 502
SUPPORTING INVESTMENT OF \$400,000 IN AN ECONOMIC
DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF
LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN,
AUTHORIZING AN ECONOMIC DEVELOPMENT PROJECT
PARTICIPATION AGREEMENT BETWEEN THE CITY AND LASEN,
INC, AND ENTERING INTO AN AGREEMENT TO SERVE AS FISCAL
AGENT FOR THE STATE OF NEW MEXICO'S PARTICIPATION NOT
TO EXCEED \$750,000 IN THE PROJECT.
[Ordinance No. 2955 - Pdf](#)

10. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11. CITY MANAGER REPORT

12. ADJOURNMENT



MINUTES

City Council

Monday, September 21, 2020 @ 1:00 PM

Remote via Zoom

PRESENT: Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

ABSENT:

1. OPENING CEREMONIES

1.1 Pledge of Allegiance - Councilor Bencomo.

1.2 Pet of the Week.

Jennifer Martinez from the Communications Office presented the Pet of the Week.

1.3 Jobs of the Week

Cindy Quillin, Workforce Solutions gave an overhead presentation.

1.4 Presentation of Certificates of Appreciation/Proclamations - Councilor Bencomo.

Councilor Bencomo presented a proclamation for "National 4-H Week."

Councilor Bencomo presented a proclamation for "National Suicide Prevention Awareness Month."

Councilor Bencomo presented a proclamation for "National Recovery Month."

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

2.1
There was none.

3. PUBLIC PARTICIPATION

3.1
There was none.

4. READ CLOSED MEETING STATEMENT

Agenda Item #5.1.

4.1 Read September 8, 2020 Closed Meeting Statement into the record.

5. ACCEPTANCE OF AGENDA:

THOSE ITEMS ON THE AGENDA INDICATED BY AN ASTERISK (*) ARE ON THE CONSENT AGENDA AND WILL BE VOTED ON BY ONE MOTION.

Councilor Kasandra Gandara moved, seconded by Councilor Johana Bencomo, to accept the agenda as presented with removal of items 7.1, 7.2 and 7.5 for discussion.

RESULT:	Carried
MOVER:	Councilor Kasandra Gandara
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

6. CITY COUNCIL MINUTES

6.1 (*)Special City Council Meeting of August 27, 2020.

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

7.1 RESOLUTION NO. 21-049: A RESOLUTION TO APPROVE AN AGREEMENT AND TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE AGREEMENT BETWEEN THE CITY OF LAS CRUCES (CITY) AND NGAGE NEW MEXICO (NGAGE) IN ORDER TO FACILITATE THE USE OF FUNDING THROUGH LEGISLATIVE APPROPRIATIONS.

Robert Cabello, Assistant City Attorney gave an overhead presentation.

Lori Martinez, Executive Director of Ngage New Mexico gave an overhead presentation.

Cesia Otero, Coordinator of Early Childhood Coalition continued with the overhead presentation.

Michael Radke, Lead Museum Coordinator continued with the overhead presentation.

Councilor Abeyta-Stuve

Mayor Pro Tem Gandara asked what are the steps that staff has taken to work with Ngage?

Lynn Gallagher, Quality of Life Director said Rebecca Slaughter has been working with the Ngage group to make sure that their vision ties into the city's vision.

Mayor Pro Tem Gandara said I'd love to have a work session once the master plan has been developed.

Agenda Item #5.1.

Councilor Bencomo asked what do you see is the biggest barrier to us getting there?

Lori Martinez said we are tackling the mobile unit and the building at the same time. We are under a timeframe for these capital outlay dollars so we need to get these funds encumbered so that we can do the feasibility study and the site selection process.

Michael Radke said the time constraints are the most pressing. We will be engaging our three school districts in Dona Ana County to help come up with a name for the children's museum.

Cesia Otero said a big challenge is funding for a sustainable children's museum.

Councilor Bencomo asked what will the relationship of this museum be with the rest of the museums?

Michael Radke said the idea is to join in a way that supports informal learning through the Las Cruces Museum network. We are currently in the process to align partners that could be utilized through the museum as a family resource and information center.

Councilor Abeyta-Stuve asked is there any misalignment with plans?

Lynn Gallagher said the ratification of this contract will go a long way to make sure that the vision and idea of the children's museum fits not only in the city's strategic plan, the Quality of Life strategic plan, and the overall comprehensive plan.

Michael Radke said everyone at the city has been extremely supportive. There are no significant differences in the values and priorities.

Lori Martinez said we will have representatives from Ngage on the Selection Advisory Committee for the RFPs. The children's museum is centered around access.

Councilor Flores asked what age groups are being targeted for the Children's Museum?

Lori Martinez said it is intended for all ages and their families with an emphasis on early childhood.

Michael Radke said we are looking to engage with expecting parents all the way up to third grade.

Councilor Kasandra Gandara moved, seconded by Councilor Yvonne Flores, to Approve Resolution 21-049.

RESULT:	Carried
MOVER:	Councilor Kasandra Gandara
SECONDER:	Councilor Yvonne Flores

AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores
--------------	---

- 7.2** RESOLUTION NO. 21-050: A RESOLUTION AWARDING A CONTRACT FOR JUVENILE ASSESSMENT REPORTING CENTER SERVICES TO FAMILIES AND YOUTH, INC. OF LAS CRUCES, NEW MEXICO FOR AN INITIAL TERM THROUGH JUNE 30, 2021 AND AMOUNT OF \$82,070 FOR THE INITIAL TERM, WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS IN AN AMOUNT NOT TO EXCEED \$111,000 ANNUALLY, SUBJECT TO ANNUAL RENEWALS AND APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 20-21-011).

Alex Liu, Purchasing Manager gave an overhead presentation.

Mayor Pro Tem Gandara said I just wanted to see how it relates to what Parks & Rec is doing with the JCC program.

Robert Nunez, Youth Services Administrator said we will be working closely with FYI with intakes and assessments as well as case management throughout the county to identify at risk youth.

Mayor Pro Tem Gandara asked do we have data to support these metrics?

Robert Nunez said in years past we received referrals from the Juvenile Probation Office but those have reduced quite a bit. What we are seeing now is we're working with FYI and JARC and the public schools to get informal referrals. We are the fiscal agent for the funding from CYFD. Our Juvenile Citation Program also does intakes and case management.

Mayor Pro Tem Gandara asked where do the juvenile assessment services fit in the continuum?

Robert Nunez said the Juvenile Citation Program is the program within the City of Las Cruces. This will allow community members to reach out to the JARC for additional services. If they don't qualify for our program, they offer wraparound services.

David Dollahon, Assistant City Manager said in years past funding for CYFD was from the state and we were able to submit a proposal concurrently with FYI for JARC and JCP. However, this year CYFD changed the procurement rules so we had to go out to competitive procurement.

Councilor Bencomo asked the entire contract should not exceed \$100,000 or per year?

Alex Liu said currently they are on a contract extension for September. The first year amount is a prorated amount. The contract should not exceed \$100,000 annually.

Councilor Bencomo asked what capacity issues do you have and what kind of

additional support do you need?

Robert Nunez said there's always a need for more funding and additional staff but the continuum has representatives from different organizations. It is a perfect fit with Parks & Rec because we can do other recreational activities with our youth.

Councilor Gill Sorg moved, seconded by Councilor Gabe Vasquez, to Approve Resolution 21-050.

RESULT:	Carried
MOVER:	Councilor Gill Sorg
SECONDER:	Councilor Gabe Vasquez
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

- 7.3** (*)RESOLUTION NO. 21-051: A RESOLUTION REAPPOINTING MEMBERS TO THE NEW MEXICO MUNICIPAL ENERGY ACQUISITION AUTHORITY BOARD OF DIRECTORS.
- 7.4** (*)RESOLUTION NO. 21-052: A RESOLUTION AUTHORIZING A VARIANCE TO LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED, SECTION 19-131, ALLOWING CONSTRUCTION WORK BETWEEN THE HOURS OF 6:00 P.M. AND 7:00 A.M. FOR THE DRILLING AND CONSTRUCTION OF REPLACEMENT MONITORING WELLS FOR THE GRIGGS AND WALNUT GROUND WATER PLUME SUPERFUND SITE BECAUSE OF URGENT PUBLIC NECESSITY.
- 7.5** COUNCIL BILL NO. 21-018; ORDINANCE 2951: AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO R-1B (SINGLE-FAMILY HIGH DENSITY) ON A PARCEL ENCOMPASSING 20.08 ACRES IN SIZE AND CORRESPONDING TO THE SONOMA RANCH EAST 2 MASTER PLAN AMENDMENT #4. THE PLANNING PARCEL IS LOCATED AT 2600 SILVER HAWK AVENUE. SUBMITTED BY SOUDER MILLER AND ASSOCIATES, ON BEHALF OF SONOMA RANCH DEVELOPMENT LLC, PROPERTY OWNER (20ZO0500049).

Sara Gonzales, Planner gave an overhead presentation.

Councilor Flores said Commissioner Muniz had a concern about the driveways and setbacks.

Sara Gonzales said in order to change the master plan they're just altering the zoning but they're not changing the approved density. They were looking not to develop over that. They are looking at the rear yard setback to be 15.

Councilor Flores asked how is that property going to be accessed?

Sara Gonzales said you would come off of Calle Jitas, going up Silverhawk Avenue to the south, and then there is also going to be a connection from Prado del Sol Avenue. There will need to be some kind of bridge built over the arroyo and then in future developments to the north, these two points have been kept open.

Councilor Flores asked does that street exist now?

Sara Gonzales said no. This is the proposed development that will be moving forward if the zone change is approved.

Councilor Flores said I'm just looking at accessibility. Are you looking at adding more streets?

Sara Gonzales said that is correct. There are additional connecting points. It will have the same capacity that we see along Sonoma Ranch.

Councilor Gill Sorg moved, seconded by Councilor Johana Bencomo, to Approve Ordinance 2951.

RESULT:	Carried
MOVER:	Councilor Gill Sorg
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

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

8.1 PUBLIC HEARING REQUIRED. RESOLUTION NO. 21-053: A RESOLUTION APPROVING A RESTAURANT BEER/WINE LIQUOR LICENSE AND A WAIVER AS THE PREMISES IS LOCATED WITHIN 300 FEET OF THE NEAREST CHURCH TO ROSEBA, LLC., D/B/A TAQUERIA LAS CATRINAS AT 5580 BATAAN MEMORIAL, LAS CRUCES, NEW MEXICO 88011.

Public hearing opened at 2:47 p.m. There were no individuals for or against. Public hearing closed at 2:48 p.m.

Councilor Yvonne Flores moved, seconded by Councilor Tessa Abeyta-Stuve, to Approve Resolution 21-053.

RESULT:	Carried
MOVER:	Councilor Yvonne Flores
SECONDER:	Councilor Tessa Abeyta-Stuve
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

8.2 PUBLIC HEARING REQUIRED: RESOLUTION NO. 21-054: A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF DISPENSER LIQUOR LICENSE NO. 0913 WITH PACKAGE SALES FOR UNIQUE FOODS, LLC., D/B/A TOUCAN MARKET AT 1701 E. UNIVERSITY AVE., LAS CRUCES, NEW MEXICO 88001.

Public hearing opened at 2:48 p.m. There were no individuals for or against. Public hearing closed at 2:49 p.m.

Councilor Gill Sorg moved, seconded by Councilor Tessa Abeyta-Stuve, to Approve Resolution 21-054.

RESULT:	Carried
MOVER:	Councilor Gill Sorg
SECONDER:	Councilor Tessa Abeyta-Stuve
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

8.3 **RESOLUTION NO. 21-055:** A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2021 BUDGET FOR THE MONTH OF SEPTEMBER 2020.

William Blanchard, Budget Analyst gave an overhead presentation.

Aaron Sharratt, Grant and Contracts Compliance Specialist continued with the overhead presentation.

Dr. Griselda Martinez, Economic Development Director continued with the overhead presentation.

Councilor Flores said it doesn't make sense to me because the city would be picking up the tab in an area that wasn't budgeted.

Dr. Griselda Martinez said one poses the risk on the city and expedites the disbursement.

Aaron Sharratt said this is a new grant program and trying to fit this program with the structure it follows a similar pattern of requesting a notice of obligation and committing those funds. There is some ambiguity as to what will be covered under eligible expenses.

Councilor Flores asked how would you justify the city covering those expenses and what's the potential amount?

Dr. Griselda Martinez said the CARES Act provided guidelines on what are eligible expenses. They must be related to those incurred by COVID. The total amount of grants for this program is \$5.4 million, however, I believe the majority of the funds will be very clear and straightforward COVID related. My concern would be more on the expenses that will be questioned by DFA after our due diligence. That will be done within the city.

Councilor Abeyta-Stuve asked how many businesses are registered through the three chambers?

Dr. Griselda Martinez said it will be an effort to promote this opportunity. It will not be through their membership.

Councilor Abeyta-Stuve asked if we have business license registration, can we do any additional direct outreach?

Dr. Griselda Martinez said we do have business registrations with their email

Agenda Item #5.1.

addresses. To do a more holistic outreach, we will do radio spots, newspaper ads, social media in English and Spanish, and a public notice

Councilor Abeyta-Stuve asked did the businesses have to subscribe for the email blasts?

Dr. Griselda Martinez said they don't have to register.

Councilor Abeyta-Stuve said I'm concerned with option 2. If there aren't any expenses covered by DFA and the city would have to cover, would that put us into noncompliance with the anti-donation clause?

Jennifer Vega-Brown, City Attorney said I believe that it would. If it doesn't fall under the appropriation guidelines and we have to go into city funds, there is a risk of violating anti-donation.

Councilor Abeyta-Stuve said option 1 seems like the better option for the city and the residents because if we become in violation of anti-donation. Did we receive a similar amount from CARES funding as other cities who ranked with similar scores?

Aaron Sharratt said I believe the DFA awarded 100% to those who asked for \$50,000 or less. So awarding based on a weighted scale, most municipalities were awarded 50%. Our combined request was over \$26 million.

Councilor Sorg said as far as the options, we're going to have to go with number one. If you don't use all of the money or you get too many applicants, what happens then?

Dr. Griselda Martinez said in the scenario that we get the max amount for eligible applicants and we have leftover, we would do a second round of awards. Once we go through all those that qualify, we will have to make sure it is equitable across the board in amounts.

Councilor Bencomo asked is there an opportunity for pushing back the deadline?

David Dollahon, Assistant City Manager said I assume it has to do with under the federal CARES Act it gave everyone a December 30, 2020 deadline.

Councilor Bencomo asked can you let us know how the city identifies a social disadvantaged group?

Dr. Griselda Martinez said DFA put out a matrix. It's minority, veteran, female owned.

Councilor Bencomo said I want to make sure a business who hadn't fully started because of the shutdown is not going to be disqualified.

Dr. Griselda Martinez said we reached out to DFA for guidance and settled on March 2019. We are aware that a number of businesses in hardship may not be

Agenda Item #5.1.

eligible.

Councilor Bencomo said it would be important for me to go back and see how we can support a significant amount of businesses. So depending on the score is how much the grant will be?

Dr. Griselda Martinez said yes but also with respect to the funds available.

Councilor Bencomo said I'm curious about nonprofits taking these funds and redistributing to clients.

Dr. Griselda Martinez said they would be subject to the same guidelines and same eligible expenses.

Councilor Bencomo asked how long do you think it will take your department to do whole process?

Dr. Griselda Martinez said we're planning for a two week application period. During the two weeks, we will review the applications received and start processing eligible expenses. Within the third or fourth week, we'll have the full report to start issuing checks. The element that is uncertain is how long it would take DFA to review.

Councilor Bencomo asked who cuts the actual check?

Dr. Griselda Martinez said the actual check will come from the city.

Councilor Bencomo asked what do they mean by funds spent by the 31st?

Dr. Griselda Martinez said once we issue the check, it's out of the funds of the city and will be considered spent.

Councilor Bencomo said option 1 would be safer. I'm unclear as to how we can spend the \$7 million. Is it direct relief or just reimbursement?

Aaron Sharratt said it is a mix of both. Expenses need to meet the criteria of being necessary due to the public health emergency, were not budgeted for, and are incurred March 1 thru December 30. There are assistance programs.

Councilor Bencomo said I would like to see this set of funds for additional relief. Is this a potential for a second round of extraordinary pay?

Aaron Sharratt said I don't anticipate that there is going to be a second round.

David Maestas, Advisor to the City Manager said we looked at reimbursement for the areas that we have covered, specifically from the Telshor Fund. After we replenish the money, that gives Council the opportunity in the future.

Councilor Bencomo said as far as paid leave that has been accumulated by staff

Agenda Item #5.1.

that haven't been able to take time off, I want to make sure folks don't lose any of that. Could these funds be used to cover some of that?

Aaron Sharratt said prioritizing reimbursement was for FMLA and extraordinary leave.

David Maestas said we do have the intention of having them carryover the extraordinary leave next year. We've asked directors to look at schedules and helping people so that they do have the ability to seek that benefit.

Barbara DeLeon, Interim Assistant City Manager said we've also discussed being able to fund temporary workers when we need to allow folks to utilize their leave.

Mayor Pro Tem Gandara asked is the state matrix similar to the federal?

Dr. Griselda Martinez said the state has provided guidelines that are an additional layer to the CARES Act, which is the reporting and record keeping.

Mayor Pro Tem Gandara asked will your selection committee be just staff?

Dr. Griselda Martinez said we will have training for staff and will be doing the review of all the applications. The recommendation will come to me and I'll do a final review of the packet and that recommendation will be in the DFA reimbursement forms and then we'll follow the rest of the process.

Mayor Pro Tem Gandara asked do you have a conflict of interest statement? I would recommend someone outside that committee that has no affiliation economic development. What is the process?

Dr. Griselda Martinez said the process will include an application online and if they don't have access to a computer they can call us and we will do the intake over the phone. We will require backup documentation and one staff person will be assigned to that one business owner throughout the whole process. So we will be providing feedback as far as any missing documents, any additional questions that need to be clarified, and the award notices.

Mayor Pro Tem Gandara asked what does it consist of?

Dr. Griselda Martinez said we have a draft application. We will require their business registration, proof of financial hardship, proof of how many employees they had up to February, and current number of employees. It is six pages if you print them from the online form.

Mayor Pro Tem Gandara asked are you only relying on economic development staff and how many are there?

Dr. Griselda Martinez said we have talked about bringing more people to help us with this process. We're still defining the process.

Mayor Pro Tem Gandara said I recommend hiring temps and communicating with

Agenda Item #5.1.

the Community Foundation. How did you decide to only do the 501(c)3 nonprofits?

Dr. Griselda Martinez said when we did research, the 501(c)3 are all charitable organizations that are not allowed to do lobbying or endorsement of political campaigns.

Mayor Pro Tem Gandara said I'm hesitant about the veteran organizations who are working specifically with veterans.

Dr. Griselda Martinez said non for profit organizations can have more than one designation.

Mayor Pro Tem Gandara said I want to go as quickly as we can but want to make sure we keep as many records as we can. I'm wondering if we could get Larry Horan or Victor to speak to the state about our concerns. I like the idea of the temporary workers. I would like to look at this funding to fund our mental health days.

Councilor Vasquez asked is it just the scoring matrix and the award amounts that we have control over to distribute these funds?

Dr. Griselda Martinez said for the eligible expenses we could be more specific but we cannot broaden the categories.

Councilor Vasquez asked is hiring additional staff for cleaning included in there?

Dr. Griselda Martinez said eligible expenses are known owner/employee wages, vendor bills, rent, mortgage payments, marketing, outdoor dining expenses, sanitation supplies, PPE, and utility costs.

Councilor Vasquez asked do vendor costs include an increase in costs due to COVID?

Dr. Griselda Martinez said vendor bills that have not been paid due to hardship.

Councilor Vasquez asked the maximum amount is subject to change if you get more or less applications?

Dr. Griselda Martinez said in our application to the state we defined the maximum amount up to \$10,000. A small portion of that will be utilized to cover some of the overtime that we will require, however, we want to make sure that we use as much funding from this to deploy to businesses.

Councilor Vasquez asked is there any way to go with option two with a caveat in the application that says if a business is not truthful about their expenses that they would have to return that money to the city?

Dr. Griselda Martinez said in the application process we do have a form where they certify that they are stating the truth in reporting. We are requiring receipts

Agenda Item #5.1.

to back that up.

Councilor Vasquez said I prefer option number two. Is there any other place where you would anticipate that businesses would have issues completing this application?

Dr. Griselda Martinez said the documentation would be the heavy lifting.

Councilor Vasquez asked how often does the Telshor Fund capitalize on its investment while it's in the market?

Mayor Miyagishima said I think we use the state's investment and I think the returns are done quarterly but no funds go overnight without earning some money.

David Dollahon said the city has a portion of the Telshor Fund with the state investment council and then another portion we manage locally through the city treasurer's office. We earn earnings every month so it's important that we replenish the Telshor Fund locally.

Councilor Abeyta-Stuve asked if staff has to be redistributed, is that not taken from any of the CARES Act funding?

Dr. Griselda Martinez said the additional expenses will come from these administrative costs.

Councilor Abeyta-Stuve asked I'm assuming we'll be releasing a report of the businesses that got the funding and how much it was?

Dr. Griselda Martinez said we can do that. The easiest way to contact us is by email.

Councilor Gill Sorg moved, seconded by Councilor Tessa Abeyta-Stuve, to Approve Resolution 21-055.

RESULT:	Carried
MOVER:	Councilor Gill Sorg
SECONDER:	Councilor Tessa Abeyta-Stuve
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

8.4 **RESOLUTION NO. 21-056:** A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND SIERRA NORTE DEVELOPMENT, INC., FOR CONSTRUCTION OF A NEIGHBORHOOD PARK LOCATED IN THE METRO CENTRAL PHASE 1 SUBDIVISION, IN AN AMOUNT NOT TO EXCEED \$592,213.07.

Cathy Mathews, Landscape Architect gave an overhead presentation.

Councilor Sorg asked why do we have to have a long narrow park rather than a rectangular?

Cathy Mathews said this is the kind of park that fit in with this particular development. It does meet our criteria of a minimum of two acres.

John Moscato, Sierra Norte Development said the linear nature of the park lends itself to this type of ninja layout where you can participate individually or in a race. It's similar to the linear park along Red Hawk Golf Road. It's a popular concept.

Councilor Sorg asked are you choosing the park first and then the rest of the development second?

John Moscato said the design happens together. It's convenient to everyone.

Councilor Sorg asked is this a variance?

Cathy Mathews said it's part of the overall master plan for Metro Verde Subdivision.

Councilor Sorg asked do we have to have this resolution to build the park?

Cathy Mathews said this is an agreement to reimburse the developer from the park impact fees.

David Dollahon, Assistant City Manager said all agreements for reimbursement with Mr. Moscato and Sierra Norte do need to come to you because it is related to an expenditure of city funds through a partnership effort.

Councilor Abeyta-Stuve asked is there any type of ADA inclusion?

Cathy Mathews said the overall park and trail are ADA compliant. We carefully selected the pieces of equipment so some of them would be useful for folks with different abilities.

Councilor Tessa Abeyta-Stuve moved, seconded by Councilor Gabe Vasquez, to Approve Resolution 21-056.

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta-Stuve
SECONDER:	Councilor Gabe Vasquez
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

8.5 RESOLUTION NO. 21-057: A RESOLUTION TO APPROVE THE FISCAL YEAR 2020-2021 ANNUAL INTERNAL AUDIT PLAN.

Viola Perea, Interim Audit Manager gave an overhead presentation.

Ifo Pili, City Manager said I'm confident in the scope and qualifications of our staff. I feel an obligation to state my stamp of approval.

Councilor Abeyta-Stuve asked do we currently have vacancies in this department

Agenda Item #5.1.

and what is the scope that we are expecting for those vacancies to stay open for?

Viola Perea said we currently have five positions within the internal audit office. Three of them are currently vacant. Steps are underway to outsource some of the work to accomplish our plan.

Jennifer Vega-Brown, City Attorney said our city auditor position is currently in the hiring process. I did a requisition for an internal auditor today and are working to fill the inspector general position.

Councilor Abeyta-Stuve asked is the COVID funding one of the items recommended to be outsourced?

Viola Perea said that is going to be our main focus for outsourcing due to the volume of the programs and the money involved.

Mayor Pro Tem Gandara asked will you be doing the JCC or contracting out?

Viola Perea said at this point the JCP audit is expected to be completed in house. Initially the outsourcing will be focused on COVID relief.

Councilor Gill Sorg moved, seconded by Councilor Yvonne Flores, to Approve Resolution 21-057.

RESULT:	Carried
MOVER:	Councilor Gill Sorg
SECONDER:	Councilor Yvonne Flores
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

8.6 COUNCIL BILL NO. 21-019; ORDINANCE NO. 2952: AN ORDINANCE TO REPEAL AND REPLACE THE EXISTING LAS CRUCES MUNICIPAL CODE (LCMC) 1997, AS AMENDED, CHAPTER 27, ART. VII, SECTION 27-12-7-9, WITH A NEW VERSION TO CORRECT THE DEFINITION OF UTV.

Robert Cabello, Assistant City Attorney gave an overhead presentation.

Donna Vindaly (via email) said after reading the Las Cruces Sun News this morning and hearing that you will be discussing UTV definitions this morning in the council meeting, I am taking this opportunity to write to note my strong feelings on the topic. I've been deeply disappointed by the council's decision to legalize UTVs on city streets and it is clear that the decision has made a major impact on the safety and quality of life in and around Las Cruces. This is now my number one topic that will affect my voting and activism decisions in the future. I live on the edge of the city/county but in the city and since the legalization of UTVs on city streets there has been a massive explosion of use. I see the vast majority without a license, many driven at high speeds through our city neighborhood without a license plate at all, driving at high speeds along Stern Drive 55+, drunk drivers trying to go up my driveway, accidents in the arroyo behind my house. I have verbally ended up in significant arguments with ATV

Agenda Item #5.1.

users, one in my own driveway with a too drunk/high UTV user at 6 a.m. on Mother's Day morning with their stereo blazing. The only thing stopping an altercation on my own property was my large dog keeping the two marauders at bay. Another almost being run over by UTV driver in the arroyo behind my house while walking. Many other unpleasant interactions in the city and surrounding county as UTV drivers continue to have no rules whatsoever that govern their use and behavior. I have yet to see a single UTV pulled over by the police in the city or sheriff even without a license driving 60+ down Stern Drive, doing racing laps around my neighborhood, etc. The explosion of UTVs from the city also effect our county massively. I urge you to speak to BLM staff and the impacts they are seeing on our beautiful national monument. The impacts are significant and 100% correlated with the legalization on city streets. I have spoken to many city and county residents who are seeing what I am seeing and are deeply concerned of this made by the developments. This is a big issue on the rise. I know UTVs are population and affects how you might vote but sometimes you, our leaders, need to make decisions that positively influence the quality of life, health and safety that many may not be entirely popular. Do you want to be in a city in which large numbers of people drive around in largely unregulated UTVs? That seems to be where we are headed. Let's make Las Cruces the city and surrounding area the one that you strive to develop and support. Will the degradation of our natural environment be on your hands after all this wonderful work has been done to attract tourists to this beautiful place? Thank you for listening.

Councilor Abeyta-Stuve asked do we have any data on how many citations have been issued since the change?

Miguel Dominguez, Interim Police Chief said we do have those stats but I would have to go back and get with staff to provide you with accurate information.

Councilor Vasquez said I think in a couple of months we should review where we're at with this ordinance and having the appropriate data.

Councilor Yvonne Flores moved, seconded by Councilor Tessa Abeyta-Stuve, to Amend Ordinance No. 2952 to replace Exhibit A.

RESULT:	Carried
MOVER:	Councilor Yvonne Flores
SECONDER:	Councilor Tessa Abeyta-Stuve
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

Councilor Johana Bencomo moved, seconded by Councilor Gabe Vasquez, to Approve Ordinance No. 2952 as amended.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Gabe Vasquez
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

9. BOARD APPOINTMENTS

9.1

Councilor Abeyta-Stuve appointed Patricia Gallegos to the Library Board.

9.2

Dr. Marlena Fraune

Councilor Tessa Abeyta-Stuve moved, seconded by Councilor Gill Sorg, to appoint to the Quality of Life PRC.

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta-Stuve
SECONDER:	Councilor Gill Sorg
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

9.3

Diego Medina

Councilor Gill Sorg moved, seconded by Councilor Tessa Abeyta-Stuve, to appoint to the Quality of Life PRC.

RESULT:	Carried
MOVER:	Councilor Gill Sorg
SECONDER:	Councilor Tessa Abeyta-Stuve
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores

10. NOTICE OF PROPOSED ORDINANCE(S)

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

10.1 COUNCIL BILL NO. 21-020; ORDINANCE NO. 2953: AN ORDINANCE AUTHORIZING A REAL ESTATE PURCHASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND JOEL CALDERON FOR THE SALE 4.2627 ACRES OF MUNICIPALLY OWNED LAND WITHIN THE WEST MESA INDUSTRIAL PARK FOR THE PURCHASE PRICE OF \$127,800.00, IN ACCORDANCE WITH PROVISION OF LCMC 1997, SECTION 2-1312.

Council agreed to bring forward.

11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11.1 Mayor Miyagishima

Just a reminder that tomorrow we are going to have a couple of public hearings on the minimum wage. Daniel Hernandez did a report on the TIDD and one of the things they brought up was even if we had appointed an other than city TIDD, in a few years it could have reverted to the landowners. I was thinking in the future we could use this document as a work session item and kind of go through it and see some of the flaws that TIDDs are allowed to do when it's not a city run TIDD.

Agenda Item #5.1.

11.2 Mayor Pro Tem Gandara

Our Recovery and Suicide Awareness Celebration is this Friday. It will be virtual from 5-8. Suicide in New Mexico is the highest in the nation. We are going to look at developing white papers to effect policy on a local and state and federal level. I would like to bring forward a resolution to start our public safety committee. I received an email about how we are responding to mental health and how we're addressing through our 911 calls. I wonder if we might talk about doing a work session around the TIDD. I'm also hearing a lot of housing issues and evictions and do a media campaign as the information is not getting out to our constituency.

11.3 Councilor Flores

I talked to Dr. Martinez about having a work session on the TIDD. Mandy Guss did present to the Finance PRC and there was disclosure in as far as some talks with someone who was interested but there wasn't any detail. September is Hispanic Heritage Month. The president of the New Mexico Restaurant Association said that she doesn't imagine that Las Cruces business owners would decrease their workers pay if given the option and they would probably higher new employees. I want to thank the Church of Latter Day Saints as they made a huge contribution to Las Cruces. Economic Development will be presenting September 28th on what is going on at the airport.

11.4 Councilor Sorg

I asked over a month ago to have a presentation that shows all the possible incentives and credits and alternative programs.

11.5 Councilor Bencomo

I would like to have work sessions about what private/public partnerships would mean for us. At our MPO meeting, the EBID staff was there and presented some information. I brought up the issue of cleanliness at EBID ditches. I would like them to come to a work session. I think it's important that we recognize the diversity of the Hispanic/Latino community.

11.6 Councilor Abeyta-Stuve

We had a Community Schools strategic plan meeting last week. We are going to have our Quality of Life PRC meeting on Wednesday. I want to give a shoutout to teachers as they have been very responsive. I want to see if it is possible that we're able to allow field sport practice utilizing safe practices. I also wanted to seek guidance on Halloween and if we could do a PIO on COVID safe practices.

11.7 Councilor Vasquez

I agree on the need to start thinking about a joint response model. I'd like to have a work session that brings together our fire department, our police department, as well as a presentation on these models to figure out what works best for crisis intervention. I also agree that a work session on TIDDs is needed but I think we missed an opportunity if we didn't include discussion on

alternative forms of incentivizing. I want to make sure that we're redeveloping the inner part of the city. I have a series of photos of areas that I think need serious attention. The assessment at the Skate Park by the American Ramp Company has been done.

12. CITY MANAGER REPORT

12.1 Ifo Pili

I need to read the pricing certificate General Obligation Bond Series 2020 sold on August 25, 2020. The purchase price was \$19,472,957.20 with a PAR of \$17.6 million , which includes a premium of \$1.87 million. City Group was the winning bid with a true interest cost of 0.0498%. City Group sent a good faith deposit of \$352,000 and when the bonds close we get the rest of our proceeds, which will be on September 24th. These bonds mature on August 1, 2032. Bonds maturing after August 1, 2028 may be called or paid off early at the city's discretion on or after August 1, 2027. These meet the ordinance parameters. The PAR does not exceed \$17.6 million. The net effective interest rate of 1.1161% was less than 10%, and the final maturity on or before August 1, 2032.

I've been making my way through staff department heads and directors, touring different departments and different districts, and make my way to meet with different stakeholders and organizations in the community. I got to visit our industrial park and airport, and am excited about their attitude. I was really impressed with the Take Back El Paseo Project. We do have a meeting scheduled October 26th to talk about revitalization strategies.

13. ADJOURNMENT

13.1 Councilor Yvonne Flores moved, seconded by Councilor Gill Sorg, to Adjourn at 6:17 p.m.

RESULT:	Carried
MOVER:	Councilor Yvonne Flores
SECONDER:	Councilor Gill Sorg
AYES:	Councilor Kasandra Gandara, Councilor Tessa Abeyta-Stuve, Councilor Gabe Vasquez, Councilor Johana Bencomo, Councilor Gill Sorg, and Councilor Yvonne Flores
ABSENT:	Mayor Ken Miyagishima

**21-061**

City Council Action and Executive Summary

Type of Action:☒ **Resolution**☐ **Ordinance**☐ **TIDD Resolution****District:** ☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6**1st Reading:****Adopted:**

October 19, 2020

Drafter: Ray Burchfield**Department:**

Community Development

Program: COMMUNITY
IMPROVEMENT**Line of Business:**COMMUNITY
IMPROVEMENT

Title: **A RESOLUTION APPROVING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA INC. FOR THE SHELTER IMPROVEMENT PROJECT.**

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

PURPOSE(S) OF ACTION:

Approve CDBG Agreement.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces (City) has received program funds from the United States government under Title I of the Housing and Community Development Act of 1974 which created the Community Development Block Grant (CDBG) Program. The CDBG Program provides the City the opportunity to administer a federally funded program in accordance with the goals of the City's 2016-2020 Consolidated Plan which addresses low-income areas and residents' community development needs.

On May 4, 2020, City Council approved Resolution No. 20-153, thereby adopting the Program Year 2020 Action Plan. The 2020 Action Plan outlines how the City's CDBG funds will be spent during the City's Fiscal Year 2021. The 2020 Action Plan allocated \$53,500 in Action Plan 2020 funding to La Casa for the renovation at the domestic violence shelter.

La Casa operates an emergency shelter that is used to provide temporary housing for individuals who are victims of domestic violence in Las Cruces, New Mexico.

This project will provide funding to replace the flooring with tile in the shelter and safety, security, and accessibility improvements to the playground behind the shelter.

In order to comply with CDBG regulations, a CDBG agreement between the City and La Casa, as shown in Exhibit "A," is required to be executed.

SUPPORT INFORMATION:

[Exhibit "A"-CDBG Agreement w/ La Casa](#)

PLAN(S):

Agenda Item #6.1.

2016-2020 Consolidated Plan

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☒ Yes

☐ No

☐ N/A

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:

\$53,500.00

AVAILABLE AMOUNT:

\$53,500.00

EXPENDITURE AMOUNT:

\$53,500.00

Additional Budgetary Information:

Funding is budgeted for FY2021

Funding Source(s):

Community Development (FUND 2000) 20453020-721080-11976

Community Development (FUND 2000) 20453018-721080-11976

Overall Budget Impact:

Funding is budgeted for FY2021

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

☐ Yes

☒ No

☐ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and approve the CDBG grant agreement between the City and La Casa Inc.
2. Vote "No"; this will not approve the Resolution and will not approve the CDBG grant agreement.
3. Vote to "Amend"; this would modify the Resolution based on City Council's direction and then vote "Yes" on the amended Resolution.
4. Vote to "Table"; this would delay the Resolution and would require further direction from City Council.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 20-153

RESOLUTION 21-061

A RESOLUTION APPROVING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA INC. FOR THE SHELTER IMPROVEMENT PROJECT.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) has CDBG program funds from the U.S. Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974, which created the Community Development Block (CDBG) Program; and

WHEREAS, the CDBG Program provides the City the opportunity to administer these federal funds in accordance with the City's adopted Consolidated Plan to address community development needs in low-income area or for low-income residents; and

WHEREAS, on May 4, 2020, the Las Cruces City Council approved Resolution No. 20-153, adopting the 2020 Action Plan, which outlined how CDBG funds will be expended for City Fiscal Year 2021; and

WHEREAS, the 2020 Action Plan allocated \$53,500.00 in CDBG funds to La Casa for the Shelter Improvement project; and

WHEREAS, in order to comply with CDBG regulations, a CDBG grant agreement between the City and La Casa is required to be executed.

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

(I)

THAT the CDBG grant agreement between the City of Las Cruces and La Casa Inc., as shown in Exhibit "A," attached hereto and made a 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

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND LA CASA, INC. FOR THE SHELTER
IMPROVEMENT PROJECT**

THIS AGREEMENT is entered into this ____ day of October, 2020, between the City of Las Cruces, a New Mexico municipal corporation with a principal mailing address of P.O. Box 20000, Las Cruces, New Mexico 88004 (hereinafter called the “City”) and La Casa Inc. , a non-profit agency, whose mailing address is 800 S. Walnut Dr., Las Cruces, New Mexico 88001 (hereinafter called the “Sub-recipient”), under CDBG Grant Number **B-19/20-MC-35-0002**.

WHEREAS, the City has received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20453018/20453020 -721080-11976; IDIS Activity # 1251.

WHEREAS, the City will have performed all the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City’s 2016-2020 Consolidated Plan, including the 2020 Action Plan, which includes funding for this project in the amount of **\$53,500.00** for FY 2020-2021; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program’s National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

X In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and low-moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served: battered and abused spouses (i.e. Presumed Benefit); or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

Agenda Item #6.1.

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

____ In accordance with 24 CFR Part 570.208 (a) (3) Housing activities: An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households.

B. Activities

The Sub-recipient will benefit from the Shelter Improvement Project and agrees to complete the project in a manner satisfactory to the Grantee and consistent with any standards that comply with HUD regulations and City/State requirements required as a condition of providing these funds. The CDBG program is regulated by 24 CFR part 570, and the Sub-recipient hereby agrees to complete the approved project activity in compliance with these regulations.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

The program includes: the renovation of the Shelter at 800 Walnut in the City of Las Cruces. Specifically, the flooring in the shelter will be replaced with tile. The project also includes improvements to the playground behind the shelter. They will improve safety by replacing old, worn out equipment as well as replacing an old gazebo. The scope of activity includes contract procurement, construction and management oversight, completion, and all reporting requirements. The renovated spaces (hereinafter known as the "premises"), are intended to be used by the Sub-recipient in a manner that complies with HUD CDBG Regulations at Sections 570.201(c), and any other Grantee requirements specified herein.

The total project cost is estimated to be \$107,000. The CDBG Grant will cover 50% or a total of \$53,500 and La Casa will use other funds at their disposal and in-kind donation (if any) from the selected contractor for the 50% match that is required per the 2016/20 City of Las Cruces Consolidated Plan.

2. Program Type: Public Facility Improvements

Program Title: Shelter Improvements

3. Program Management: The program will be managed by La Casa's management team. This will include procurement and all construction management and management of funds.

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient acknowledges that funds will be disbursed for eligible expenses in conjunction with the project and agrees to provide the following level of program services during PY 2019-2020:

Activity

La Casa operates a program called Domestic Violence Shelter which provides emergency housing for up to 400 persons annually.

D. Staffing

The program grant will be managed by the Executive Director of the Subrecipient. Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee.

E. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein. The Sub-recipient is expected to complete the project within eighteen months from the date of the execution of the agreement. Substandard performance as determined by the Grantee, will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Sub-recipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on the Effective date of this Agreement which is the date of the last person to sign or October 19, 2020, or the date on which the United States Department of Housing and Urban Development releases funds to the City for Grant B-19/20-MC-35-0002, whichever is later. The period of performance will continue for Eighteen (18) months after the Effective date of the Agreement.

B. Eligible Payment Period

All eligible expenses and purchases approved by this Agreement and incurred during the grant period beginning from the effective date of this agreement and 18 months thereafter are eligible for payment. The term of this Agreement and the provisions herein shall not be extended unless deemed necessary by the grantee, which is managing the project. Such an extension may be granted by the City's Community Development Director or his designee, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other

Agenda Item #6.1.

extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. **BUDGET**

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend 100% of the funds within 18 months of the Agreement Start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
PY2019 CDBG	Playground Improvements including design, construction, & materials.	\$13,500.00
PY2020 CDBG	Shelter Flooring replacement including materials and labor and other misc, related eligible expenses.	\$40,000.00
	TOTAL	\$53,500.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: _____ Yes X No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the Housing and Neighborhood Services Manager or his designee. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. **PAYMENT**

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$53,500.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

The Grantee shall disburse grant proceeds for approved budget items only after the Grantee has approved the Sub-recipient’s project plans, reviewed and approved of both procurement and contracting award procedures, and ascertained that all the necessary and proper permits have been obtained by the Sub-recipient at each phase prior to the beginning of construction. Other documents may be needed during construction specified in writing by the Grantee to the Sub-recipient, including all phases of the competitive bid process (see Attachment “A,” Section II). Disbursement of funds will be to the Sub-recipient for reimbursement of payment of approved invoices submitted and verified by the Sub-recipient in accordance with applicable CDBG regulations, including Davis-Bacon and Related Acts. Notwithstanding anything in this Agreement, the Grantee also reserves the right to request and approve documentation supporting any requests for disbursement to verify reasonableness and validity of such costs and the Sub-recipient’s budget may be modified by the Grantee accordingly. Funds expected to be spent during the last 30 days of the grant will be presented for payment consideration to the Grantee within 60 days of the end of the grant period. Any funds that are not expended by the end of the 60-day period after the end of the grant will be held by the Grantee and not be available to the Sub-recipient, unless an Agreement extension is approved in accordance with Section II, (B).

V. **NOTICES**

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Raymond Burchfield, Neighborhood Programs Specialist Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3094 E-mail: rburchfield@las-cruces.org	Henry Brutus, Executive Director La Casa, Inc. 800 S. Walnut St. Las Cruces, NM 88001 Phone: (575) 526-2819 E-mail: hbrutus@lacasainc.org

VI. **GENERAL CONDITIONS**

A. **General Compliance**

The Sub-recipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Sub-recipient does not assume the recipient’s environmental responsibilities described in 24 CFR 570.604 and (2) the Sub-recipient does not assume the recipient’s responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract. The Sub-recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor

Nothing contained in this Agreement is intended to, nor shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Sub-recipient shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance, as the Sub-recipient is an “independent contractor.”

C. Hold Harmless

The Sub-recipient agrees to defend, indemnify and save harmless the City and its officers, agents and employees from any and all suits, actions and claims of any character brought because of any injury or damage received or sustained by any person, persons or property arising out of or resulting from negligence of the Sub-recipient under this Agreement; however, this hold harmless clause shall not extend to liability, claims, damages, losses or expenses, including attorney fees arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient’s obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient’s comparative share of negligence as between the Sub-recipient and the City.

D. Workers’ Compensation

The Sub-recipient shall provide Workers’ Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance and Bonding

The Sub-recipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

All Sub-recipients located within or providing services within a City of Las Cruces-owned facility are required to include the City as an additional insured with the same coverage as the Sub-recipient on the Sub-recipient’s liability insurance policies.

The Sub-recipient shall comply with the bonding and insurance requirements of 2 CFR Part 200, Subpart D, Post Federal Award Requirements, Procurement Standards.

F. Grantee Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Sub-recipient may amend the budget, scope of work, or this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the City's governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only be a written amendment signed by both City and Sub-recipient.

H. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 2 CFR 200.339, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 2 CFR 200, Subpart D, Remedies for Noncompliance, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City or is otherwise adjudicated to be in compliance.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with 2 CFR Part 200, Subpart D, Financial Program Management, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and to maintain necessary source documentation for all costs incurred. The Sub-recipient shall administer its program in conformance with 2 CFR part 200.

B. Applicable Laws

The Sub-recipient shall comply with all applicable federal, state and local laws, rules, and regulations dealing with property rehabilitation and quality standards whether they are presently or subsequently promulgated. The Sub-recipient agrees to comply with any and all CDBG regulations, as amended from time to time whether set forth herein or not and agrees to execute or amend documents as necessary to be in compliance forthwith. The Sub-recipient shall also comply with all other applicable federal, state or local statutes, ordinances, rules and regulations including, but not limited to, all applicable provisions of the City's Municipal, Building and Zoning Codes and the New Mexico State Environmental Requirements for rehabilitation of offices and community services spaces.

C. Documentation and Record-Keeping

1. Records to be Maintained

As applicable, the Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 2 CFR Part 200. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 2 CFR Part 200, Subpart , Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender and disability status of all eligible clients;
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Required Documents for Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (Intake) Forms		
Verification of Las Cruces residency		
Monthly Expenditure Report	X	
Client List		
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

3. Retention and Inspection of Records

- a. The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.
- b. The Sub-recipient agrees to include in first-tier subcontracts under this agreement, a clause substantially the same as paragraph (a) above, "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.00

The periods of access and examination in paragraphs (A) and (B) above for records relating to appeals, litigation or settlement of claims arising from the performance of the contract to which the City, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigations, claims, or exceptions.

4. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms

Agenda Item #6.1.

of this Agreement shall remain in effect during any period that the Sub-recipient has control over CDBG funds, including program income.

5. Audits and Inspections

All Sub-recipient records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

One copy of the Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 months after the end of the audit period, whichever occurs first. The reporting package shall include:

1. Financial statement,
2. Schedule of prior year audit findings,
3. Auditor's report, and
4. Corrective action plan that addresses each audit finding.

Any deficiencies noted in audit reports must be fully cleared by the Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the Sub-recipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits, and 2 CFR 200 subpart F (Audit Requirements for Federal Awards), as applicable.

D. Reporting and Payment Procedures

1. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Sub-recipient. If such program income is collected/awarded, said program income shall be paid to the City.

2. Indirect Costs

If indirect costs are charged, the Sub-recipient will develop an indirect cost allocation plan for determining the appropriate Sub-recipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The City will make all payments under this program directly to the contracted vendors consistent with any approved budget and City policy concerning payments. Payments will be made for eligible expenses actually incurred by the project, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient

Agenda Item #6.1.

accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

4. Monthly Reports

The Sub-recipient shall submit regular Progress Reports by the 15th of each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing “no billing for this month.”

E. Procurement

1. Compliance

The City shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The City shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 200 Subpart D, Procurement Standards (200.213 – 200.326) and shall subsequently follow 2 CFR part 200 Subpart D, Property Standards (200.310 – 200.316), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

3. Travel (Check one)

The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

F. Use and Reversion of Assets

Upon expiration of this Agreement, the Sub-recipient shall transfer to the Grantee any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. The Grantee and Sub-recipient and Grantee hereby acknowledge that the real property under the Sub-recipient’s control that has been acquired or improved in whole or in part with CDBG funds meets the national objective criteria at §570.208 (2), Limited Clientele Activities.

VIII. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; Title VIII of the Civil Rights Act of 1968, as amended; Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; and with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable. Attachment “C” Certification is required of all Sub-recipients as part of the entire Agreement.

3. Land Covenants/ Land Use Restriction Agreement

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Sub-recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Sub-recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate. See Attachment “A” of this agreement and made a part hereof.

4. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. See Attachment “A” of this agreement and made a part hereof.

5. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

6. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

B. Affirmative Action

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City's specifications pursuant to an Affirmative Action Program (AAP) in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. Each Sub-recipient must have an Affirmative Action Plan/Program filed with the City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity:

If the Sub-recipient does not have an AAP, it must develop one. The Sub-recipient shall develop and submit a plan for approval within 60 calendar days of the signing of the Agreement.

2. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the

performance of this Agreement. As used in this Agreement, the term “minority and female business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, a “minority group members” are African--Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Sub-recipient shall furnish and cause each of its own Sub-recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

5. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment “C” (Equal Employment Opportunity/Affirmative Action Clause) of this agreement made a part hereof, in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

C. Employment Restrictions

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. Labor Standards

a. The Sub-recipient shall comply with all applicable provisions of the Davis-Bacon Act (40 U.S.C. 201, et. Seq.) and it's implementing labor regulations at 29 CFR Part 5. The Sub-recipient shall also comply with the Contract and Work Hours and Safety Standards Act (40 U.S.C. Section 327-332), Fair Labor Standards Act (29 U.S.C. 201, et seq.) and other Federal laws and regulations pertaining to labor standards and HUD Handbook 1344.2, as applicable.

b. The Sub-recipient shall ensure that the Federal Labor Standards Provision, HUD form 4010, is included in the Bid Documents.

- c. During the duration of construction, the Sub-recipient will conduct at least 2 employee interviews monthly and include them with each request for payment to the Grantee.
- d. The Sub-recipient is responsible for the collection of the Certified Payrolls from the Prime Contractor. If there are any Sub-Contractors, it is the responsibility of the Prime Contractor to collect all Certified Payrolls and to deliver them to the Sub-recipient, who will then deliver them to the Grantee. These payrolls are due no later than 1 week after an employee is paid for a given pay period.
- e. When the Sub-recipient receives a pay request from the Prime Contractor, and before payment is made, the Sub-recipient must deliver a copy of the request to the Grantee, as well as all currently due Certified Payrolls. At that time, the Grantee, after certifying that the Contractors are in compliance with the Davis Bacon Act, will fax to the Sub-recipient a completed Davis Bacon Compliance Certification form. At this time payment can be made to the Prime Contractor. This process is necessary to ensure contractor compliance with the Davis Bacon Act.

2. “Section 3” Clause

The Sub-recipient hereby agrees to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under the Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipient shall sign Attachment “D” as a condition of receiving this grant.

3. Copeland “Anti-Kickback” Act:

As applicable, the Sub-recipient shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. §874), as supplemented by the Department of Labor regulations contained in 29CFR Part 3.

D. Conduct

1. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals:

The Sub-recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring:

The Sub-recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content:

The Sub-recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process:

The Sub-recipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

4. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

5. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

6. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of the Sub-recipients as part of the entire Agreement.

7. Conflict of Interest

The Sub-recipient agrees to abide by the provisions of 570.611 including the acknowledgement of the Conflict of Interest Statement in Exhibit "F" made a part of this Agreement.

8. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

9. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

10. Federal Changes

The Sub-recipient shall at all times comply with all applicable HUD regulations, policies, procedures and directives, including without limitation those listed directly or by reference by the Master Agreement between the City and HUD, as they may be amended or promulgated from time to time during the term of the agreement. Sub-recipient's failure to so comply shall constitute a material breach of this contract.

IX. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Sub-recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C., 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information,

Agenda Item #6.1.

as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

1) Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Sub-recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

X. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XI. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

XII. GOVERNANCE AND SEVERABILITY

- A.** This agreement shall be governed by the laws of the State of New Mexico.
- B.** If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C.** All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D.** All certifications in Attachments "A" through "E" shall be signed by the Sub-recipient as part of this Agreement.

(SIGNATURE BLOCK ON NEXT PAGE)

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

La Casa, Inc.

Signature

Henry Brutus
Printed Name

Executive Director
Title

Date

CITY OF LAS CRUCES

David Dollahon, Assistant City Manager (Operations)

APPROVED AS TO FORM:

Date

City Attorney

REQUIRED CERTIFICATIONS FOR EXECUTION AS PART OF THIS AGREEMENT:

1. Attachment A. Land Use Restrictions Agreement
2. Attachment B. Drug-Free Workplace.
3. Attachment C. EEO/AA Clause.
4. Attachment D. Certification Regarding Lobbying
4. Attachment E. Required City and Federal Clauses and Certifications:

Protest Procedures

Conflicts of Interest

Breaches and Dispute Resolution/ Rights and Remedies

Contracting with Small and Minority Firms, Women's

Business Enterprise and Labor Surplus Area Firms

Bidder's Certification of Energy Conservation, Air Quality and Clean Water

Compliance

Retention and Inspection of Records

No Government Obligation to Third Parties

False or Fraudulent Statements of Claims

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Lower Tier Covered Transactions

Instructions for Certification

Privacy Act

Termination

State and Local Law Disclaimer

Civil Rights Requirements

Age Discrimination Act

Copeland "Anti-Kickback"

Davis-Bacon Act

Contract Work Hours and Safety Standards Act

**COMMUNITY DEVELOPMENT BLOCK GRANT
LAND USE RESTRICTION AGREEMENT**

THIS LAND USE RESTRICTION AGREEMENT, dated as of October ____, 2020, is by and between La Casa Inc., (the Lessee) and the City of Las Cruces, a New Mexico municipal corporation (Owner).

WITNESSETH:

WHEREAS, the Lessee operates the building at 800 S. Walnut, a facility (the Project), which is used for the Domestic Violence Shelter, located on lands in the City of Las Cruces, County of Dona Ana, State of New Mexico, more particularly described in Exhibit A hereto; and

WHEREAS, the Lessee applied with the City of Las Cruces for Community Development Block Grant (CDBG) funds from Program Year 2020 in the amount of \$53,500.00, for the project and has made certain representations to the City about the Project, as to the nature of the project, including the number of Low-Income clients to be served and what the property shall be used for, which the City of Las Cruces relied in considering the application and committing funds to the project; and

WHEREAS, the CDBG regulations at 24 CFR 570.505, Use of Real Property, require that standards of the use of the property apply from the date CDBG funds are first spent for the property; and

WHEREAS, the Lessee and Owner, under this Agreement, intends, declares and covenants the use and occupancy of the Project shall be and are covenants running with the Project land and shall be binding upon all subsequent owners of the Project for such term until there is a change of use granted following the processes outlined below and the City of Las Cruces has filed a Release of this Agreement with the Office of the County Clerk of Dona Ana County.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the Lessee and the City of Las Cruces agree as follows:

Representations, Covenants and Warranties of the Owner and Lessee

- (a) The Owner or Lessee may not change the use or planned use of any such property including beneficiaries of such use from that for which the acquisition or improvement was made unless the Owner or Lessee provides, though coordination with the City’s Community Development Department, affected citizens with reasonable notice of, and opportunity to comment on, and proposed change, and either:
 - 1. The new use of such property qualifies as meeting one of the national objectives in §570.208 (formerly §570.901) and is not a building for the general conduct of government; or
 - 2. The requirements in paragraph (b) of this section are met.
- (b) If the Owner/Lessee determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (a)(1) of this section, it may retain or dispose of the property for the changed use if the City’s CBDG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of and improvements to, the property.
- (c) If the change in use occurs after closeout, the provisions governing income from the disposition of the real property in §570.504 (b)(4) or (5), as applicable, shall apply to the use of the funds reimbursed.
- (d) Following the reimbursement of the CDBG program in accordance with paragraph (b) of the section, the property no longer will be subject to any CDBG requirements.

Agenda Item #6.1.

Miscellaneous

- (a) All notices to be given pursuant to the Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the City of Las Cruces: City of Las Cruces
 Community Development Director
 700 N Main St.
 Las Cruces, NM 88001

To the Lessee: La Casa, Inc.
 Executive Director
 800 S. Walnut
 Las Cruces, NM 88001

The City and the Lessee may, by notice given hereunder, designate any further or different, addresses to which subsequent notices, certificates or other communications shall be sent.

- (b) The Agreement shall be governed by the laws of the State of New Mexico and, where applicable, the laws of the United State of America.

SIGNATURES ON THE NEXT PAGE

Agenda Item #6.1.

IN WITNESS WHEREOF, the parties have caused this agreement to be signed by their respective duly authorized representatives, as the day and year first written above.

La Casa, Inc._____

By:_____

Its: Executive Director_____

State of New Mexico)
City of Las Cruces) ss.
County of Dona Ana)

This instrument acknowledged before me this _____day of _October, 2020 by _____ of _____ its_____.

Notary Public (SEAL)

My commission Expires:_____

CITY OF LAS CRUCES

By:_____

Date

Its: Assistant City Manager/COO

State of New Mexico)
City of Las Cruces) ss.
County of Dona Ana)

Corporate Acknowledgment

This instrument acknowledged before me this _____day of _____, 20__ by _____Assistance City Manager/Chief Operating Officer, of the City of Las Cruces, A New Mexico municipal corporation, on behalf of the municipal corporation.

Notary Public (SEAL)

My Commission Expires:_____

APPROVED AS TO FORM:

City Attorney

ATTACHMENT “B”

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification set out below is a material representation upon which reliance is placed by the City of Las Cruces and the U.S. Department of Housing and Urban Development (HUD) in awarding this Grant. If it is later determined that the Sub-recipient knowingly rendered a false certification or otherwise violates the requirements of the Drug-Free Workplace Act, the City’s Community Development Department and/or HUD, in addition to any other remedies available to the federal government, may take action authorized under the Drug-Free Workplace Act. The Sub-recipient will comply with the other provisions of the Act and with other applicable laws.

CERTIFICATION

1. The Sub-recipient certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sub-recipient’s workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Sub-recipient’s policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - C. Making it a requirement that each employee be engaged in the performance of the grant is given a copy of the statement required by Paragraph “A.”
 - D. Notifying the employee in the statement required by Paragraph “A” that, as a condition of employment under the Grant, the employee would:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
 - E. Notify the City’s Community Development Department and/or HUD in writing within ten (10) calendar days after receiving notice under Subparagraph (D) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers(s) of each affected grant.

Agenda Item #6.1.

- F. Taking one of the following actions, within 30 calendar days of receiving notice under Subparagraph (D) (2), with respect to any employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.
 - G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E) and (F).
2. The Sub-recipient shall insert in the space provided on the attached "Place of Performance" form the site(s) for the performance of work to be carried out with the Grant funds (including street address, city, county, state, zip code and total estimated number of employees). The Sub-recipient further certifies that, if it is subsequently determined that additional sites will be used for the performance of work under the Agreement, it shall notify the City's Community Development Department and/or HUD immediately upon the decision to use such additional sites by submitting a revised "Place of Performance" form.

**PLACE OF PERFORMANCE
FOR CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

Name of Sub-recipient: La Casa, Inc.

Program Name: Shelter Improvements

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

Place of Performance includes street address, city, county, state, zip code for each site:

Check _____ if there are work places on file that are not identified here.

By: _____ Date: _____

ATTACHMENT “C”

**EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION CLAUSE FOR
CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246**

In carrying out this Agreement, the Sub-recipient and its contractors and subcontractors, if any, shall not discriminate against any employee or applicant for employment because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or status with regard to public assistance. The Sub-recipient shall take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices shall include, but not be limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Sub-recipient shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this non-discrimination clause. The Sub-recipient shall state in all solicitations or advertisement for employees placed by or on behalf of the Sub-recipient that it is an Equal Opportunity or Affirmative Action employer.

By: _____ Date: _____

CERTIFICATION OF
RESTRICTIONS ON LOBBYING
31 U.S.C. 1352; 49 CFR Part 19; & 49 CFR Part 20

I, Henry Brutus, hereby certify on behalf of La Casa, Inc., that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subgrants, loans, and cooperative agreement) which exceed \$100,000, and that all such Sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. As required by 49 CFR part 20, “New Restrictions on Lobbying,” I will disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on my behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of October, of 2020.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

PROTEST PROCEDURES

Protests concerning this proposal can be filed as per Las Cruces Municipal Code Section 24-286 and 24CFR85.36 (b) (12) (i) (ii). A protestor must exhaust all administrative remedies with the City before pursuing protest with a Federal agency. Reviews of protests by the Federal agency will be limited to:

- 1. Violations of the City’s protest procedures for failure to review a complaint or protests.
- 2. Violations of Federal law or regulations and the standards of 24CFR85.36

Protests received by a Federal agency other than those specified above will be referred to the City.

Company Name’s: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date:_____

Signature:_____

The Remainder Of This Page Intentionally Left Blank

CONFLICTS OF INTEREST

Based in part on federal regulations 2 CFR 200 and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his or her immediate family,
- (iii) His or her partner, or
- (iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

(a) The grantee’s or subgrantee’s officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Proposers, or parties to sub-agreements. Grantees and subgrantee’s may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee’s and sub grantee’s officers, employees, or agents or by Proposers or their agents.

(b) The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest. Neither the Owner nor any of its proposers or their sub proposers shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect.

- 1. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

BREACHES AND DISPUTE RESOLUTION

Applicability to Contracts - All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down - The Breaches and Dispute Resolutions requirements flow down to all tiers.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

CONTRACTING WITH SMALL AND MINORITY FIRMS.
WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS

- (1) The Prime Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- (2) Affirmative steps shall include:
- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
 - (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Company Name: La Casa, Inc.
Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

BIDDER’S CERTIFICATION OF ENERGY CONSERVATION
AIR QUALITY AND CLEAN WATER COMPLIANCE

Company/Organization Name: La Casa, Inc.

The third party Contractor named above hereby certifies compliance with the requirements listed below and regulations issued by the Environmental Protection Agency (EPA), Federal Highway Administration, Federal Transit Administration (FTA) and other agencies of the Federal Government as well as future regulations, guidelines, standards, orders, directives or other requirements that may affect this procurement contract.

The above named Contractor will:

- 1. Comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C., 7401 et seq.
- 2. Comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Act, as amended, 33 U.S.C., 1251 et seq.
- 3. Comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
- 4. Report any violation of these requirements by a sub recipient or itself, resulting from completing the required manufacturing and delivery of vehicles included with this contract to HUD and the appropriate United States EPA Regional Office.
- 5. Agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with assistance provided by HUD.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

RETENTION AND INSPECTION OF RECORDS

- A. La Casa, Inc., the City, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Proposer’s directly pertinent books, documents, papers or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

- B. The Proposer agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above, ““Subcontract,” as used in this clause, excludes purchase orders not exceeding \$10,000.

The periods of access and examination in paragraphs (A) and (B) above for records relating to appeals, litigation or settlement of claims arising from the performance of the contract to which the City, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

ACCESS TO RECORDS

The Contractor agrees to provide the Purchaser, the HUD Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.

FEDERAL CHANGES

Contractor shall at all times comply with all applicable HUD regulations, policies, procedures and directives, including without limitation those listed directly or by reference by the Master Agreement between the City and HUD, as they may be amended or promulgated from time to time during the term of the contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

COPYRIGHTS AND RIGHTS IN DATA

The City shall have exclusive ownership of all proprietary interest in, and the right to full and exclusive possession of all information, materials, designs and documents discovered or produced by Proposer pursuant to the terms of the contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of the Contract.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The City of Las Cruces and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City of Las Cruces, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

FALSE OR FRAUDULENT STATEMENTS OR CLAIMS

The Contractor acknowledges and agrees that:

(1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. Accordingly, by executing the Grant Agreement or Cooperative Agreement, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project covered by the Grant Agreement or Cooperative Agreement. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Recipient to the extent the Federal Government deems appropriate.

(2) If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized for 49 U.S.C. § 5307, the Government reserves the right to impose on the Recipient the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY
EXCLUSION LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**(BEFORE COMPLETING CERTIFICATION, READ ATTACHED NSTRUCTIONS WHICH ARE
AN INTEGRAL PART OF THE CERTIFICATION)**

- (1) The prospective recipient of Federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Transportation (DOT) may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by HUD.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligible and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in the transaction, in addition to other remedies available to the Federal Government, the DOT may pursue available remedies, including suspension and/or debarment.

PRIVACY ACT

The Proposer agrees to comply with all applicable terms in the Privacy Act of 1974; will notify the government when the Proposer anticipates operating a system of records on behalf of the government in order to implement the bid if such system contains information about individuals retrievable by the individual's name or other identifier; and will include in any subcontract the Privacy Act notifications above.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

TERMINATION

Flow Down

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

- a. **Termination for Convenience (General Provision)** The City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in the manner the City directs.
- b. **Opportunity to Cure (General Provision)** The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions
If Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from the City setting forth the nature of said breach or default, the City shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- c. **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.
If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

STATE AND LOCAL LAW DISCLAIMER

Flow Down - The Disclaimer has unlimited flow down.

State and Local Law Disclaimer - The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

CIVIL RIGHTS REQUIREMENTS

**29 U.S.C. § 623, 42 U.S.C. § 2000; 42 U.S.C. § 6102, 42 U.S.C. § 12112;
42 U.S.C. § 12132, 49 U.S.C. § 5332; 29 CFR Part 1630; & 41 CFR Parts 60 et seq.**

Flow Down - The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.

Civil Rights - The following requirements apply to the underlying contract:

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

The Remainder Of This Certification Continues on the Next Page

AGE DISCRIMINATION ACT

The Contractor shall comply with all the requirements of the Age Discrimination Act of 1975 42 U.S.C. 6101 et seq. or with respect to otherwise qualified handicapped persons as provided in section 504 of The Rehabilitation Act of 1973 29 U.S. C. 794.

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

COPELAND “ANTI-KICKBACK”

Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (Applies to all contracts and subgrants for construction or repair)

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

DAVIS-BACON ACT

Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and sub-grantees when required by Federal grant program legislation)

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and sub-grantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

Company Name: La Casa, Inc.

Title of Person Authorized to Sign this Form: Executive Director

Date: _____

Signature: _____

The Remainder Of This Page Intentionally Left Blank

**21-062**

City Council Action and Executive Summary

Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

District:	☒ 1	☒ 2	☒ 3	☒ 4	☒ 5	☒ 6
1st Reading:				Adopted:	October 19, 2020	
Drafter:	Jose Cardona			Department:	Financial Services	
Program:				Line of Business:	Procure To Pay	

Title: A RESOLUTION APPROVING A CONTRACT FOR THE UPDATE OF ROADRUNNER TRANSIT'S SHORT RANGE TRANSIT PLAN TO ALLIANCE – TEXAS ENGINEERING CO. DBA ALLIANCE TRANSPORTATION GROUP, INC. OF AUSTIN, TEXAS FOR A TERM OF ONE YEAR, IN AN AMOUNT NOT TO EXCEED \$100,000.00 PLUS GROSS RECEIPTS TAX AS APPLICABLE, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 19-20-116).

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

PURPOSE(S) OF ACTION:

To award a contract.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The current five (5) year Short Range Transit Plan (S RTP) was adopted by City Council on March 21, 2016, and recommended improvements to the fixed route bus service through Fiscal Year 2021. The S RTP is in its fourth year of implementation and requires an update to the next five (5) year plan to help direct RoadRUNNER Transit's future planning efforts.

On May 8th, 2020, the City's Purchasing Section advertised Request for Proposal No. 19-20-116 for RoadRUNNER Transit S RTP Update resulting in the receipt of six (6) proposals. The proposals were reviewed and evaluated by a Selection Advisory Committee on July 2, 2020 and the committee recommended to award the contract to Alliance – Texas Engineering Co. dba Alliance Transportation Group, Inc of Austin, Texas.

The update to the S RTP will address five (5) scopes of work: (1) Assess of the performance of existing fixed routes with recommendations for improvement; (2) Identify current service gaps and potential service gaps in the next 5-year planning horizon; (3) Recommend improvements to RoadRUNNER Transit's Dial-a-Ride service; (4) Recommend a short range technology implementation plan; and (5) Recommend a short range bus stop improvement plan. The plan is anticipated to take twelve (12) months to complete and will include public and stakeholder involvement. Both RoadRUNNER Transit and Mesilla Valley Metropolitan Transportation Organization staff will be working closely with the consultant throughout this process.

SUPPORT INFORMATION:

[Exhibit "A" - Agreement - RFP 19-20-116 RR Short Range Transit Plan.](#)

PLAN(S):

Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

SAC

ANNUAL BUDGET APPROVAL:

☒ Yes

☐ No

☐ N/A

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:

\$100,000.00

AVAILABLE AMOUNT:

\$100,000.00

EXPENDITURE AMOUNT:

\$100,000.00

Additional Budgetary Information:

Funds are budgeted in the FY 2021 budget.

Funding Source(s):

GRANT REVENUE:

ORG 50254011; OBJ 599200; PROJ 11862;
\$60,000.00

ORG 50254012; OBJ 599200; PROJ 11862;
\$20,000.00

GRANT EXPENSE:

ORG 50254011; OBJ 721080; PROJ 11862;
\$60,000.00

ORG 50254012; OBJ 721080; PROJ 11862;
\$20,000.00

MATCH:

ORG 50254001; OBJ 721080; PROJ 11862;
\$15,000.00

ORG 50254002; OBJ 721080; PROJ 11862;
\$5,000.00

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

☐ Yes

☐ No

☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and authorize a contract for a term of one (1) year for the update of RoadRUNNER Transit's Short Range Transit Plan to Alliance – Texas Engineering Co. dba Alliance Transportation Group, Inc of Austin, TX.

2. Vote "No"; this action will not approve the Resolution and City Council will need to provide Staff with alternative direction.

3. Vote to "Amend"; this could modify the Resolution based on direction from City Council to Staff.

4. Vote to "Table"; this will impact the City's operational needs and City Council will need to provide direction to Staff.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION 21-062

A RESOLUTION APPROVING A CONTRACT FOR THE UPDATE OF ROADRUNNER TRANSIT'S SHORT RANGE TRANSIT PLAN TO ALLIANCE – TEXAS ENGINEERING CO. DBA ALLIANCE TRANSPORTATION GROUP, INC. OF AUSTIN, TEXAS FOR A TERM OF ONE YEAR, IN AN AMOUNT NOT TO EXCEED \$100,000.00 PLUS GROSS RECEIPTS TAX AS APPLICABLE, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 19-20-116).

The City Council is informed that:

WHEREAS, the current five (5) year Short Range Transit Plan (SRTP) adopted by City Council on March 21, 2016 consists of five (5) recommended phases to improve fixed route bus service. The SRTP is in its fourth year of implementation and requires an update to the next five (5) year plan to help direct RoadRUNNER Transit's future planning efforts; and

WHEREAS, on May 8th, 2020, the City's Purchasing Section advertised Request for Proposal No. 19-20-116 for RoadRUNNER Transit SRTP Update resulting in the receipt of six (6) proposals. The proposals were reviewed and evaluated by a Selection Advisory Committee on July 2, 2020 and the committee recommended to award the contract to Alliance – Texas Engineering Co. dba Alliance Transportation Group, Inc of Austin, Texas; and

WHEREAS, the update to the SRTP will address five scopes of work: (1) Assess of the performance of existing fixed routes with recommendations for improvement; (2) Identify current service gaps and potential service gaps in the next 5-year planning horizon; (3) Recommend improvements to RoadRUNNER Transit's Dial-a-Ride service; (4) Recommend a short range technology implementation plan; and (5) Recommend a short range bus stop improvement plan. The plan is anticipated to take twelve (12) months to complete and will include public and stakeholder involvement. Both RoadRUNNER Transit and Mesilla Valley Metropolitan Transportation Organization staff will be working closely with the consultant throughout this process.

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

(I)

THAT a contract is hereby approved and awarded to Alliance – Texas Engineering Co. dba Alliance Transportation Group, Inc of Austin, Texas for an update to RoadRUNNER Transit's Short Range Plan for a term of one (1) year, in an amount not to exceed \$100,000.00 plus gross receipts tax as applicable, as shown in Exhibit "A" attached hereto and made part of this Resolution.

(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

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS



SERVICE AGREEMENT

THIS AGREEMENT made and entered into on this ____ day of October, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Alliance – Texas Engineering Co. dba Alliance Transportation Group, Inc., of 11701 Stonehollow Drive, Suite 100, Austin, Texas 78758, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

RoadRUNNER Transit Short Range Transit Plan Update

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No.19-20-116 as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$100,000.00, plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR shall submit detailed invoices monthly based on a percentage complete of Task Items outlined in Exhibit A. Invoices shall be submitted to the City by e-mail to Disbursements@las-cruces.org. CITY shall pay CONTRACTOR within thirty (30) days after receipt of invoice.

CONTRACTOR if applicable is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on date of award for a term of one (1) year. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit B.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings with ten (10) day written notice to CONTRACTOR both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent CONTRACTOR, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR'S employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent CONTRACTOR and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent CONTRACTOR, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."

3. Workers Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.
4. Professional Liability
 - a. \$1,000,000 per occurrence

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Michael Bartholomew

With Copies to: Purchasing Manager

TO CONTRACTOR: Alliance-Texas Engineering Co. dba Alliance Transportation
Group, Inc.
11701 Stonehollow Drive, Suite 100
Austin, TX 78758
ATTENTION: JD Allen

23. SCOPE OF AGREEMENT

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

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

26. DISADVANTAGE BUSINESS ENTERPRISES

CONTRACTOR is required to report its Disadvantaged Business Enterprises (DBE) participation obtained through race-neutral means throughout the period of performance as proposed in its response to RFP 19-20-116, herein incorporated as Exhibit C.

27. FEDERAL REQUIREMENTS
Refer to Exhibit D

ALLIANCE-TEXAS ENGINEERING
CO. DBA ALLIANCE
TRANSPORTATION GROUP, INC.

CITY OF LAS CRUCES

BY: _____
JD Allen
Executive Vice President

BY: _____
Chenyu "Alex" Liu
Purchasing Manager

Date

Date

APPROVED AS TO FORM

 for JVB 10/1/2020

City Attorney

EXHIBIT A

I. SCOPE OF WORK

1. Assess the performance of the existing routes to recommend potential improvements. While the City feels the current service has improved the routes (i.e. improving on time performance), there has not been a significant increase in ridership. An independent assessment is needed on how these routes are performing, whether there are potential improvements in the structuring of the routes, and/or whether generating ridership in the future may be more dependent on levels of service. Such levels of service could include route frequency, hours of service, or transit wayfinding technology to better attract a new generation of riders.
2. Identify current service gaps and potential service gaps within the 5-year planning horizon. The City Council has identified areas of growth within the City where transit services may be needed. These include expanding services east of Porter Road, service to Centennial High School in the far southeast part of the City, and Metro Verde, a large mixed-use residential/commercial development area to the far north. Prior to 2008, RoadRUNNER service extended east of Porter Road to Holman/Dunn roads, which are still within the City limits and are areas likely to have transit-dependent populations. Recommended actions that will better service these areas. Because many residents living in the City's adjacent, non-incorporated communities also work and do business in Las Cruces, recommendations on coordinating South Central Regional Transit District (SCRTD) and City transit services is an important factor in any analysis. Inclusive of this is how to continue to implement electric buses into the fixed route and, when a comparable paratransit vehicle is available on the market, the Dial-a-Ride system. A market segmentation approach is expected to determine how RoadRUNNER can best serve various demographic and economic segments of the City via not only fixed route, but general public demand response (i.e., micro-transit.)
3. Seek recommendations for improving RoadRUNNER's demand response paratransit service called Dial-a-Ride. Since the mid-1990s, Las Cruces has operated Senior Citizen transportation (demand response) and the ADA paratransit service as one operation. Senior Transportation accounts for 75 to 80 percent of all Dial-a-Ride trips. The Dial-a-Ride budget makes up between a quarter and a third of the entire RoadRUNNER Transit operating budget, which limits flexibility for the fixed route system. The City would like recommendations for improving the efficiency of the Dial-a-Ride service and recommendations for making the Senior Transportation component of its service more cost effective. As the City moves forward with building a new Transit Service and Maintenance Facility, recommendations are needed that factor the new location into the efficiency ratio for demand response services.

4. Recommend a technology plan for transit. With rapidly advancing transit technology, especially for technology that enhances the customer experience with both fixed route and demand response services, RoadRUNNER Transit is increasingly unable to keep up with the demand for this technology. The City has insufficient staff expertise to best take advantage of this technology and troubleshoot technological programs for existing systems. The new technology can be very costly and often requires expensive maintenance agreements with vendors. RoadRUNNER Transit needs guidance and recommendations as to which technologies to pursue in the next five years, what the costs will be, and how to fund the initial expense and on-going maintenance. Recommended actions must be compatible City of Las Cruces Information Technology systems and IT protocols.
5. Analyze the need for rider amenities at bus stops. There are increasing demands from transit users and the community to develop plans for installing additional bus shelters throughout the service area. Planning for, purchasing, and installing new bus shelters is a complex and costly process. As more shelters are installed, maintenance costs also rise. As ridership demographics change, recommendations as to what increased amenities beyond shelter are desired by riders at bus stops. The City would be interested in a bus stop improvement plan that would be financially feasible and sustainable and compliant with the City's ADA Transition Plan.
6. Tasks-Deliverables assigned to Contractor:

Task 1: Project Initiation

The Contractor shall meet with the Project Team consisting of staff from RoadRUNNER Transit and the Mesilla Valley Metropolitan Planning Organization (MVMPO) to discuss details of the scheduling of the forthcoming tasks. This meeting could be via Skype or other remote means. The Contractor shall have weekly progress report meetings with the Project Team.

Task 2: Outreach/Stakeholder Dialog

In addition to the Project Team, stakeholders invited to participate in the Short Range Transit Plan (SRTTP) process shall include: the City of Las Cruces Departments of Quality of Life and Public Works, members of the Las Cruces Area Transit Advisory Board, the SCRTD, and the MVMPO. The Contractor shall identify other relevant stakeholder groups. It is expected that the Project Team would also be present at this beginning stage and at every stakeholder meeting. The Contractor shall conduct at least the initial stakeholder meetings in Las Cruces. Efforts will be ongoing to keep stakeholders engaged in the process throughout the planning effort. The first meeting shall outline the process to the stakeholder group and seek input on future tasks. The Contractor shall participate in subsequent meetings with stakeholder groups via conference phone.

Task 3: Preliminary analysis to address scopes of work

In this step the Contractor shall begin analysis of each of the five ranked scopes of work defined above. The outcome will be a report that provides an analysis of the current conditions pertaining to each of the five scopes of work.

Task 4: Integration with Other Systems

RoadRUNNER Transit has connecting service with the SCRTD, New Mexico Department of Transportation (NMDOT) Park & Ride Gold and Silver Routes, and the Ztrans Orange Route. In turn, SCRTD has connecting service with SunTrans (City of El Paso, Texas) and El Paso County Rural Transportation (El Paso County, Texas). The SCRTD contracts annually with Ztrans to fund a portion of a route linking the cities of Las Cruces and Alamogordo, New Mexico. It will be crucial to review and determine how the services of RoadRUNNER and the SCRTD can be more efficiently and effectively coordinated. SCRTD is independently contracting for a mid-range transit plan and it is expected that the Contractor coordinate with the SCRTD planner to address this issue. This task will pertain to Scopes of Work #1 and #2.

Task 5: Preliminary Options, Alternatives and Strategies

At this stage, all the possible alternatives should be evaluated according to quantitative and qualitative criteria. It is expected that through meetings the public and stakeholders will review the alternatives before a service plan is developed. The Contractor shall develop a set of performance criteria against which transit options leading up to a Plan will be evaluated. The set of evaluation criteria shall be developed in consultation with the Project Team and stakeholders. By the end of the five-year planning horizon of this SRTP update, RoadRUNNER will have a new maintenance facility for all buses, including both electric and gas/diesel powered vehicles. The location of the new maintenance facility will have to be a consideration in any recommended route changes, etc.

Task 6: Recommended Service Plans, Implementation and Funding Strategies

The culmination of the preceding tasks shall be the development of recommended service plans for RoadRUNNER fixed route and paratransit service (Dial-a-Ride.) The recommended service plans should consider not only the data findings from existing and future service, but input from stakeholder and public hearings. The recommended service plans should be structured as implementation phases which are interchangeable. These phases must be financially constrained phases based on reasonable future funding with monies from the Federal Transit Administration (FTA) and the City of Las Cruces, as overseen by the NMDOT, Transit and Rail Division, and the City of Las Cruces.

Task 7: Final Short Range Transit Plan Presentation and Adoption by City of Las Cruces

The ultimate task will be the creation of an adopted RoadRUNNER SRTP. The Plan is intended to be a strategic plan for major changes in the fixed route structure, hours, the City's demand response paratransit (Dial-A-Ride) and other associated changes. As noted in the task schedule, a work session with the City of Las Cruces City Council with the participation of the Contractor is required.

7. Public Engagement and Public Participation Requirements

Public engagement in the planning process of the SRTP is a legal requirement according to Title VI and related Federal Regulations to which both RoadRUNNER Transit and the Mesilla Valley Metropolitan Planning Organization are legally bound. Public hearings and stakeholders' meetings must be easily accessible by public transit (in this case either RoadRUNNER or SCRTD) and within their service hours. The MVMPO as a participant in the planning process related to RoadRUNNER's SRTP will ensure that the public participation process is in accordance with adopted MVMPO Public Participation Plan which is in compliance with FTA and Title VI regulations.

Any public meeting including those of stakeholders must be in compliance with the New Mexico Open Meeting Act as delineated in the New Mexico Open Meetings Act Compliance Guide

(<https://www.nmag.gov/uploads/files/Publications/ComplianceGuides/Open%20Meetings%20Act%20Compliance%20Guide%202015.pdf>).

While most meetings between the City and the Contractor can be done through conference calls, the Contractor will be required to be present in Las Cruces a minimum of 2 times; once for stakeholder meetings (one visit possibly involving 2-3 days) and once for a City Council work session (involving 1 day) for the completion of Task 7. City Transit Section and MVMPO staff will organize public meetings and stakeholder follow-up meetings as necessary following tasks #5 and #6 and provide feedback regarding those meetings to the Contractor; when possible, the meetings will be set up to allow the Contractor to join by conference phone or by video conference.

8. Milestones

I. Milestone: Existing Conditions Analysis (18%)

Core Scope/Task Addressed:

- Existing Performance Assessment
- Service Gap Analysis
- Preliminary Analysis to Address Scopes of Work
- Bus Stop Analysis

Description: The existing conditions analysis will include the following:

- A desire line analysis that pulls data out of the regional model to understand existing and future travel patterns so that we can design recommendations that mimic these patterns and capture more riders.
- Performance of existing coordination with other service providers including but not limited to SCRTD.
- Transit Market Analysis that looks at need, demand and potential in the study area and produces maps with individual and composite scores. This will serve as the gap analysis as well.
- Operational provider and route profiles that will serve as a base line for all further analysis and recommendations.

- Ridership analysis
- Bus Stop analysis

II. Milestone: Public Engagement Effort (18%)

Core Scope/Task Addressed:

- Public Outreach/Stakeholder Dialog

Description: The public engagement effort will include the following:

- Initial public engagement kickoff event
- Public survey
- Interactive virtual open houses using platforms such as ArcGIS Dashboards which will allow the public and stakeholders to stay up to date with the plan, provide comments at all major milestones and interact with the project at their convenience.
- Stakeholder interviews which will include any group that wishes to engage with the project and at a minimum will include RoadRUNNER staff, City officials, MPO, Active Transportation groups and SCRTD.
- Infographic visually telling the public engagement story of the SRTP.
- Analysis of the qualitative and quantitative feedback and input gathered from the public engagement effort and how it will be used to inform the recommendations.
- Public survey to gather input on transit recommendations and alternative(s).
- Final documentation of all public outreach efforts

III. Milestone: Demand Response, Mobility-On-Demand and Technology Recommendations (25%)

Core Scope/Task Addressed:

- Demand Response & Mobility-On-Demand Recommendations
- Transit Technology Plan

Description: This milestone will include the following:

- Demand response and Mobility-On-Demand recommendations
- Transit Technology Plan

IV. Milestone: Alternatives and Recommendations (12%)

Core Scope/Task Addressed:

- Preliminary Options, Alternatives, and Strategies
- Recommended Service Plans, Phased Implementation Plan, and Funding Strategies
- Bus Stop Analysis

Description: This milestone will include the following:

- Transit Alternative(s) for route alignments, service levels and service standards
- Bus Stop Standards
- Recommendations for a community supported Preferred Alternative (PA)

V. Milestone: Implementation and Funding Plan (15%)**Core Scope/Task Addressed:**

- Recommended Service Plans, Phased Implementation Plan, and Funding Strategies
- Bus Stop Analysis

Description: This milestone will include the following:

- A prioritized implementation plan
- Bus Stop management plan
- Recommended funding strategy

VI. Milestone: Final Plan (12%)**Core Scope/Task Addressed:**

- All

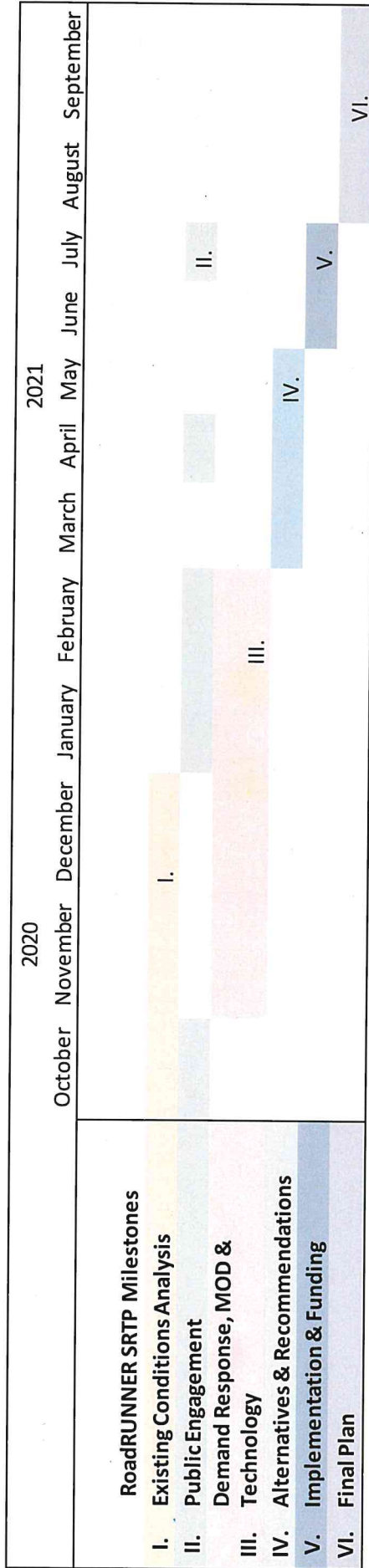
Description: This milestone will include the following:

- A final and completed plan
- Back up documentation
- Work session to go over the plan with staff, project partners and City Council
- Final presentation

II. COST MATRIX

SCOPE #	PROJECT DESCRIPTION	COST
1	Assess the performance of the existing routes to recommend potential improvements.	\$25,000.00
2	Identify current service gaps and potential service gaps within the 5-year planning horizon.	\$30,000.00
3	Seek recommendations for improving RoadRUNNER's demand response paratransit service called Dial-a-Ride.	\$25,000.00
4	Recommend a technology plan for transit.	\$12,000.00
5	Analyze the need for rider amenities at bus stops.	\$8,000.00
	Total Cost	\$100,00.00

EXHIBIT B



NOTICE TO CONTRACTORS**This completed form is a MANDATORY SUBMITTAL with proposal**

(Submitting a blank form will render the bid non-compliant)

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
RACE NEUTRAL

FORM: RN- 1 (DBE Utilization) Rev: December 26, 2019

PROJECT: RoadRUNNER Transit Short Range Transit Plan Update

Even though the City of Las Cruces DBE program goal for fiscal years 2018-2020 is 0% for this Federal Transit Administration funded project, contractor is encouraged to exceed the established DBE goal.

The undersigned has satisfied the requirements of the specifications in the following manner:

- ☐ The contractor is unable to commit to any DBE utilization on this project.
- ☒ The contractor is committed to exceeding the City's goal of 0.0% and will achieve a minimum of 75 % DBE utilization on this project.
-

The following must be completed fully and signed by bidder:

Prime Contractor: Alliance-Texas Engineering Co.

DBA: Alliance Transportation Group, Inc.

Owner: Gayle L. Heath, JD Allen, Arthur Trey Gamble, J. Michael Heath

Street Address: 11701 Stonehollow Drive, Suite 100

City, State, Zip: Austin, TX 78758

Contact Email: jdallen@emailatg.com

Phone No.: 512.821.2081

Certified Business: Yes. ATG is a certified DBE firm.

Description – NAICS #: 521330, 541614


Signature

JD Allen, AICP

Printed Name

June 9, 2020

Date

Executive Vice President

Title

Federal Certifications**No Obligation by the Federal Government to Third Parties**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Third Party Contract Records

The Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

Changes to Federal Requirements

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Civil Rights

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e

note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national aspirational goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The City's overall goal for DBE participation for FY2018- FY2020 is 0 %. A DBE certification form is included at the end of this Attachment.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Las Cruces deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Las Cruces. In addition, the contractor may not hold retainage from its subcontractors.

e. The contractor must promptly notify City of Las Cruces, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of City of Las Cruces.

Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City of Las Cruces. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City of Las Cruces, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Lobbying: Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. A Lobbying certification form is included at the end of this Attachment.

Energy Conservation

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

CERTIFICATION REGARDING LOBBYING

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

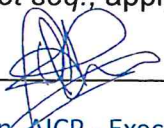
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Alliance-Texas Engineering Co. DBA Alliance Transportation Group, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

 Signature of Contractor's Authorized Official

JD Allen, AICP - Executive VP Name and Title of Contractor's Authorized Official

June 9, 2020 Date

**21-063**

City Council Action and Executive Summary

Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6
1st Reading:	October 19, 2020
Drafter:	Natalie Green
Program:	Community Improvement
Adopted:	October 19, 2020
Department:	Community Development
Line of Business:	Community Improvement

Title: A RESOLUTION APPROVING AGREEMENTS AND AMENDMENTS TO AGREEMENTS BETWEEN THE CITY OF LAS CRUCES (CITY) AND VARIOUS NON-PROFIT PARTNERS FOR EMERGENCY ASSISTANCE PROGRAMS TO ADDRESS THE COMMUNITY IMPACT OF COVID-19.

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

PURPOSE(S) OF ACTION:

Approve agreements.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On August 27, 2020, the Las Cruces City Council budgeted \$1,400,000 through Resolution 21-038, in emergency assistance from the Telshor Facility Fund to support activities related to COVID-19 emergency response. City Council acknowledged the continued need to support the community being impacted by the COVID-19 pandemic through local non-profit organizations and other essential service providers.

Contracts were drafted and negotiated with various non-profits in early September; however, the City's Procurement Code, City Council approval is needed to execute agreements above \$75,000.00. Approval is needed for the following agreements and or amendments:

- Community Action Agency - \$200,000.00 (Amendment),
- Mesilla Valley Community of Hope - \$ 150,000.00 (Amendment),
- La Casa Inc - \$75,000.00 (Amendment),
- Casa de Peregrinos - \$75,000.00 (Amendment),
- Catholic Charities - \$150,000.00 (Amendment),
- Boys and Girls Club- 100,000.00 (Amendment),
- Families Youth Inc - \$200,000.00 (New Agreement), and
- Community Action Agency -\$75,000 (New Agreement).

Services cannot be provided until a service agreements are executed.

SUPPORT INFORMATION:

[EXHIBIT "A"- CAA AMENDMENT.](#)

[EXHIBIT "B"- MVCH AMENDMENT.](#)

[EXHIBIT "C" - LA CASA AMENDMENT.](#)

[EXHIBIT "D"- CDP AMENDMENT.](#)

[EXHIBIT "E" - CATHOLIC CHARITIES AMENDMENT.](#)

Agenda Item #7.1.

[EXHIBIT "F" - BOYS AND GIRLS CLUB.](#)
[EXHIBIT "G" - FAMILIES AND YOUTH INC.](#)
[EXHIBIT "H" - COMMUNITY ACTION AGENCY](#)
[ATTACHMENT "A" - CAA CARE AGREEMENT.](#)
[ATTACHMENT "B" - MVCH AGREEMENT.](#)
[ATTACHMENT "C" - LA CASA AGREEMENT.](#)
[ATTACHMENT "D" - CDP AMENDMENT.](#)
[ATTACHMENT "E" - CATHOLIC CHARITIES AGREEMENT.](#)
[ATTACHMENT "F"- BOYS AND GIRLS CLUB.](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

- ☒ Yes
☐ No
☐ N/A

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:

\$3,123,119.00

AVAILABLE AMOUNT:

\$1,956,040.72

EXPENDITURE AMOUNT:

\$1,025,000.00

Additional Budgetary Information:

Funding is budgeted for FY2021

Funding Source(s):

Health Services (FUND 2700) 20453016-721080-
COVID \$950,000.00
Health Services (FUND 2700) 20453016-721080-
11593 \$75,000.00

Overall Budget Impact:

Funding is budgeted for FY2021

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

- ☐ Yes
☐ No
☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and approve the agreements between the City and various non-profits for emergency assistance programs to address the community impact of COVID-19.
2. Vote "No"; this will not approve the Resolution and not approve the agreements between the City and various non-profits for emergency assistance programs to address the community impact of COVID-19.
3. Vote to "Amend"; this would modify the Resolution based on City Council's direction and then vote "Yes" on the amended Resolution.
4. Vote to "Table"; this action would further delay the agreements and would require further direction from City Council.

REFERENCE INFORMATION:

Agenda Item #7.1.

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution 21-038

RESOLUTION 21-063

A RESOLUTION APPROVING AGREEMENTS AND AMENDMENTS TO AGREEMENTS BETWEEN THE CITY OF LAS CRUCES (CITY) AND VARIOUS NON-PROFIT PARTNERS FOR EMERGENCY ASSISTANCE PROGRAMS TO ADDRESS THE COMMUNITY IMPACT OF COVID-19.

The City Council is informed that:

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (COVID-19), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act; and

WHEREAS, essential mitigation measures implemented by the State have a potentially devastating impact on the Las Cruces community and furthermore, the displacement of persons and closure of schools and businesses is taxing to operations of service providers deemed essential under the Governor's order across the City; and

WHEREAS, the City recognizes the continued need to support the community being impacted by the COVID-19 pandemic through local non-profit organizations and other essential service providers; and

WHEREAS, on August 27, 2020, the Las Cruces City Council approved a budget adjustment for \$1,400,000 through Resolution No. 21-038, in emergency assistance from the Telshor Facility Fund to support activities related to COVID-19 emergency response; and

WHEREAS, City Council approval is needed to approve the agreements above \$75,000.00 in accordance with the City's Procurement Code.

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

(I)

THAT the Las Cruces City Council supports essential and critical services to combat the effects of COVID-19 across our Las Cruces Community.

(II)

THAT the amendment to an agreement between the City and Community Action Agency, attached hereto as Exhibit "A", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(III)

THAT the amendment to an agreement between the City and Mesilla Valley Community of Hope, attached hereto as Exhibit "B", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(IV)

THAT the amendment to an agreement between the City and La Casa Inc, attached hereto as Exhibit "C", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(V)

THAT the amendment to an agreement between the City and Casa De Peregrinos, attached hereto as Exhibit "D", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(VI)

THAT the amendment to an agreement between the City and Catholic Charities, attached hereto as Exhibit "E", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(VII)

THAT the amendment to an agreement between the City and Boys and Girls Club, attached hereto as Exhibit "F", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(VIII)

THAT the agreement between the City and Families and Youth Inc., attached hereto as Exhibit "G", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(IX)

THAT the agreement between the City and Community Action Agency, attached hereto as Exhibit "H", and made a part of this Resolution, is approved and the City Manager is authorized to execute the agreement on the City's behalf.

(X)

THAT City staff is authorized to make minor changes as necessary to service agreements with each non-profit agency and the City Manager is authorized to execute said agreements on the City's behalf.

(XI)

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

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

**AMENDMENT ONE OF THE FY2021
HEALTH-RELATED PUBLIC SERVICES' PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF LAS CRUCES
AND COMMUNITY ACTION AGENCY**

THIS AMENDMENT OF AGREEMENT is entered into on the 1st day of October, 2020, by and between the City of Las Cruces, New Mexico, a municipal corporation organized under the laws of the State of New Mexico, hereinafter called "City," and Community Action Agency, a non-profit public organization, hereinafter called "Contractor" (collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Professional Services Agreement (the "Agreement") on July 6, 2020; and

WHEREAS, the Agreement is a Health-Related Public Services contract through which the Contractor agreed to provide services for individuals and families dealing with cancer and low-income individuals and families; and

WHEREAS, a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004, and the parties desire to amend the Agreement to reflect the increased need for services; and

WHEREAS, the Agreement is being amended in accordance with Provision 8, which describes the terms of "Changes and Extra Services" of the Agreement.

NOW THEREFORE, the Parties do mutually agree to the following changes to the Agreement:

1. In accordance with Provision 8 of the Agreement, the Compensation shall be increased up to an additional \$200,000.00, and shall be amended to

"the CITY shall compensate CONTRACTOR for the performance of SERVICES under this Amendment One to the original Agreement, as set forth and incorporated by Exhibit A to Amendment One, in an amount not to exceed a total of \$227,500.00, commencing on the execution of this agreement and terminating on June 30, 2021."

2. The Scope of Services shall be amended as outlined in Exhibit A to Amendment One, attached hereto and incorporated herein by reference.

3. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

4. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

5. AUDIT

Provision 12 of the original Service Agreement is hereby amended to add the following requirement: All records shall be maintained for five (5 years from the date of the last payment received from the City.

6. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration (DFA) requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, setting adequate applicant eligibility, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY from DFA or other source.

All other Sections, Exhibits, and/or Attachments shall remain as originally agreed to and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto do mutually execute this Amendment of Agreement as of the date first written.

[signature block on next page]

COMMUNITY ACTION AGENCY

CITY OF LAS CRUCES

BY:



Dawn Hommer
Executive Director

BY:

Ifo Pili
City Manager

10/01/2020

Date

Date

APPROVED AS TO FORM

 For JVB 9/29/20

City Attorney

**Amendment One to FY2021 Scope of Work
COMMUNITY ACTION AGENCY
\$200,000.00**

Program: Community Action Agency of Southern New Mexico (CAASNM) through programs such as the Program of the **Cancer Aid Resource & Education, Inc.** and **Thriving Families-COVID-19 Community Assistance Program**

Additional term to the scope of work are as follows:

A. Additional Performance Goal & Program Justification:

Community Action Agency of Southern New Mexico (CAASNM) will provide financial and economic support to eligible low-income and at-risk households suffering from financial hardship or employment interruptions due to COVID-19 pandemic.

The State of New Mexico has identified the following activities as eligible for reimbursement under the CARES act funding:

Services to Homeless populations:

- helps mitigate COVID-19 effects
- enables compliance with COVID-19 public health precautions
- prevent evictions

Housing Services:

- pay overdue rent to avoid eviction
- Mortgage payments to avoid eviction

Economic support in connection with the COVID-19 public health emergency:

- Payroll support to employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
- Subsidy payments to electricity/utility account holders, if deemed to be necessary expenditures incurred due to the COVID-19 public health emergency.
- Cost incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.
- Emergency assistance payments to individual and family.

B. Objectives & Additional Activities:

1. Assist eligible households living in Las Cruces that are suffering from financial & economic hardships or employment interruptions due to COVID-19 pandemic.
2. Provide financial assistance for rent, mortgage, utilities, essential home repair, gas, grocery or drugstores, and other general financial assistance to at least an additional **275 households** eligible due to COVID-19. An eligible household may receive up to \$1,000 in assistance.

C. Budget Summary

APPROVED BUDGET	Unit of Service
\$200,000.00	Approx. 275 households

D. Compensation

Payment will be made by the City of Las Cruces to Community Action Agency of Southern New Mexico after receipt of a properly executed bi-weekly Invoice and bi-weekly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Community Improvement Section on a bi-monthly basis by the 15th and 30th of each month.

E. Relevant Definitions or Eligibility criteria

CAA will have procedures on how to determine whether a potential beneficiary is suffering from financial & economic hardship or employment interruptions due to COVID-19 pandemic. CAA will have procedures to document eligible expenses and qualifying documentation. Contractor’s eligibility criteria will be based on ability for City to be reimbursed by DFA through the CARES Act. Records shall be obtained from all recipients, maintained by Contractor and subject to audit according to Amendment One.

**AMENDMENT ONE OF THE FY2021
HEALTH-RELATED PUBLIC SERVICES' PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF LAS CRUCES
AND MESILLA VALLEY COMMUNITY OF HOPE**

THIS AMENDMENT OF AGREEMENT is entered into on the ____ day of September, 2020, by and between the City of Las Cruces, New Mexico, a municipal corporation organized under the laws of the State of New Mexico, hereinafter called "City," and Mesilla Valley Community of Hope, a non-profit public organization, hereinafter called "Contractor" (collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Professional Services Agreement (the "Agreement") on July 6, 2020; and

WHEREAS, the Agreement is a Health-Related Public Services contract through which the Contractor agreed to provide services for the expediate social security program for homeless individuals; and

WHEREAS, a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004, and the parties desire to amend the Agreement to reflect the increased need for services; and

WHEREAS, the Agreement is being amended in accordance with Provision 8, which describes the terms of "Changes and Extra Services" of the Agreement.

NOW THEREFORE, the Parties do mutually agree to the following changes to the Agreement:

1. In accordance with Provision 8 of the Agreement, the Compensation shall be increased up to an additional **\$150,000.00**, and shall be amended to

"the CITY shall compensate CONTRACTOR for the performance of SERVICES under this Amendment One to the original Agreement, as set forth and incorporated by Exhibit A to Amendment One, in an amount not to exceed a total of \$177,500.00, commencing on the execution of this agreement and terminating on June 30, 2021."

2. The Scope of Services shall be amended as outlined in Exhibit A to Amendment One, attached hereto and incorporated herein by reference.

3. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

4. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

5. AUDIT

Provision 12 of the original Service Agreement is hereby amended to add the following requirement: All records shall be maintained for five (5) years from the date of the last payment received from the City.

6. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration (DFA) requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116-136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, setting adequate applicant eligibility, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY from DFA or other source

All other Sections, Exhibits, and/or Attachments shall remain as originally agreed to and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto do mutually execute this Amendment of Agreement as of the date first written.

[signature block on next page]

CITY OF LAS CRUCES

BY: _____
Ifo Pili
City Manager

Date _____

 for JUB 09/29/20
City Attorney

**Amendment One to FY2021 Scope of Work
Mesilla Valley Community of Hope (MVCH)
\$150,000.00**

COVID-19 response: Homeless Prevention/Rapid Rehousing

Additional term to the scope of work are as follows:

A. Additional Performance Goal & Program Justification

MVCH will provide Homeless Prevention, rapid re-housing, and emergency solutions to address homelessness and homeless prevention during and as a result of the COVID-19 pandemic.

The Federal and State government recognizes that continuing homeless and homeless prevention services during COVID-19 is critical.

For unsheltered homeless housing options that have individual rooms (such as hotels/motels) and separate bathrooms should be considered for the overflow, quarantine, and protective housing sites. In addition, the state recommends that local communities plan for how to connect clients to housing opportunities after they have completed their stay in these temporary sites.

COVID-19 pandemic is having severe impacts on low-income households. Job losses have been heavily concentrated in industries that pay low average wages, and households with high housing costs and low incomes often have little financial cushion. The federal eviction ban — paired with various state protections — has helped households avoid eviction, it does not prevent those households from accruing housing-related debt making them at risk of eviction when any federal or state moratoriums end if they are unable to pay their current rent or make up the past-due amounts. Evictions can lead to long-term housing instability for households. The forced moves that result from evictions are particularly harmful for children and can disrupt their social, physical, and academic development. For low income households, rent is typically their largest monthly expense, so help meeting this need can make a substantial difference in the family's ability to afford other necessities and remain stably housed during the crisis.

The State of New Mexico has identified the following activities as eligible for reimbursement under the CARES act funding.

Services to Homeless populations:

- helps mitigate COVID-19 effects
- enables compliance with COVID-19 public health precautions
- prevent evictions

Housing Services:

- pay overdue rent to avoid eviction
- Mortgage payments to avoid eviction

Economic support in connection with the COVID-19 public health emergency:

- Payroll support to employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency
- Subsidy payments to electricity/utility account holders, if deemed to be necessary expenditures incurred due to the COVID-19 public health emergency.

- Cost incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

B. Objective & Additional Activities:

1. Assist an additional 100 people experiencing homelessness or about to become homeless with rental assistance, mortgage assistance, utility assistance or motel voucher assistance as related to COVID-19.
2. Provide a case management and resource linkage to homeless and near-homeless assisted households

C. Budget Summary

EXPENDITURE CLASSIFICATION		\$150,000.00
610-101	Program Administration	\$48,700.00
710-110	Program Supplies	\$1,300.00
900-110	Client Housing (rent, utilities, deposit)	\$100,000.00
900-120	Client Support (medical, classes)	
TOTAL:		150,000.00

D. Relevant Definitions or Eligibility criteria

MVCH will have procedures on how to determine whether a potential beneficiary meets the definition of Homeless or at-risk of homelessness. MVCH will have procedures to document eligible expenses and qualifying documentation. Contractor's eligibility criteria will be based on ability for City to be reimbursed by DFA through the CARES Act. Records shall be obtained from all recipients, maintained by Contractor and subject to audit according to Amendment One.

For the purpose of this program ONLY the definition of those who are experiencing homelessness includes:

- An individual or family who lacks a fixed, regular, and adequate nighttime residence, such as those living in emergency shelters, transitional housing, or places not meant for habitation, or
- An individual or family who will imminently lose their primary nighttime residence (within 14 days), provided that no subsequent housing has been identified and the individual/family lacks support networks or resources needed to obtain housing.

For the purpose of this program ONLY the definition of those who are at risk of homelessness includes individuals and families who:

- Have an annual income below 120 percent of median family income for the area, as determined by HUD, and
- Do not have sufficient resources or support networks, immediately available to prevent them from moving to an emergency shelter or place not meant for habitation, and
- Exhibit one or more risk factors of homelessness

Agenda Item #7.1.

**AMENDMENT ONE OF THE FY2021
HEALTH-RELATED PUBLIC SERVICES' PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF LAS CRUCES
AND LA CASA**

THIS AMENDMENT OF AGREEMENT is entered into on the ____ day of September 2020, by and between the City of Las Cruces, New Mexico, a municipal corporation organized under the laws of the State of New Mexico, hereinafter called "City," and La Casa, a non-profit public organization, hereinafter called "Contractor" (collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Professional Services Agreement (the "Agreement") on July 6, 2020; and

WHEREAS, the Agreement is a Health-Related Public Services contract through which the Contractor agreed to provide services to alleviate the effects of domestic violence for victims and their children; and

WHEREAS, a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004, and the parties desire to amend the Agreement to reflect the increased need for services; and

WHEREAS, the Agreement is being amended in accordance with Provision 8, which describes the terms of "Changes and Extra Services" of the Agreement.

NOW THEREFORE, the Parties do mutually agree to the following changes to the Agreement:

1. In accordance with Provision 8 of the Agreement, the Compensation shall be increased up to an additional \$75,000.00, and shall be amended to

"the CITY shall compensate CONTRACTOR for the performance of SERVICES under this Amendment One to the original Agreement, as set forth and incorporated by Exhibit A to Amendment One, in an amount not to exceed a total of \$98,500.00, commencing on the execution of this agreement and terminating on June 30, 2021."

2. The Scope of Services shall be amended as outlined in Exhibit A to Amendment One, attached hereto and incorporated herein by reference.

3. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

4. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR’S obligations under this Agreement, or is otherwise a violation of the CITY’S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR

5. AUDIT

Provision 12 of the original Service Agreement is hereby amended to add the following requirement: All records shall be maintained for five (5 years from the date of the last payment received from the City.

6. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration (DFA) requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, setting adequate applicant eligibility, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY from DFA or other source.

All other Sections, Exhibits, and/or Attachments shall remain as originally agreed to and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto do mutually execute this Amendment of Agreement as of the date first written.

LA CASA

CITY OF LAS CRUCES

BY: _____
Henry Brutus
Executive Director

BY: _____
Ifo Pili
City Manager

Date

Date

APPROVED AS TO FORM:

  SUB 9/29/20

City Attorney

Amendment One to FY2021 Scope of Work
LA CASA, Inc.
\$75,000
COVID-19 response: DV Housing and Emergency Shelter support

Additional term to the scope of work are as follows:

A. Additional Performance Goal & Program Justification:

1. Alleviate the effects of domestic violence for victims during the COVID-19 pandemic. Domestic violence (DV) is a leading cause of homelessness for women and children, and the need for safe and affordable housing is one of the most pressing concerns for survivors of violence and abuse. Housing and supportive services are critical interventions that play major roles in trauma recovery and long-term stability.
2. The COVID-19 pandemic has driven an increase in several risk factors for domestic violence (DV) and child abuse, including reduced access to resources and increasing stress, financial difficulties, and social isolation.
 - a. In addition, state-mandated school closures and stay-at-home orders have limited the ability of teachers and other mandated reporters (who have accounted for as much as 20 percent of all reporting of abuse and neglect) to monitor the welfare of at-risk children.
 - b. Additional pandemic-related risk factors are also increasing the risk of violence, isolation, and death of people from historically marginalized communities.
 - c. DV providers are seeing spikes in calls and outreach following the onset of the pandemic, and also worry that many escalating situations of abuse are going unreported due to quarantine-related isolation.
 - d. Therefore, focusing on rehousing survivors of DV, dating violence, sexual assault (SA), and stalking is a critical component of COVID-19 response
3. The State of New Mexico has identified the following activities as eligible for reimbursement under the CARES act funding.

Services to Homeless populations:

 - helps mitigate COVID-19 effects
 - enables compliance with COVID-19 public health precautions
 - prevent evictions

Housing Services:

 - pay overdue rent to avoid eviction
 - Mortgage payments to avoid eviction

Economic support in connection with the COVID-19 public health emergency:

 - Payroll support to employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency
 - Subsidy payments to electricity/utility account holders, if deemed to be necessary expenditures incurred due to the COVID-19 public health emergency.
 - Cost incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

B. Objectives & Activities

1. Reduce the short and long-term impact of being a victim of domestic violence and abuse.
2. Provide or maintain domestic violence services to an additional 25 clients.
3. Provide supportive services to victims of domestic violence such as housing assistance and case management.
4. Provide Services that take into account physical health, mental health, and safety concerns resulting from domestic violence abuse.
 - a. An urgent and safe connection to permanent housing;
 - b. Assistance regaining economic independence and maintaining housing while fleeing; and
 - c. Heightened confidentiality and information sharing protections.

C. Budget Summary

EXPENDITURE CLASSIFICATION		\$75,000.00
	Hotel and alternate facility/shelter costs	\$50,000.00
	Case Management	\$ 15,000.00
	Disinfection	\$10,000.00
	TOTAL:	\$75,000.00

Relevant definitions or Eligibility criteria

- Services will be provided to people fleeing domestic violence, dating violence, or stalking.
- La Casa shall have procedures on how to determine whether a potential beneficiary has been a victim of sexual assault, domestic violence, dating violence, or stalking. La Casa shall not adopt restrictive conditions that would go against the program requirements for victim safety and recovery.
- Families currently experiencing domestic violence, qualify as homeless as a result of:
 - Fleeing, or is attempting to flee;
 - Having no other accessible residence; and
 - Lacking the resources or support networks to obtain other permanent housing.
- fleeing or attempting to flee includes: domestic violence, dating violence, sexual assault, stalking, or other dangerous life-threatening conditions (including human trafficking) that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence.

**AMENDMENT ONE OF THE FY2021
HEALTH-RELATED PUBLIC SERVICES' PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF LAS CRUCES
AND CASA DE PEREGRINOS (CDP)**

THIS AMENDMENT OF AGREEMENT is entered into on the ____ day of September 2020, by and between the City of Las Cruces, New Mexico, a municipal corporation organized under the laws of the State of New Mexico, hereinafter called "City," and Casa De Peregrinos, a non-profit public organization, hereinafter called "Contractor" (collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Professional Services Agreement (the "Agreement") on July 6, 2020; and

WHEREAS, the Agreement is a Health-Related Public Services contract through which the Contractor agreed to provide services for the food security program; and

WHEREAS, a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004, and the parties desire to amend the Agreement to reflect the increased need for services; and

WHEREAS, the Agreement is being amended in accordance with Provision 8, which describes the terms of "Changes and Extra Services" of the Agreement.

NOW THEREFORE, the Parties do mutually agree to the following changes to the Agreement:

1. In accordance with Provision 8 of the Agreement, the Compensation shall be increased up to an additional \$75,000.00, and shall be amended to:

"the CITY shall compensate CONTRACTOR for the performance of SERVICES under this Amendment One to the original Agreement, as set forth and incorporated by Exhibit A to Amendment One, in an amount not to exceed a total of \$102,500.00, commencing on the execution of this agreement and terminating on June 30, 2021."

2. The Scope of Services shall be amended as outlined in Exhibit A to Amendment One, attached hereto and incorporated herein by reference.
3. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

4. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

5. AUDIT

Provision 12 of the original Service Agreement is hereby amended to add the following requirement: All records shall be maintained for five (5 years from the date of the last payment received from the City.

6. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116-136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY.

All other Sections, Exhibits, and/or Attachments shall remain as originally agreed to and shall remain in full force and effect.

WITNESS WHEREOF, the parties hereto do mutually execute this Amendment of Agreement as of the date first written.

[signature block on next page]

CASA DE PEREGRINOS

BY:



Lorenzo Alba,
Executive Director

09/29/2020

Date

CITY OF LAS CRUCES

BY:

Ifo Pili
City Manager

Date

APPROVED AS TO FORM

 for TUB 9/28/20

City Attorney

**Amendment One to FY2021 Scope of Work
CASA DE PEREGRINOS (CDP)
\$75,000.00**

Program: Las Cruces Food Security Project & COVID Response

Additional terms to the scope of work are as follows:

A. Additional Performance Goal & Program Justification:

1. Prevent hunger due to or related to COVID-19 for the most vulnerable citizens including individual, families, children, adults, seniors, veterans, disabled and the homeless and near homeless.
2. In an average month prior to the COVID-19 crisis, CDP spent approximately \$60,000 in food costs, relying heavily on the food rescue program which generated approximately 200,000-250,000 pounds of food per month. As a result of the COVID pandemic, food shortages drastically cut the number of pounds being rescued. CDP recuses $\frac{1}{4}$ of the amount of the food thereby increasing the food costs. The average monthly food costs are \$165,000.
3. CPD provides free supplemental groceries to individuals and families at risk of hunger in Las Cruces, serving as a safety link for those unable to purchase nutritious food due to an emergency or unforeseen personal crisis, providing families with an average of 85 pounds per month including protein and essential staples. It also includes a special service providing low income families with school aged children a second monthly distribution of groceries during the summer and a homeless program, providing foods that need little preparation or cold storage. Due to COVID-19, more people than ever before are visiting food banks and many of them are getting help for the first time.
4. As a result of COVID-19, CDP has seen a 45% increase in households accessing services, residents who previously had stable incomes face job loss and reduced hours. For CDP to meet need and comply with COVID-19 public health precautions, CDP has increased services hours during distribution and reduced volunteer support. CDP volunteers were largely made up of persons over 60, many choosing to abstain from volunteering due to the increased vulnerability of this age group. CDP is using temporary employees, thereby increasing staff costs.
5. The State of New Mexico has identified the following activities as eligible for reimbursement under the CARES act funding.

Food delivery to residents

- Senior citizens.
- Other vulnerable populations.
- Expenses of actions to facilitate compliance with COVID-19 public health precautions

The State also deems payroll support to employees in human service fields whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency and responding to second-order effects of the of the emergency as eligible for reimbursement under the CARES act funding. CDP may use funds to cover increased staff and food cost as a result of the COVID-19 pandemic.

B. Objective & Additional Activities

1. Provide an emergency food bank distribution program on the Community of Hope campus to serve low-income individuals, families, (near) homeless, disabled persons and other vulnerable citizens in the City of Las Cruces in response to the COVID-19 pandemic and health orders.
2. Provide an additional **12,000** distributions of food to families and individuals in Las Cruces throughout the course of the 2020-2021 program year, as demand has risen as a direct result of COVID-19.
3. Provide homeless clients with products targeted to their situation: including pull top cans, microwave soup, cheese, crackers, cereal, bread and other items that need little preparation or refrigeration.
4. Provide families with school aged children a second distribution of food during the summer holidays, to address the impact of not being able to access free or low-cost school meals due to the COVID-19 pandemic.
5. Increase the number of eligible seniors receiving nutritious supplemental groceries by collaborating with the Senior Centers in Las Cruces to make prepackaged distributions of food on their sites where seniors already congregate and have transportation due to COVID-19 changes in income and social distancing Executive Orders causing the avoidance of grocery stores, restaurants, and community centers.
6. Add additional hours of distribution service per week to address the impact of social distancing imposed by the COVID-19 pandemic.

C. Budget Summary

APPROVED BUDGET	Unit of Service
\$75,000.00	Additional 12,000 food baskets 100 additional labor hours to support food distribution per week.

A. Relevant Definitions or Eligibility criteria

Client Eligibility

- Reside within City Limits
- Meet the Income eligibility guidelines*

*The City through survey methodology in compliance with HUD regulations has determined that Casa De Peregrinos on Mesilla Valley Community of Hope Campus; qualifies for a nature and location determination. The City has determined that the vast majority of clients (i.e. more than 51%) fall into the “presumed benefit clientele” categories thereby determining that the clients accessing services are inherently low-income by the nature and location of the activities preformed on the campus.

**AMENDMENT ONE OF THE FY2021
HEALTH-RELATED PUBLIC SERVICES' PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF LAS CRUCES
AND CATHOLIC CHARITIES OF SOUTHERN NEW MEXICO**

THIS AMENDMENT OF AGREEMENT is entered into on the 1st day of October, 2020, by and between the City of Las Cruces, New Mexico, a municipal corporation organized under the laws of the State of New Mexico, hereinafter called "City," and Catholic Charities of Southern New Mexico, a non-profit public organization, hereinafter called "Contractor" (collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Professional Services Agreement (the "Agreement") on May 8, 2020; and

WHEREAS, a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004, and the parties desire to amend the Agreement to reflect the increased need for services; and

WHEREAS, the Agreement, is being amended in accordance with Provision 8 that describes the terms of "Changes and Extra Services" of the Agreement.

NOW THEREFORE, the Parties do mutually agree to the following changes to the Agreement:

1. In accordance with Provision 8 of the Agreement, the Compensation shall be increased up to an additional \$150,000.00, and shall be amended to
"the CITY shall compensate CONTRACTOR for the performance of SERVICES under this Amendment One to the original Agreement, as set forth and incorporated by Exhibit A to Amendment One, in an amount not to exceed a total of \$224,500.00 commencing on the execution of this agreement and terminating on June 30, 2021."
2. The Scope of Services shall be amended as outlined in Exhibit A to Amendment One, attached hereto and incorporated herein by reference.
3. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

4. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

5. AUDIT

Provision 12 of the original Service Agreement is hereby amended to add the following requirement: All records shall be maintained for five (5) years from the date of the last payment received from the City.

6. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY.

All other Sections, Exhibits, and/or Attachments shall remain as originally agreed to and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto do mutually execute this Amendment of Agreement as of the date first written.

[signature block on next page]

CATHOLIC CHARITIES OF SOUTHERN NEW MEXICO

BY: 
Kenneth J. Ferrone,
Executive Director

October 1, 2020
Date

CITY OF LAS CRUCES

BY: _____
Ifo Pili
City Manager

Date

APPROVED AS TO FORM

 for JVB 10/1/2020

City Attorney

Amendment One to FY2021 Scope of Work
Catholic Charities
COVID-19 response: COVID-19 RELIEF/ANTI-POVERTY FUND

Additional term to the scope of work are as follows:

A. Additional Performance Goal & Program Justification:

Provide direct assistance and support to community members adversely affected by the COVID-19 pandemic. We will focus on individuals and/or families that fall within 185% to 200% of the federal poverty level guidelines.

COVID-19 pandemic is having severe impacts on low-income households. Job losses have been heavily concentrated in industries that pay low average wages, and households with high housing costs and low incomes often have little financial cushion. The federal eviction ban — paired with various state protections — has helped households avoid eviction, it does not prevent those households from accruing housing-related debt making them at risk of eviction when any federal or state moratoriums end if they are unable to pay their current rent or make up the past-due amounts. Evictions can lead to long-term housing instability for households. The forced moves that result from evictions are particularly harmful for children and can disrupt their social, physical, and academic development. For low income households, rent is typically their largest monthly expense, so help meeting this need can make a substantial difference in the family's ability to afford other necessities and remain stably housed during the crisis.

The State of New Mexico has identified the following activities as eligible for reimbursement under the CARES act funding.

Services to Homeless populations:

- helps mitigate COVID-19 effects
- enables compliance with COVID-19 public health precautions
- prevent evictions

Housing Services:

- pay overdue rent to avoid eviction
- Mortgage payments to avoid eviction

Economic support in connection with the COVID-19 public health emergency:

- Payroll support to employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency
- Subsidy payments to electricity/utility account holders, if deemed to be necessary expenditures incurred due to the COVID-19 public health emergency.
- Cost incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

B. Objective:

1. Assist Las Cruces homeless population. We will help an additional 100 people experiencing homelessness or displacement in response to the COVID-19 pandemic and health orders. We will also assist individuals who cannot afford to pay rent or mortgage payments which could result in their eviction or foreclosure and subsequent homelessness.
2. Assist Las Cruces migrant workers. We will help additional 30 migrant workers and/or migrant families with items such as rent, food, utility, and medical assistance which includes the purchase of personal protective equipment (i.e. masks, gloves, cleaners) in response to the COVID-19 pandemic and health orders. Applicants shall show indigency, be in need of aid due to the COVID-19 pandemic and health orders, and/or be experiencing homelessness or displacement in response to the COVID-19 pandemic and health orders.
3. Assist additional 20 homeless middle and high school students in partnership with FYI's My Friend's Place shelter, New America School, and Las Cruces Public School District's Project Link. Assistance will include temporary shelter, food, medical expenses, and personal protective equipment in response to the COVID-19 pandemic and health orders.

C. Activities

1. We will work in partnership with Community of Hope and Gospel Rescue Mission to identify the needs of the homeless and provide direct assistance to their clients in response to the COVID-19 pandemic and health orders. We will also screen and provide direct assistance to individuals who phone us and/or visit our office.
2. We will work in partnership with local nonprofits, landlords, and the agricultural community to identify the needs of the migrant community and provide direct assistance to individuals and families in response to the COVID-19 pandemic and health orders.
3. We will work in partnership with My Friend's Place shelter, New America School, and Project Link to identify the needs of Las Cruces homeless students and provide direct assistance to those middle and high school students impacted by the COVID-19 pandemic and public health orders.

D. Budget Summary

EXPENDITURE CLASSIFICATION		\$150,000.00
900-110	Client Housing (rent, utilities, deposit)	\$105,000.00
900-120	Client Support (medical, food)	\$45,000.00
	TOTAL:	\$150,000.00

E. Measures

1. Monthly reports of the number of income eligible persons served, and financial expenditures in accordance with the approved budget line items;
 - a. September 2020 – We will provide approximately \$20,000 to 20 individuals and/or families for the month of September.

- b. October 2020 – We will provide approximately \$30,000 to 30 individuals and/or families for the month of October.
 - c. November 2020 – We will provide approximately \$40,000 to 40 individuals and/or families for the month of November.
 - d. December 2020 – We will provide approximately \$50,000 to 50 individuals and/or families for the month of December.
 - e. January 2021 – We will provide approximately \$10,000 to 10 individuals and/or families for the month of January.
2. Catholic Charities will submit a progress report to the City of Las Cruces by October 31, 2020 (or in 90 days from the date of the award) showing actual cost of service provided (expenditures and units served) for the first three months of funding, and program narrative of how goals, objectives and activities were accomplished.
 3. Our agency will submit a final report to the City of Las Cruces by February 15, 2021 (or within two weeks of the end of the direct assistance program) showing actual cost of service provided (expenditures and units served) for the first three months of funding, and program narrative of how goals, objectives and activities were accomplished.

Relevant Definitions or Eligibility criteria

Client Eligibility:

- Reside within City Limits
- Meet the Income eligibility guidelines

The City defines eligible activities through City Council Resolution 20-061 “Funds shall be used to support the continued physical, mental, developmental, emotional, and social well-being, safety, and housing needs of City of Las Cruces residents; and to improve the lives of sick, indigent, or low-income people of the City of Las Cruces.

All conditions of Amendment One must also be met for reimbursement.

For the purposes of this program sick, indigent or low-income is defined as:

- Sick:
 - persons being in need of medical or intervention services, for the purpose of preventing, evaluating, diagnosing or treating a physical, mental, developmental, or emotional illness, injury, disease or its symptoms;
- Indigent:
 - Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, whom are low- and moderate-income: abused and neglected children, battered spouses (victims of domestic violence/ sexual assault), elderly persons, adults meeting the definition of “severely disabled,” homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

- Have an annual income below 100% percent of area median income (AMI) adjusted for family size; If the expense is for Housing assistance eligible households must be below 120% AMI or
- Have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or
- Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons (requires a special assessment).

**AMENDMENT ONE OF THE FY2021
HEALTH-RELATED PUBLIC SERVICES' PROFESSIONAL SERVICES
AGREEMENT BETWEEN THE CITY OF LAS CRUCES
AND BOYS AND GIRLS CLUB OF LAS CRUCES**

THIS AMENDMENT OF AGREEMENT is entered into on the ____ day of September, 2020, by and between the City of Las Cruces, New Mexico, a municipal corporation organized under the laws of the State of New Mexico, hereinafter called "City," and La Casa, a non-profit public organization, hereinafter called "Contractor" (collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Professional Services Agreement (the "Agreement") on July 6, 2020; and

WHEREAS, the Agreement is a Health-Related Public Services contract through which the Contractor agreed to provide services to low income youth who participate in the Boys & Girls Club of Las Cruces; and

WHEREAS, a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004, and the parties desire to amend the Agreement to reflect the increased need for services; and

WHEREAS, the Agreement is being amended in accordance with Provision 8, which describes the terms of "Changes and Extra Services" of the Agreement.

NOW THEREFORE, the Parties do mutually agree to the following changes to the Agreement:

1. In accordance with Provision 8 of the Agreement, the Compensation shall be increased up to additional \$100,000.00, and shall be amended to

"the CITY shall compensate CONTRACTOR for the performance of SERVICES under this Amendment One to the original Agreement, as set forth and incorporated by Exhibit A to Amendment One, in an amount not to exceed a total of \$127,500.00, commencing on the execution of this agreement and terminating on June 30, 2021."

2. The Scope of Services shall be amended as outlined in Exhibit A to Amendment One, attached hereto and incorporated herein by reference.

3. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

4. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

5. AUDIT

Provision 12 of the original Service Agreement is hereby amended to add the following requirement: All records shall be maintained for five (5 years from the date of the last payment received from the City.

6. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration (DFA) requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116-136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, setting adequate applicant eligibility, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY from DFA or other source.

All other Sections, Exhibits, and/or Attachments shall remain as originally agreed to and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto do mutually execute this Amendment of Agreement as of the date first written.

[signature block on next page]

BOYS AND GIRLS CLUB OF LAS CRUCES

CITY OF LAS CRUCES

BY: _____
Ashely Echavarria
Executive Director

BY: _____
Ifo Pili
City Manager

Date

Date

APPROVED AS TO FORM

 for JVB 9/29/20

City Attorney

Amendment One to FY2021 Scope of Work
Boys and Girls Club of Las Cruces
\$100,000.00
COVID-19 response: Expanded More Members More Often

Additional term to the scope of work are as follows:

A. Additional Performance Goal & Program Justification:

Increase the number of low-income youths that participate in **Boys & Girls Club (BGCLC)**.

Quality childcare has proven benefits to a child's learning and healthy development and is an essential pillar of the labor market and economy. Under normal circumstances, childcare providers allow millions of parents to go to work or attend school each day. The COVID-19 pandemic has hit the childcare industry especially hard, causing widespread layoffs as a result of catastrophic drops in enrollment and mandatory closures. These closures have devastating impact on families and a corresponding impact for the economy. With the adoption and distribution of CARES Act funds, States and local government are tasked to find creative solutions to stabilize childcare providers, establish emergency childcare for children of essential workers, and provide essential supports for families and childcare providers. The State of New Mexico has charged local governments receiving CARES Act funds to make more childcare options available for parents whose children's school schedules have been impacted by the health emergency.

The Boys and Girls of Las Cruces (BGCLC) fills a critical gap for families as they continue to serve the unique needs of its members and the community especially in light of long-term school closures. BGCLC typically provides only after school care from 2:30 – 6:30 during the public-school year. As a result of the pandemics and extended school closures, BGCLC has extended their membership hours to provide critical childcare services from 7:30 a.m. to 5:30 p.m. They have also refocused much of staff's time to family support services, including food distribution to member homes and distance learning support. The State's public health order have had a devastating impact on BGCLC operations as it has reduced the number of members that can attend (and pay) while increasing the number of staff to meet mandated staff to child ratios.

The State of New Mexico has identified payroll support to employees in public health and human services whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency and responding to second-order effects of the of the emergency as eligible for reimbursement under the CARES act funding. BGCLC may use funds to provide for costs associated with expanded programming.

B. Objectives & Additional Activities

- a. Provide expanded membership hours (Approx. 500 to 800 hours) during the public-school year.
- b. The *EXPANDED More Members More Often* program, will provide full-day support while LCPS is 100% virtual. Full day support is a substantial expansion from previous operations.
- c. Increase membership and retention (**subject public health orders**) to ensure families can receive vital services provided by BGCLC during the COVID-19 Pandemic.
- d. Target households who have difficulty returning to work due to childcare and school closures.
- e. Promote BGCLC services to City of Las Cruces staff.

- f. If LCPS moves into a hybrid model (Spring 2021) maintain the expanded *More Members More Often* program, by offering full-day support for those not in school, and/or after-school support for those in school.
- g. Maintain proper ratios in compliance with public health guidelines for COVID.
- h. Maintain proper COVID safe practices for all operations.
- i. Explore alternative sites for project expansion in the event ratios change from 1:9 to 1:5 or in the event that capacity is reached in current location.
- j. Provide meals for all program participants approx. 45 -75 meals per day.
- k. Monitor attendance and participation.
- l. Continue to provide family support services such as food distribution to member homes and distance learning support.
- m. Continue partnership with the City of Las Cruces, Las Cruces Public Schools and other community partners to explore other opportunities to serve children during the COVID-19 pandemic.

C. Budget

APPROVED BUDGET	Unit of Service
\$100,000.00	500 - 800 Expanded hours of operation Approx. 45-75 meals pers day (Subject to public health orders)

D. Relevant Definitions or Eligibility criteria

Eligible participants are children ages 6 to 18, and 5-year old that have started kindergarten
 Program rates are approximately \$50 per week with scholarships available to qualifying families.
 Reduced rates are approved using federal poverty/income guidelines, with some consideration in cases of temporary financial hardship.

Program Highlights include

- Homework assistance
- Computer access
- Nutritional supper and snack served daily
- Arts & Crafts
- Recreation & Fitness activities



SERVICE AGREEMENT

THIS AGREEMENT made and entered into on this _____ day of October 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **Families and Youth Inc., of 1320 S. Solano, Las Cruces, NM 88005**, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Families & Youth Incorporated (FYI) will provide Community Meal & Food Initiatives and Harm Reduction Services for at risk households during the COVID-19 pandemic.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7) and a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004.

2. SCOPE OF SERVICES

CONTRACTOR shall render in a satisfactory and proper manner the SERVICES set forth in Exhibit "A", attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed **\$200,000.00** as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

Contractor will submit monthly billing to City and receive payment upon receipt of adequate records that allow the City to obtain reimbursement from the CARES Act. Should records be insufficient, Contractor is subject to repayment to the City.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit "A." The period of performance will start on the Effective date of this Agreement which is the date of the last person to sign, but end no later than December 30, 2021.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a

description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. All records shall be maintained for five (5) years from the date of the last payment received from the City.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
3. Workers Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Natalie Green

With Copies to: Purchasing Manager

TO CONTRACTOR: Families and Youth Inc.
1320 S. Solano
Las Cruces, NM 88005
ATTENTION: Brian Kavanaugh, CEO

23. SCOPE OF AGREEMENT

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

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this

Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

26. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY.

FAMILIES AND YOUTH INC

CITY OF LAS CRUCES

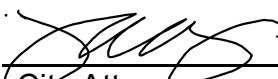
BY: _____
Brian Kavanaugh
Chief Executive Officer

BY: _____
Ifo Pili
City Manager

Date

Date

APPROVED AS TO FORM

 for JVB 10/1/2020

City Attorney

**Scope of Work
FAMILIES AND YOUTH INC.
\$200,000**

COVID-19 response: Meal/Food initiatives & Harm Reduction Services

1. Performance Goal & Program Justification

Families & Youth Incorporated (FYI) will provide Community Meal & Food Initiatives and Harm Reduction Services for at risk households during the COVID-19 pandemic.

COVID-19 pandemic is impacting vulnerable households in various ways. Job losses have been heavily concentrated in industries that pay low average wages, and households with high housing costs and low incomes often have little financial cushion. One of the largest impacts is food insecurity. Many food-insecure individuals have characteristics that put them at a higher risk for severe illness associated with COVID-19. As the State continues issuing orders for businesses and schools to close and residents to stay at home, the toll on low-income individuals grows. Most low-wage jobs cannot be performed at home, so those workers are either experiencing lost wages or continuing to work, presumably risking their own health to the extent their roles require human interaction. For parents, school closures create the additional burden of needing to arrange for potentially costly childcare and account for meals that are typically provided during the school day.

The stress from social isolation and other COVID-19 related life changes can lead to or worsen substance use and misuse. There are also health risks resulting from chronic alcohol/drug use as it weakens the immune system and puts stress on the body's cardiovascular and respiratory systems. Vulnerable households often lack the coping skills to handle the increased feelings of worry, anxiety, and stress and often turn to at-risk behaviors. As a result of the pandemic, Hepatitis infections are increasing alongside the current opioid epidemic. Reductions in funding and the availability of harm reduction services make FYI services crucial.

The State of New Mexico has identified the following activities as eligible for reimbursement under the CARES act funding.

Food delivery to residents

- Senior citizens.
- Other vulnerable populations.
- Expenses of actions to facilitate compliance with COVID-19 public health precautions

The State also deems payroll support to employees in human service fields whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency and responding to second-order effects of the emergency as eligible for reimbursement under the CARES act funding.

2. Objective:

- a. Families & Youth Inc. will conduct a second cycle of Community restaurant meals voucher distribution. The primary focus is to widen the distribution and

Agenda Item #7.1.

availability of meals to the low-income and vulnerable City residents. The meal vouchers are distributed by essential community partners to eligible residents. Eligible households can generally choose which restaurant voucher is most appropriate based on their individual needs (i.e. transportation/geographical location). FYI will also support struggling families through their at-risk meal distribution program.

- b. To expand current services to serve a greater number of high-risk individuals, increasing both screening for HIV/Hepatitis C and access to curative Acudetox treatment for enrolled participants, especially for those experiencing increased isolation, anxiety, mental health issues, and food and job insecurity amplified by the pandemic.

3. Activities

- a. FYI will manage a Meal Voucher program for Low Income persons, selection criteria will be based on the following.
 - i. RFP to Local Restaurants (non-duplicated from first round)
 - ii. Within City limits
 - iii. Locally owned & operated (non-franchised)
 - iv. RFP will be review and approved by Community Improvement Staff.
- b. FYI will also support struggling families through their at-risk meal distribution program.
 - i. Identify, properly qualify, and maintain operation of meal sites
 - ii. Conduct community outreach to maximize participation
- c. FYI will provide harm reduction and syringe exchange services
 - i. Increase knowledge about risks of HIV/Hepatitis C infection among individuals who inject substances and reduce risk by providing information and new, sterile syringes to participants
 - ii. Reduce unintentional opioid overdose deaths
 - iii. Provide risk reduction counseling, preliminary HIV/Hepatitis C testing services, and referrals to confirmatory testing for individuals who test positive
 - iv. Increase referrals to and enrollment in drug treatment, healthcare, and other relevant services
 - v. Provide 100 Hepatitis C counseling, testing, and referral service sessions
 - vi. Provide 55 additional syringe exchanges in underserved areas of Las Cruces
 - vii. Provide 100 Acudetox sessions

4. Budget Summary

APPROVED BUDGET	Unit of Service
\$140,000.00	Approx. 10,000 meal vouchers
\$60,000.00	Approx. 100 Harm Reduction clients

5. Measures

- a. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
- b. Annual report submitted to the City of Las Cruces by July 10, 2021 and December 31, 2021 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

6. Resources

- a. Payment will be made by the City of Las Cruces to **Families and Youth Inc.** after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Community Improvement on a monthly basis by the 15th of each month.
- b. CONTRACTOR shall follow New Mexico Department of Finance Administration requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief.

7. Evaluation

Families and Youth Inc. will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.



SERVICE AGREEMENT

THIS AGREEMENT made and entered into on this 7th day of October, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **Community Action Agency of 3800 Foothills Rd, Ste A, Las Cruces, NM 88011**, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

CAA Childcare Assistance Program provides childcare assistance to families living in the City of Las Cruces. The primary purpose is to assist families impacted by the COVID-19 pandemic.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7) and a public health emergency has been declared by the State of New Mexico by Executive Order 2020-064 and additional renewals of Executive Order 2020-004.

2. SCOPE OF SERVICES

CONTRACTOR shall render in a satisfactory and proper manner the SERVICES set forth in Exhibit "A", attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed **\$75,000.00** as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

Contractor will submit monthly billing to City and receive payment upon receipt of adequate records that allow City to obtain reimbursement from the CARES Act, Pub.L. 116-136. Should records be insufficient, Contractor is subject to repayment to the City.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit "A." The period of performance will start on the Effective date of this Agreement which is the date of the last person to sign, but end no later than June 30, 2021.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business workdays from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall

provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order. All records shall be maintained for five (5) years from the date of the last payment received from the City.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
3. Workers Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Natalie Green

With Copies to: Purchasing Manager

TO CONTRACTOR: Community Action Agency
 3880 Foothills Rd Ste A
 Las Cruces, NM 88011
 ATTENTION: Dawn Hommer, Executive Director

23. SCOPE OF AGREEMENT

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

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this

Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

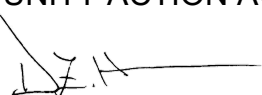
CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement, or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

26. CLAWBACKS OR OTHER DAMAGES

CONTRACTOR shall follow New Mexico Department of Finance Administration requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief. Should the City not receive reimbursement from Federal or State COVID-19 relief at the fault of CONTRACTOR for not obtaining adequate documentation from recipients, providing adequate records to the City, or retaining such records, CONTRACTOR shall reimburse the CITY for such payments made by the CITY to CONTRACTOR and not reimbursed to the CITY.

COMMUNITY ACTION AGENCY

CITY OF LAS CRUCES

BY: 
Dawn Hommer
Executive Director

BY: _____
Ifo Pili
City Manager

October 7, 2020

Date

Date

APPROVED AS TO FORM
for JVB 10/1/2020


City Attorney

Scope of Work
COMMUNITY ACTION AGENCY
\$75,000.00

Program: CAASN & City of Las Cruces Childcare Assistance Pilot Program

Performance Goal & Program Justification:

CAA Childcare Assistance Pilot Program will provide childcare assistance to approximately **50 families** living in the City of Las Cruces in need of childcare due to the COVID-19 pandemic.

Quality childcare has proven benefits to a child's learning and healthy development and is an essential pillar of the labor market and economy. Under normal circumstances, childcare providers allow millions of parents to go to work or attend school each day. The COVID-19 pandemic has hit the childcare industry especially hard, causing widespread layoffs as a result of catastrophic drops in enrollment and mandatory closures. These closures have devastating impact on families and a corresponding impact for the economy. With the adoption and distribution of CARES Act funds, States and local government are tasked to find creative solutions to stabilize childcare providers, establish emergency childcare for children of essential workers, and provide essential supports for families and childcare providers. The State of New Mexico has charged local governments receiving CARES Act funds to make more childcare options available for parents whose children's school schedules have been impacted by the health emergency.

Objective

Assist eligible households with childcare; Reduce the negative impact of the COVID-19 closures for households who have their work, daycare and school schedules interrupted by the pandemic.

A. Activities

1. CAA will intake and qualify eligible households for the Child Care Assistance pilot program
 - i. Applicants must meet current earned income guidelines
 - ii. Reside in the City of Las Cruces
 - iii. Require Childcare for a child under the age 13
 - iv. Denied State Childcare assistance (case-by-case)
2. Intake may occur via email, telephone or through other available technology. Offered only if funds are available.
3. CAA will provide up to \$1000 in assistance per household.
 - i. Co-pay assistance (if not covered by State of NM)
 - ii. General Childcare Assistance
4. Additional assistance can be provided on a case-by-case basis in extenuating circumstances as determined by CAA staff.

B. Budget Summary

APPROVED BUDGET	Unit of Service
\$75,000.00	Approx. 50 clients

C. Measures

1. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
2. Annual report submitted to the City of Las Cruces by July 10, 2021 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

F. Resources

- a. Payment will be made by the City of Las Cruces to Community Action Agency of Southern New Mexico after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Neighborhood Services Section on a monthly basis by the 15th of each month.
- b. CONTRACTOR shall follow New Mexico Department of Finance Administration requirements and any other Federal or State requirements placed on the City of Las Cruces for reimbursement under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), Pub.L. 116–136, or any COVID-19 relief.

G. Evaluation

CAASN will submit monthly reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.



SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 1st day of July, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **Community Action Agency of 3800 Foothills Rd, Ste A, Las Cruces, NM 88011**, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

CARE – Cancer Aid Resource & Education, Inc. serves the people of Las Cruces and Doña Ana County. CARE offers "hands on" support for the individual and family dealing right here, right now with the reality of cancer. CARE's Care and Support Program helps with financial assistance for non-medical needs, basic living needs like gas cards to get to treatment, groceries and nutritional supplements, utilities, rent, and lodging if needing travel for treatment, etc. so our client can concentrate on treatment and recovery. This project was reviewed by the Health and Human Services Advisory Committee and complies with the established program requirements to support the physical, mental, developmental, emotional or social continued well-being, safety, or improvement to the lives of sick, indigent, or low-income people.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7).

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$27,500.00 as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2020 for a term of one year but end no later than June 30, 2021.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business workdays from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall maintain at least the following insurances at its own cost and expense during the life of this Agreement, and require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work.

1. General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000, 000 aggregate
- b. Coverage must include premises and operations, products and completed operations and personal and advertising injury.
- c. The City must be named an additional insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory
- e. Coverage must be per project or per location

- f. Coverage must be on an occurrence form
 - g. Subrogation must be waived
- 2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "any autos" or "owned autos, hired autos, and "non-owned autos"
- 3. Worker Compensation and Employers Liability
 - a. Statutory Limits
 - b. (employer liability) \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit.
 - c. Subrogation must be waived

CONTRACTOR shall furnish the CITY, with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Natalie Green

With Copies to: City Attorney
 Purchasing Manager
 City Clerk

TO CONTRACTOR: Community Action Agency
 3880 Foothills Rd Ste A
 Las Cruces, NM 88011
 ATTENTION: Dawn Hommer, Executive Director

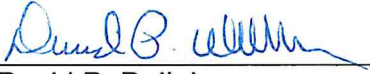
CARE
118 S. Water St.,
Las Cruces, NM 88001
ATTENTION: Yoli Diaz, Executive Director

23. SCOPE OF AGREEMENT

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

SIGNATURES ON NEXT PAGE

Agenda Item #7.1.

Community Action Agency		CITY OF LAS CRUCES	
BY:		BY:	
	Dawn Hommer Chief Executive Officer		David P. Dollahon Assistant City Manager
	6/11/2020		June 6, 2020
	Date		Date
		APPROVED AS TO FORM	
		 for JUB 6/30/20	
		City Attorney	
Cancer Aid Resource & Education, Inc.			
BY:			
	Yoli Diaz Executive Director		
	Date		

Scope of Work FY 2021
Community Action Agency CARE- Cancer Care and Support Program

1. Performance Goal

- a. Improve the quality of life for eligible cancer patients during their treatment; provide support for individuals and families so they may focus on treatment and recovery.

2. Objective

- a. Assist and improve cancer patients and their families lives by ensuring that cancer patients and their families basic needs are met

3. Activities

- a. Provide financial assistance for non-medical needs; basic living needs like gas cards to get to treatment, utilities, groceries, rent, and lodging if needing travel for treatment for 70 clients.

4. Budget

APPROVED BUDGET	Unit of Service
\$27,500.00	70

5. Measures

- a. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
- b. Annual report submitted to the City of Las Cruces by July 10, 2021 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

6. Resources

- a. Payment will be made by the City of Las Cruces to **Community Action Agency** after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Community Improvement program on a monthly basis by the 15th of each month.

7. Training

- a. The Executive Director, or staff designee, will attend the Health-Related Public Services training each year conducted by Community Improvement staff.

8. Evaluation

- a. **Community Action Agency** will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.



SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 1st day of July, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Mesilla Valley Community of Hope of 999 W. Amador Las Cruces, NM 88005, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Mesilla Valley Community of Hope will provide assistance to homeless, disabled clients in filing expedited social security disability claims. This project was reviewed by the Health and Human Services Advisory Committee and complies with the established program requirements to support the physical, mental, developmental, emotional or social continued well-being, safety, or improvement to the lives of sick, indigent, or low-income people.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7).

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$27,500.00 as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2020 for a term of one year but end no later than June 30, 2021.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business workdays from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

Agenda Item #7.1.

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR'S employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to

Agenda Item #7.1.

perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall maintain at least the following insurances at its own cost and expense during the life of this Agreement, and require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work.

1. General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000, 000 aggregate
- b. Coverage must include premises and operations, products and completed operations and personal and advertising injury.
- c. The City must be named an additional insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory
- e. Coverage must be per project or per location
- f. Coverage must be on an occurrence form

Agenda Item #7.1.

- g. Subrogation must be waived
- 2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "any autos" or "owned autos, hired autos, and "non-owned autos"
- 3. Worker Compensation and Employers Liability
 - a. Statutory Limits
 - b. (employer liability) \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit.
 - c. Subrogation must be waived

CONTRACTOR shall furnish the CITY, with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

Agenda Item #7.1.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Natalie Green

With Copies to: City Attorney
Purchasing Manager
City Clerk

TO CONTRACTOR: Mesilla Valley Community of Hope
999 W Amador
Las Cruces, NM 88001
ATTENTION: Nicole Martinez

23. SCOPE OF AGREEMENT

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

Mesilla Valley Community of Hope

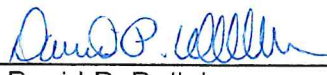
BY: 

Nicole Martinez
Executive Director

June 2, 2020

Date

CITY OF LAS CRUCES

BY: 

David P. Dollahon
Assistant City Manager

July 6, 2020

Date

APPROVED AS TO FORM

 for JUB 7/1/20

City Attorney

Scope of Work FY 2021
Mesilla Valley Community of Hope - HOPE SOAR Program

1. Performance Goal

- a. To submit 28 applications through Project SOAR to SSA for SSI/SSDI benefits.

2. Objective

- a. To ensure all clients that apply for SSI/SSDI through SOAR have referrals to housing.
- b. Ensure all SOAR clients are enrolled for insurance and referred to any health care available as appropriate.

3. Activities

- a. Outreach to eligible candidates through Camp Hope, Gospel Rescue Mission, MVCH Campus Agencies, Medical and Mental Health Centers, and other applicable social services agencies.
- b. Conduct function reports, obtain medical histories, send and receive faxes and phone calls on behalf of the client, schedule any appeals and hearings, and conduct intakes, eligibility and evaluation of the 28 SOAR candidates.
- c. Continue to log data for statistical research to understand how to better serve clients.
- d. Give homeless clients a list of available housing and emergency shelter opportunities.
- e. Give clients a list of all waiting list opportunities.
- f. Facilitate any rental payments through housing programs as applicable.
- g. SOAR worker to assist clients with insurance applications through SSA and Income Support Division Office.
- h. SOAR worker to refer clients to health-care institutions as necessary.
- i. Give list of low income and indigent health care facilities in Dona Ana County.

4. Budget

APPROVED BUDGET	Unit of Service
\$27,500.00	28

5. Measures

- a. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
- b. Annual report submitted to the City of Las Cruces by July 10, 2021 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

6. Resources

- a. Payment will be made by the City of Las Cruces to **Mesilla Valley Community of Hope** after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Community Improvement program on a monthly basis by the 15th of each month.

7. Training

- a. The Executive Director, or staff designee, will attend the Health-Related Public Services training each year conducted by Community Improvement staff.

8. Evaluation

- a. **Mesilla Valley Community of Hope** will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.

Agenda Item #7.1.



SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 1st day of July, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **La Casa of 800 S. Walnut Las Cruces, NM 88001**, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

The Children & Youth Program (CYP) provides intervention and supportive services to child witnesses of domestic violence who either reside in the emergency shelter with a parent, or who receive non-residential services to include the following: case management, age-appropriate individual and/or group support and domestic violence education, safety planning, art, music and/or play therapy and recreational activities. This project was reviewed by the Health and Human Services Advisory Committee and complies with the established program requirements to support the physical, mental, developmental, emotional or social continued well-being, safety, or improvement to the lives of sick, indigent, or low-income people.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7).

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$23,500.00 as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2020 for a term of one year but end no later than June 30, 2021.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business workdays from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR'S employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall maintain at least the following insurances at its own cost and expense during the life of this Agreement, and require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work.

1. General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000, 000 aggregate
- b. Coverage must include premises and operations, products and completed operations and personal and advertising injury.
- c. The City must be named an additional insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory

Agenda Item #7.1.

- e. Coverage must be per project or per location
 - f. Coverage must be on an occurrence form
 - g. Subrogation must be waived
- 2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "any autos" or "owned autos, hired autos, and "non-owned autos"
- 3. Worker Compensation and Employers Liability
 - a. Statutory Limits
 - b. (employer liability) \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit.
 - c. Subrogation must be waived

CONTRACTOR shall furnish the CITY, with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

Agenda Item #7.1.

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Natalie Green

With Copies to: City Attorney
 Purchasing Manager
 City Clerk

TO CONTRACTOR: La Casa
 800 S. Walnut
 Las Cruces, NM 88001
 ATTENTION: Henry Brutus

23. SCOPE OF AGREEMENT

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

LA CASA

BY: 

Henry Brutus
Executive Director

May 29, 2020

Date

CITY OF LAS CRUCES

BY: 

David P. Dollahon
Assistant City Manager

July 6, 2020

Date

APPROVED AS TO FORM

 for JLB 6/30/20

City Attorney

Scope of Work FY 2021
La Casa Domestic Violence Family Services Program

1. Performance Goal

- a. The goal of the CYP program is to provide proper intervention and support to children who witness domestic violence.

2. Objective

- a. to provide direct services that include individual and family counseling (non-abusive parent); and
- b. to support children and their non-abusive parent through age-appropriate activities, art, play and music therapy.

3. Activities

- a. Provide Supportive services include but are not limited to: school advocacy, clothing, toys, school supplies, homework, mentoring and linkage to community resources.
- b. Plan monthly recreational activities and/or field trips to engage in fun and to encourage peer support and peer learning.
- c. Staff and volunteers will use trauma-informed practices to address emotional, psychological and physical issues that exist as a result of trauma from abuse. These tools help children distinguish between healthy and unhealthy behaviors. Lessons are interactive, engaging and situational to avoid repeat of the cycle of violence.
- d. Services and demographics will be tracked after each session and recorded in the child's files.
- e. Results are reported monthly to the City of Las Cruces.
Encourage the non-abusive parent and children over 11 (optional) to complete monthly anonymous surveys

4. Budget

APPROVED BUDGET	Unit of Service
\$23,500.00	75

5. Measures

- a. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
- b. Annual report submitted to the City of Las Cruces by July 10, 2021 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

6. Resources

- a. Payment will be made by the City of Las Cruces to **La Casa** after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Community Improvement program on a monthly basis by the 15th of each month.

7. Training

- a. The Executive Director, or staff designee, will attend the Health-Related Public Services training each year conducted by Community Improvement staff.

8. Evaluation

- a. **La Casa** will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.



SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 1st day of July, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **Casa De Peregrinos of 999 W. Amador Las Cruces, NM 88005**, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Casa de Peregrinos will provide nutritious, supplementary groceries to low income Las Cruces residents, including provide good sources of protein, essential staples, dairy and canned goods, at eight sites through out the City of Las Cruces. This project was reviewed by the Health and Human Services Advisory Committee and complies with the established program requirements to support the physical, mental, developmental, emotional or social continued well-being, safety, or improvement to the lives of sick, indigent, or low-income people.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7).

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$27,500.00 as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2020 for a term of one year but end no later than June 30, 2021.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business workdays from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR'S employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall maintain at least the following insurances at its own cost and expense during the life of this Agreement, and require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work.

1. General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000, 000 aggregate
- b. Coverage must include premises and operations, products and completed operations and personal and advertising injury.
- c. The City must be named an additional insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory
- e. Coverage must be per project or per location

- f. Coverage must be on an occurrence form
 - g. Subrogation must be waived
- 2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "any autos" or "owned autos, hired autos, and "non-owned autos"
- 3. Worker Compensation and Employers Liability
 - a. Statutory Limits
 - b. (employer liability) \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit.
 - c. Subrogation must be waived

CONTRACTOR shall furnish the CITY, with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Natalie Green

With Copies to: City Attorney
Purchasing Manager
City Clerk

TO CONTRACTOR: Casa De Peregrinos
999 W Amador, Suite F
Las Cruces, NM 88005
ATTENTION: Lorenzo Alba

23. SCOPE OF AGREEMENT

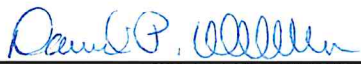
This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise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

CASA DE PEREGRINOS

CITY OF LAS CRUCES

BY: 

Lorenzo Alba
Executive Director

BY: 

David P. Dollahon
Assistant City Manager

05/20/2020

Date

July 10, 2020

Date

APPROVED AS TO FORM



City Attorney

Scope of Work FY 2021
Casa De Peregrinos Food Security Program

1. Performance Goal

- a. Provide nutritious supplemental groceries to residents of Las Cruces affected by food insecurity through targeted programs that address the unique needs of different populations (i.e. individual, families, children, adults, seniors, veterans, disabled and the homeless and near homeless.)

2. Objective

- a. Provide an emergency food bank distribution program on the Community of Hope campus to serve **15,000 duplicated** low-income individuals, families, (near) homeless, disabled persons and other vulnerable citizens in the City of Las Cruces

3. Activities

- a. Provide a total of 15,000 distributions of food to families and individuals in Las Cruces throughout the course of the 2020-2021 program year.
- b. Continue to improve the nutritional value of its food box distributions, by adding more fresh produce, protein including cheese, meats and fresh eggs, and essential staples like dried beans, pasta and rice, as well as canned goods and bakery items in every distribution.
- c. Continue to increase the amount of food included in each distribution.
- d. Provide homeless clients with products targeted to their situation: including pull top cans, microwave soup, cheese, crackers, cereal, bread and other items that need little preparation or refrigeration (Approx. 1300).
- e. Provide families with school aged children a second distribution of food during the summer holidays, to address the impact of not being able to access free or low cost school meals (approx. 300 lbs during school holidays).
- f. Continue to increase the number of eligible seniors receiving nutritious supplemental groceries by collaborating with the Senior Centers in Las Cruces to make distributions on their sites where seniors already congregate and have transportation.
- g. Increase outreach to other community programs to provide information to clients about other services that may assist them.

4. Budget

APPROVED BUDGET	Unit of Service
\$27,500.00	15,000 food baskets

5. Measures

- a. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
- b. Annual report submitted to the City of Las Cruces by July 10, 2020 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

6. Resources

- a. Payment will be made by the City of Las Cruces to **Casa De Peregrinos** after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Neighborhood Services Section on a monthly basis by the 15th of each month.

7. Training

- a. The Executive Director, or staff designee, will attend the Health-Related Public Services training each year conducted by Community Improvement staff.

8. Evaluation

- a. **Casa De Peregrinos** will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 31 day of April, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **Catholic Charities of Southern New Mexico of 125 W Mountain Ave., Las Cruces, NM 88005**, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Catholic Charities will provide direct assistance and support to community members adversely affected by the COVID-19 pandemic.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7) and a public health emergency has been declared by the State of New Mexico by Executive Order 2020-022 and additional renewals of Executive Order 2020-004.

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$74,500, as set forth in Section D of exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on April 10, 2020 for a term of one year but end no later than June 30, 2021.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an

employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall maintain at least the following insurances at its own cost and expense during the life of this Agreement, and require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work.

1. General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000, 000 aggregate
- b. Coverage must include premises and operations, products and completed operations and personal and advertising injury.
- c. The City must be named an additional insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory
- e. Coverage must be per project or per location
- f. Coverage must be on an occurrence form
- g. Subrogation must be waived

2. Commercial Auto Liability

- a. \$1,000,000 per occurrence
- b. Coverage must be for "any autos" or "owned autos, hired autos, and "non-owned autos"

3. Worker Compensation and Employers Liability

- a. Statutory Limits
- b. (employer liability) \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit.
- c. Subrogation must be waived

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Natalie Green

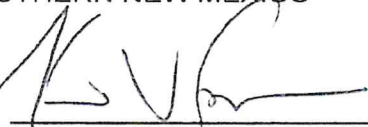
With Copies to: City Attorney
Purchasing Manager
City Clerk

TO CONTRACTOR: Catholic Charities of Southern New Mexico
125 W Mountain Ave.
Las Cruces, NM 88005
ATTENTION: Kenneth Ferrone, Director

23. SCOPE OF AGREEMENT

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

CATHOLIC CHARITIES OF
SOUTHERN NEW MEXICO

BY: 

Kenneth J. Ferrone,

Executive Director

April 23, 2020
Date

CITY OF LAS CRUCES

BY: 

David Maestas, P.E.

Interim City Manager

5-8-2020
Date

APPROVED AS TO FORM

/Jocelyn A. Garrison for Jennifer Vega-Brown
approved as to form, not content/

City Attorney

Scope of Work
Catholic Charities

COVID-19 response: **COVID-19 RELIEF/ANTI-POVERTY FUND**

A. Performance Goal:

Provide direct assistance and support to indigent community members adversely affected by the COVID-19 pandemic. Catholic Charities will focus on individuals and/or families that meet the low-income and indigency populations as defined by Las Cruces Area Median incomes (0 to 120%).

B. Objective:

1. Assist Las Cruces homeless or at-risk of being homeless as defined HUD (https://files.hudexchange.info/resources/documents/AtRiskofHomelessnessDefinition_Criteria.pdf). Help 25 people experiencing homeless or are at risk of displacement as related to COVID-19.
2. Assist at-risk low-income households with rent or mortgage payments which could result in their eviction or foreclosure and subsequent homelessness.
3. Assist Las Cruces migrant workers. Help 50 migrant workers and/or migrant families with items such as rent, food, utility, and medical assistance which includes the purchase of personal protective equipment (i.e. masks, gloves, cleaners).
4. Assist 25 homeless middle and high school students in partnership with FYI's My Friend's Place shelter, New America School, and Las Cruces Public School District's Project Link. Assistance will include temporary shelter, food, medical expenses, and personal protective equipment.

C. Activities

1. Will work in partnership with Community of Hope and Gospel Rescue Mission to identify the needs of the homeless and provide direct assistance to their clients. We will also screen and provide direct assistance to individuals who phone us and/or visit our office.
2. Will work in partnership with local nonprofits, landlords, and the agricultural community to identify the needs of the migrant community and provide direct assistance to individuals and families.
3. Will work in partnership with My Friend's Place shelter, New America School, and Project Link to identify the needs of Las Cruces homeless students and provide direct assistance to those middle and high school students.

D. Budget Summary

EXPENDITURE CLASSIFICATION		\$74,500.00
610-101	Permanent Position, Full Time	
610-102	Permanent Position, Part Time	
900-110	Client Housing (rent, utilities, deposit)	\$43,000.00
900-120	Client Support (medical, food)	\$31,500.00
	TOTAL:	\$74,500.00

E. Measures

1. Monthly reports of the number of income eligible persons served, and financial expenditures in accordance with the approved budget line items;
 - a. April 2020 – We will provide approximately \$15,000 to 20 individuals and/or families through April 30, 2020. Note, our office is closed to the general public through April 30th so we will work with our accountant and partner agencies to financially assist the homeless.
 - b. May 2020 – We will provide approximately \$30,000 to 40 individuals and/or families through May31, 2020.
 - c. June 2020 – We will provide approximately \$29,500 to 40 individuals and/or families through June 30, 2020.
2. Our agency will submit an annual report to the City of Las Cruces by July 10, 2020 showing actual cost of service provided (expenditures and units served) for the months of funding, and program narrative of how goals, objectives and activities were accomplished.

F. Resources

Payment will be made by the City of Las Cruces to Catholic Charities after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Community Improvement Section on a monthly basis by the 15th of each month.

G. Evaluation

Catholic Charities will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.

Natalie Green

From: Jocelyn Garrison
Sent: Tuesday, May 5, 2020 6:11 PM
To: Natalie Green
Cc: Bobbie Jo Hernandez; Rebecca Florez; Grace Espinosa
Subject: Re: CONTRACT REVIEW: Catholic Charities - COVID-19 RELIEF; ANTI-POVERTY FUND

Natalie - please note my electronic signature - approved.

Legal staff - please sign out.

From: Natalie Green <ngreen@las-cruces.org>
Sent: Tuesday, May 5, 2020 4:21 PM
To: Jocelyn Garrison <jgarrison@las-cruces.org>
Subject: RE: CONTRACT REVIEW: Catholic Charities - COVID-19 RELIEF; ANTI-POVERTY FUND

Revised agreement

Natalie Green
575-528-3086

From: Jocelyn Garrison <jgarrison@las-cruces.org>
Sent: Tuesday, May 5, 2020 4:10 PM
To: Natalie Green <ngreen@las-cruces.org>
Subject: CONTRACT REVIEW: Catholic Charities - COVID-19 RELIEF; ANTI-POVERTY FUND

This PSA states the amount is \$10,000, but Exhibit A states the contract is for \$74,500.

This has already been signed by the Vendor. Please fix the error and ask Vendor to resign.

Let me know if you have any questions.



SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this 1st day of July, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and **Boys and Girls Club of Las Cruces of 330 W. Las Cruces Ave, Las Cruces, NM 88005,** hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Boys and Girls Club of Las Cruces (BGCLC) will continue to provide scholarships and financial assistance to increase Club participation, membership and retention to ensure youth can receive vital services provided by BGCLC. BGCLC will help 130 unduplicated low income children through their scholarship program. This project was reviewed by the Health and Human Services Advisory Committee and complies with the established program requirements to support the physical, mental, developmental, emotional or social continued well-being, safety, or improvement to the lives of sick, indigent, or low-income people.

The City is purchasing services from the CONTRACTOR as specified within this Agreement in accordance with the City of Las Cruces Procurement Code, LCMC ch. 24, Article I, § 24-4 (7).

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed \$27500 as set forth in Exhibit "A". CONTRACTOR shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that is required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on July 1, 2020 for a term of one year but end no later than June 30, 2021.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business workdays from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall maintain at least the following insurances at its own cost and expense during the life of this Agreement, and require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work.

1. General Liability Insurance

- a. \$1,000,000 per occurrence / \$2,000, 000 aggregate
- b. Coverage must include premises and operations, products and completed operations and personal and advertising injury.
- c. The City must be named an additional insured for all coverages listed above on endorsements acceptable to the City.
- d. Coverage must be primary and non-contributory
- e. Coverage must be per project or per location

- f. Coverage must be on an occurrence form
 - g. Subrogation must be waived
- 2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "any autos" or "owned autos, hired autos, and "non-owned autos"
- 3. Worker Compensation and Employers Liability
 - a. Statutory Limits
 - b. (employer liability) \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit.
 - c. Subrogation must be waived

CONTRACTOR shall furnish the CITY, with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Natalie Green

With Copies to: City Attorney
Purchasing Manager
City Clerk

TO CONTRACTOR: Boys and Girls Club of Las Cruces
330 W. Las Cruces Ave
Las Cruces, NM 88005
ATTENTION: Ashley Echavarria

23. SCOPE OF AGREEMENT

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

Boys and Girls Club of Las Cruces

BY: Ashley Echavarria
Ashley Echavarria
Chief Executive Officer

06/15/2020
Date

CITY OF LAS CRUCES

BY: David P. Dollahon
David P. Dollahon
Assistant City Manager

July 6, 2020
Date

APPROVED AS TO FORM

JTB for JTB 6/30/20
City Attorney

Scope of Work FY 2021
Boys and Girls Club of Las Cruces More Members More Often

1. Performance Goal

- a. Increase the number of low income youth that participate in **Boys & Girls Club** (BGCLC).

2. Objective

- a. Increase Club participation, membership and retention to ensure youth can receive vital services provided by BGCLC. BGBCLC will help **150 unduplicated** low-income children.

3. Activities

- a. Continue the summer program.
- b. Continue partnership with Lynn Community Schools initiatives
- c. Increase recruitment of teenage members
- d. Increase total number of registered members for 2021
- e. Increase average daily attendance for after-school
- f. Track financial records to verify families are receiving rates based on need, and reevaluate at each term (Fall, Summer, and Spring)
- g. Monitor attendance, participation and renewal/retention
- h. Continue member recruitment by participating in ongoing community outreach events, holding open houses, etc.
- i. Evaluate number and demographics of members using KidTrax software
- j. Participate in National Youth Outcomes Initiative Survey conducted by Boys & Girls Clubs of America, with a goal of having 90% of average daily attendance participate in survey.
- k. Operate at a minimum of 90% of our optimal capacity for Summer 2020

4. Budget

APPROVED BUDGET	Unit of Service
\$27,500.00	150

5. Measures

- a. Monthly reports of the number of income eligible persons served and financial expenditures in accordance with the approved budget line items;
- b. Annual report submitted to the City of Las Cruces by July 10, 2020 showing actual cost of service provided (expenditures and units served) for the previous twelve months, and program narrative of how goals, objectives and activities were accomplished.

6. Resources

- a. Payment will be made by the City of Las Cruces to **Boys and Girls Club of Las Cruces** after receipt of a properly executed Monthly Invoice and Monthly Expenditure Summary Report for financial expenditures in accordance with the approved budget line items. Reimbursement requests must be submitted to the Neighborhood Services Section on a monthly basis by the 15th of each month.

7. Training

- a. The Executive Director, or staff designee, will attend the Health-Related Public Services training each year conducted by Community Improvement staff.

8. Evaluation

- a. **Boys and Girls Club of Las Cruces** will submit monthly and annual reports for review and evaluation by City staff. Information from the monthly and annual reports may be provided to Internal Audit, Health and Human Services Advisory Committee and City Council, as requested.

**21-064**

City Council Action and Executive Summary

Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

District:	☒ 1	☒ 2	☒ 3	☒ 4	☒ 5	☒ 6
1st Reading:				Adopted:	October 19, 2020	
Drafter:	Matthew Saenz			Department:	City Manager's Office	
Program:	Budget			Line of Business:	Fiscal Management	
Title:	A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2020-21 BUDGET AND, AS APPLICABLE, THE FY2020-21 CAPITAL IMPROVEMENT PLAN (CIP) AS OF OCTOBER 19, 2020.					

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

PURPOSE(S) OF ACTION:

To request various budget adjustments for compliance and operational needs of the City.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

City staff will prepare monthly budget adjustments for fiscal year starting July 1, 2020 through June 30, 2021. Monthly adjustments include funding for supplies, services, equipment, and projects to meet the demands of a growing community and to align budgets for effective and efficient City of Las Cruces operations. The budget adjustment proposed within this Resolution will not impact the City's 2/12ths reserve requirement for the General Fund.

SUPPORT INFORMATION:

[Exhibit "A" FY21 Fund Summaries 10.19.20](#)

[Attachment "A" Budget Adjustment Summary 10.19.20](#)

[Exhibit "B" FY21 CIP 10.19.20](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☐ Yes

☒ No

☐ N/A

BUDGET / FISCAL IMPACT:

Agenda Item #7.2.

BUDGETED AMOUNT: Various

AVAILABLE AMOUNT: Various

EXPENDITURE AMOUNT:
Various

Additional Budgetary Information:

Please refer to Exhibit "A" Fund Summaries.

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

☐ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and accept the budget adjustments as presented, and adjust the City's FY2021 CIP, as applicable.
2. Vote "No"; this will not approve the Resolution nor accept the budget adjustments as presented and will not adjust the City's FY2021 budget and FY2021 CIP, as applicable.
3. Vote to "Amend"; this will delay the process of spending the funds within the predetermined funding schedule and require direction to staff.
4. Vote to "Table"; this will impact the City's ability to utilize funds and may impact programs and services.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

RESOLUTION 21-064

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2020-21 BUDGET AND, AS APPLICABLE, THE FY2020-21 CAPITAL IMPROVEMENT PLAN (CIP) AS OF OCTOBER 19, 2020.

The City Council is informed that:

WHEREAS, City staff members have prepared a monthly budget adjustment for the fiscal year starting July 1, 2020 through June 30, 2021; and

WHEREAS, the monthly budget adjustment includes funding for supplies, services, equipment, and projects to meet the demands of a growing community and to align budgets for effective and efficient City of Las Cruces operations; and

WHEREAS, this adjustment will not deplete the General Fund 2/12ths reserve requirement.

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

(I)

THAT the budget adjustments as indicated in Exhibit "A", attached hereto and made a part of this Resolution, are hereby approved.

(II)

THAT the FY2021 CIP, is hereby amended as outlined in Exhibit "B", attached hereto and made part of this Resolution.

(III)

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

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

Exhibit "A"

	1000 GENERAL FUND 2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 33,283,825	33,283,825	0	33,283,825
Revenues				
Municipal Gross Receipts Tax	34,055,560	34,055,560	0	34,055,560
Public Safety Gross Receipts Tax	3,785,552	3,785,552	0	3,785,552
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	37,466,800	37,466,800	0	37,466,800
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	1,075,233	1,075,233	0	1,075,233
Gasoline Tax	0	0	0	0
Cigarette Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	12,078,355	12,078,355	0	12,078,355
Payment In Lieu of Property Tax	817,771	817,771	0	817,771
Franchise Fees	2,771,546	2,771,546	0	2,771,546
Payment In Lieu of Franchise Fees	1,200,000	1,200,000	0	1,200,000
Licenses, Fees & Permits	2,468,921	2,468,921	0	2,468,921
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	597,000	597,000	0	597,000
Charges For Services	2,500,088	2,500,088	0	2,500,088
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	3,326,525	3,326,525	0	3,326,525
Investment Income	670,000	670,000	0	670,000
Miscellaneous Revenues	55,069	55,069	0	55,069
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	16,267	16,267	0	16,267
Debt Service	0	0	0	0
Total Revenues	102,884,687	102,884,687	0	102,884,687
TOTAL RESOURCES	\$ 136,168,512	136,168,512	0	136,168,512
Expenditures				
General Government	(5,000,000)	(5,000,000)	0	(5,000,000)
Legislative	708,052	708,052	0	708,052
Municipal Court	1,472,319	1,472,319	0	1,472,319
City Manager	6,038,677	5,264,085	0	5,264,085
Legal	3,339,744	3,339,744	0	3,339,744
Las Cruces Police Department	26,508,761	26,534,658	0	26,534,658
Las Cruces Fire Department	16,219,372	16,219,372	0	16,219,372
Utilities	0	0	0	0
Economic Development	2,538,821	2,639,901	0	2,639,901
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	1,502,776	1,502,776	0	1,502,776
Financial Services	4,548,695	4,548,695	0	4,548,695
Information Technology	5,095,702	5,251,366	157,799	5,409,165
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	11,727,436	11,841,164	0	11,841,164
Community Development	5,063,727	5,063,727	0	5,063,727
Quality of Life	7,203,698	7,280,682	0	7,280,682
Public Works	10,039,908	10,083,699	0	10,083,699
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 97,007,688	96,750,240	157,799	96,908,039
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	(19,088,924)	(20,402,967)	0	(20,402,967)
Total Other Resources	\$ (19,088,924)	(20,402,967)	0	(20,402,967)
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 20,071,900	19,015,305	(157,799)	18,857,506
Required Reserve:				
State Required 1/12th	8,083,974	8,062,520	13,150	8,075,670
Local CLC 1/12th	8,083,974	8,062,520	13,150	8,075,670
AVAILABLE BALANCE	\$ 3,903,952	2,890,265	(184,099)	2,706,166

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	1030 ECONOMIC DEVELOPMENT			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 1,298,647	1,298,647	0	1,298,647
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
Cigarette 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	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	0	0	0	0
TOTAL RESOURCES	\$ 1,298,647	1,298,647	0	1,298,647
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	794,794	695,281	225,000	920,281
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 794,794	695,281	225,000	920,281
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	\$ 503,853	603,366	(225,000)	378,366

Agenda Item #7.2.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	2780 GRIGGS WALNUT PLUME REMED			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 3,057,893	3,057,893	0	3,057,893
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
Cigarette 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	204,000	204,000	6,389,407	6,593,407
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	34,395	34,395	0	34,395
Miscellaneous Revenues	0	0	0	0
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	238,395	238,395	6,389,407	6,627,802
TOTAL RESOURCES	\$ 3,296,288	3,296,288	6,389,407	9,685,695
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	1,684,095	3,184,095	1,500,000	4,684,095
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 1,684,095	3,184,095	1,500,000	4,684,095
Other Resources				
Operating Transfers In	400,000	400,000	0	400,000
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 400,000	400,000	0	400,000
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 2,012,193	512,193	4,889,407	5,401,600

Agenda Item #7.2.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	4100 CAPITAL PROJECTS REIMB GRANTS			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 244,553	244,553	0	244,553
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
Cigarette 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	73,920	58,699	0	58,699
State Grants	8,198,206	10,219,450	(1,895,843)	8,323,607
Local Grants	0	350,000	0	350,000
Debt Service	0	0	0	0
Total Revenues	8,272,126	10,628,149	(1,895,843)	8,732,306
TOTAL RESOURCES	\$ 8,516,679	10,872,702	(1,895,843)	8,976,859
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	1,000,000	1,000,000	0	1,000,000
Utilities	0	0	0	0
Economic Development	1,386,561	3,323,972	(1,937,411)	1,386,561
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	735,005	1,236,807	0	1,236,807
Community Development	0	0	0	0
Quality of Life	67,096	62,425	0	62,425
Public Works	5,083,464	5,004,945	41,568	5,046,513
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 8,272,126	10,628,149	(1,895,843)	8,732,306
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	\$ 244,553	244,553	0	244,553

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5010 AIRPORT			
	2020-21			
	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
Cigarette 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	24,500	24,500	0	24,500
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	180,000	180,000	0	180,000
Federal Grants	3,493,560	3,005,102	(261,994)	2,743,108
State Grants	1,394,966	796,772	0	796,772
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	5,093,026	4,006,374	(261,994)	3,744,380
TOTAL RESOURCES	\$ 5,093,026	4,006,374	(261,994)	3,744,380
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	5,904,346	4,743,083	(261,994)	4,481,089
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 5,904,346	4,743,083	(261,994)	4,481,089
Other Resources				
Operating Transfers In	825,320	825,320	0	825,320
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 825,320	825,320	0	825,320
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 14,000	88,611	0	88,611

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5100 UTILITIES SHARED SERVICES			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 2,864,406	2,864,406	0	2,864,406
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
Cigarette 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	13,853,944	13,853,944	0	13,853,944
Investment Income	(4,734)	(4,734)	0	(4,734)
Miscellaneous Revenues	300,000	300,000	0	300,000
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	14,149,210	14,149,210	0	14,149,210
TOTAL RESOURCES	\$ 17,013,616	17,013,616	0	17,013,616
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	12,070,396	11,964,262	100,000	12,064,262
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	1,217,801	1,217,801	0	1,217,801
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 13,288,197	13,182,063	100,000	13,282,063
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	0	(174,000)	0	(174,000)
Total Other Resources	\$ 0	(174,000)	0	(174,000)
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 3,725,419	3,657,553	(100,000)	3,557,553

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5250 GAS CAPITAL IMPROVEMENTS			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 6,759,856	6,759,856	0	6,759,856
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
Cigarette 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	1,000	1,000	0	1,000
Investment Income	99,637	99,637	0	99,637
Miscellaneous Revenues	0	0	0	0
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	100,637	100,637	0	100,637
TOTAL RESOURCES	\$ 6,860,493	6,860,493	0	6,860,493
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	5,595,940	5,749,940	900,000	6,649,940
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 5,595,940	5,749,940	900,000	6,649,940
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	\$ 1,264,553	1,110,553	(900,000)	210,553

Agenda Item #7.2.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5320 WATER ACQUISITION			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 1,691,142	1,691,142	0	1,691,142
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
Cigarette 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	751,500	751,500	(8,000)	743,500
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	17,901	17,901	0	17,901
Miscellaneous Revenues	0	0	0	0
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	769,401	769,401	(8,000)	761,401
TOTAL RESOURCES	\$ 2,460,543	2,460,543	(8,000)	2,452,543
Expenditures				
General Government	78,700	78,700	0	78,700
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	1,294,707	1,399,171	4,755	1,403,926
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 1,373,407	1,477,871	4,755	1,482,626
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	(250,000)	(250,000)	0	(250,000)
Total Other Resources	\$ (250,000)	(250,000)	0	(250,000)
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 837,136	732,672	(12,755)	719,917

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5510 SOLID WASTE LANDFILL CLOSURE			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 3,614,892	3,614,892	0	3,614,892
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
Cigarette 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	23,400	23,400	0	23,400
Miscellaneous Revenues	0	0	0	0
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	23,400	23,400	0	23,400
TOTAL RESOURCES	\$ 3,638,292	3,638,292	0	3,638,292
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	1,897,930	1,897,930	150,000	2,047,930
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 1,897,930	1,897,930	150,000	2,047,930
Other Resources				
Operating Transfers In	500,000	500,000	0	500,000
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 500,000	500,000	0	500,000
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 2,240,362	2,240,362	(150,000)	2,090,362

Agenda Item #7.2.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5920 TRANSIT OPERATING			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 1,653,350	1,653,350	0	1,653,350
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
Cigarette 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	720,400	720,400	0	720,400
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	900	900	0	900
Federal Grants	1,791,641	7,475,846	0	7,475,846
State Grants	253,848	183,573	0	183,573
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	2,766,789	8,380,719	0	8,380,719
TOTAL RESOURCES	\$ 4,420,139	10,034,069	0	10,034,069
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	6,477,428	11,853,980	48,317	11,902,297
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 6,477,428	11,853,980	48,317	11,902,297
Other Resources				
Operating Transfers In	2,128,497	2,128,497	48,317	2,176,814
Operating Transfers Out	(71,000)	(71,000)	0	(71,000)
Total Other Resources	\$ 2,057,497	2,057,497	48,317	2,105,814
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 208	237,586	0	237,586

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5923 TRANSIT CAPITAL			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 1,061,249	1,061,249	0	1,061,249
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
Cigarette 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	3,847,704	3,784,904	0	3,784,904
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	3,847,704	3,784,904	0	3,784,904
TOTAL RESOURCES	\$ 4,908,953	4,846,153	0	4,846,153
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	4,973,984	4,872,800	(48,317)	4,824,483
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 4,973,984	4,872,800	(48,317)	4,824,483
Other Resources				
Operating Transfers In	71,000	71,000	0	71,000
Operating Transfers Out	0	0	(48,317)	(48,317)
Total Other Resources	\$ 71,000	71,000	(48,317)	22,683
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 5,969	44,353	0	44,353

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	7480 GIFTS AND MEMORIALS			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 154,112	154,112	0	154,112
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
Cigarette 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	18,150	217,625	0	217,625
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	18,150	217,625	0	217,625
TOTAL RESOURCES	\$ 172,262	371,737	0	371,737
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	3,250	3,250	0	3,250
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	20,500	20,500	0	20,500
Community Development	0	0	0	0
Quality of Life	25,102	231,322	15,000	246,322
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 48,852	255,072	15,000	270,072
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	\$ 123,410	116,665	(15,000)	101,665

BUDGET ADJUSTMENT SUMMARY

October 19, 2020

Attachment "A"

FUND NO.	1000
FUND TITLE:	General Fund
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Information Technology
PROGRAM:	Various
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$157,799
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Information Technology Department recently went through a class and comp study. This resulted in an increase in salaries for some positions. Additional funding is needed for the increase in salaries.	

FUND NO.	1030
FUND TITLE:	Economic Development
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Economic Development
PROGRAM:	Business Development
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$225,000
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Carryover Local Economic Development Act (LEDA) grant matching funds for 420 S. Valley and Big Tuna.	

BUDGET ADJUSTMENT SUMMARY

October 19, 2020

Attachment "A"

FUND NO.	2780
FUND TITLE:	Griggs Walnut Plume Remed
TYPE OF ADJUSTMENT:	Revenue / Expense
DEPARTMENT:	Utilities
PROGRAM:	Griggs Walnut
REVENUE ADJ AMOUNT	\$6,389,407
EXPENDITURE ADJ AMOUNT	\$1,500,000
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Budget for realized revenue from the Federal Government for the Griggs Walnut Plume Superfund consent decree. Furthermore, budget expenditures for additional remediation projects.	

FUND NO.	4100
FUND TITLE:	Capital Projects Reimb Grants
TYPE OF ADJUSTMENT:	Revenue / Expense
DEPARTMENT:	Economic Development
PROGRAM:	Destination Downtown
REVENUE ADJ AMOUNT	(\$1,937,411)
EXPENDITURE ADJ AMOUNT	(\$1,937,411)
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	Yes
REASON FOR ADJUSTMENT: Public Works is now managing the Parking Garage project. Therefore, the project budget will be removed from Economic Development.	

BUDGET ADJUSTMENT SUMMARY

October 19, 2020

Attachment "A"

FUND NO.	4100
FUND TITLE:	Capital Projects Reimb Grants
TYPE OF ADJUSTMENT:	Revenue / Expense
DEPARTMENT:	Public Works
PROGRAM:	Engineering & Architecture
REVENUE ADJ AMOUNT	\$41,568
EXPENDITURE ADJ AMOUNT	\$41,568
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	Yes
REASON FOR ADJUSTMENT: Adjust Parking Garage project to actuals. Forecasted ending balance for FY2020 amount was less than anticipated.	

FUND NO.	5010
FUND TITLE:	Airport
TYPE OF ADJUSTMENT:	Revenue / Expense
DEPARTMENT:	Economic Development
PROGRAM:	Las Cruces Airport Development
REVENUE ADJ AMOUNT	(\$261,994)
EXPENDITURE ADJ AMOUNT	(\$261,994)
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	Yes
REASON FOR ADJUSTMENT: Correct the Airport budget. The amount was doubled.	

Agenda Item #7.2.

BUDGET ADJUSTMENT SUMMARY

October 19, 2020

Attachment "A"

FUND NO.	5100
FUND TITLE:	Utilities Shared Services
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Utilities
PROGRAM:	Warehouse / Technical Support
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$100,000
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Additional budget is needed for Temporary Employment Services.	

FUND NO.	5250
FUND TITLE:	Gas Capital Improvements
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Utilities
PROGRAM:	Technical Support
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$900,000
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	Yes
REASON FOR ADJUSTMENT: Carryover Talavera Phase 3A project from fiscal year 2020. This is a multi-phase project to bring natural gas to the Talavera Subdivision.	

BUDGET ADJUSTMENT SUMMARY

October 19, 2020

Attachment "A"

FUND NO.	5320
FUND TITLE:	Water Acquisition
TYPE OF ADJUSTMENT:	Revenue / Expense
DEPARTMENT:	Utilities
PROGRAM:	Water Administration / Water Conservation
REVENUE ADJ AMOUNT	(\$8,000)
EXPENDITURE ADJ AMOUNT	\$4,755
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	
REASON FOR ADJUSTMENT: Correct provision of uncollectible accounts. A glitch with MUNIS posted the amount with the wrong sign. In addition, budget expenditures for the Youth Conservation Corp program as part of the carryover correction.	

FUND NO.	5510
FUND TITLE:	Solid Waste Landfill Closure
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Utilities
PROGRAM:	Foothills Landfill Closure
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$150,000
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Supplementary funding is needed for adjusted project timeline.	

BUDGET ADJUSTMENT SUMMARY

October 19, 2020

Attachment "A"

FUND NO.	5920
FUND TITLE:	Transit Operating
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Quality of Life
PROGRAM:	Dial-A-Ride
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$48,317
TRANSFER ADJ AMOUNT	\$48,317
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Current funding was used towards the Transit Hadley Facility Improvements. The project was more than anticipated. Transfer funding from fund 5923 – Transit Capital for furniture workspace improvements for the Transit Hadley Facility and software that will be used to train Dial-A-Ride employees.	

FUND NO.	5923
FUND TITLE:	Transit Capital
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Quality of Life
PROGRAM:	Dial-A-Ride
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	(\$48,316)
TRANSFER ADJ AMOUNT	(\$48,316)
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Current funding was used towards the Transit Hadley Facility Improvements. The project was more than anticipated. Transfer funding from fund 5923 – Transit Capital for furniture workspace improvements for the Transit Hadley Facility and software that will be used to train Dial-A-Ride employees.	

Agenda Item #7.2.

BUDGET ADJUSTMENT SUMMARY
October 19, 2020

Attachment "A"

FUND NO.	7480
FUND TITLE:	Gifts & Memorials
TYPE OF ADJUSTMENT:	Expense
DEPARTMENT:	Quality of Life
PROGRAM:	Literacy
REVENUE ADJ AMOUNT	\$0
EXPENDITURE ADJ AMOUNT	\$15,000
TRANSFER ADJ AMOUNT	\$0
CIP PROJECT AMENDMENT NEEDED:	No
REASON FOR ADJUSTMENT: Carryover Health Literacy training for Library Staff.	

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Exhibit B

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
PUBLIC WORKS								
Public Works - Newly Funded Projects								
Generator Buffer Program • Fire Station No. 4	8	35,000	70,000	70,000	70,000	70,000	70,000	Taxes
Lighting Upgrades to Council Chambers	9	40,000						Taxes
Madrid Ave Extension - Martha Dr to N Triviz Dr	3	300,000	400,000					Bonds, Taxes, Grants
Mesquite/Tornillo Drainage Improvements	6	625,000						Taxes, Bonds
Midway Ave - Gas Line Rd to Mesa Dr	4	240,000						Bonds
Refuse & Recycling Buffer Program • Branigan Cultural Center • Frank O'Brien Papen Community Center • Henry Benavidez Center	7	35,000	70,000	70,000	70,000	70,000	70,000	Taxes
Solar Ridge - Mars Ave to Sunridge Dr	5	75,000						Taxes
Traffic Signals • Roadrunner Prkwy & Sonora Springs • Sonoma Ranch Blvd & Northrise	*	1,300,000						Bonds
Public Works - Total Newly Funded Projects		2,650,000	540,000	140,000	140,000	140,000	140,000	
Public Works - Carryover Projects								
Active Transportation Plan - Sidewalk Gaps		635,000						Bonds, Taxes
Alameda Estates • Jody Dr - Richard Dr to Karen Ave • Karen Ave - Dona Ana Rd to east end • Terry Dr - Jody Dr to Richard Dr		709,784						Bonds
Amador Hotel <i>2020 Legislative Appropriation</i>		1,269,416	225,000	2,950,000	2,950,000	2,950,000		Bonds, Grants
ASCMV HVAC and Roof Replacement		414,104						Taxes
Avenida Blanco - Valley Dr to Calle Encanto		450,000						Bonds
Brown Farm Ponding Improvements		500,000						Bonds
Campo Street Design and Reconstruct		400,000	2,600,000					TIDD
Court Ave - N. Melendres St to N. Water St		831,969						Taxes
Downtown 2-Way Conversion		135,098						TIDD
Downtown Parking Garage		1,909,729	5,000,000					Bonds, Grants, TIDD
Drainage Infrastructure Improvements • EBID Drains & Laterals • Land Acquisition • Other Improvements		1,913,250						Bonds, Loans
East Lohman Land Acquisitions Master Plan		250,000						Taxes
East Mesa Recreation Complex Road		3,200,000						Bonds
East Mesa Roads and Drainage <i>2020 Legislative Appropriation</i>		500,000	720,000	1,000,000				Bonds, Grants
Energy Efficiency Program - IGA		9,129,591						Bonds, Taxes

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
GO Bond Q1 - Park & Sport Field Improvements & Additions		16,726,772	10,408,910					GO Bonds
GO Bond Q2 - New Animal Shelter Facility		9,457,199	3,696,530					GO Bonds
GO Bond Q3 - New Fire Station No. 3 Building		5,740,235	2,043,020					GO Bonds
GO Bond Q4 - Walking, Jogging, Biking Trails Improvements & Additions		2,679,818	1,451,540					GO Bonds
McFie Ave - Valley Dr to First St • CDBG Match		535,000						Grants, Taxes
Municipal Services Center		5,020,000	1,400,000	7,000,000	7,000,000	11,200,000		Bonds
MV Community of Hope - Flooring		55,000						Grants
MV Community of Hope - Food Rescue Warehouse		661,780		3,347,000				Grants
<i>2020 Legislative Appropriation</i>			1,403,000					
MV Community of Hope - Health Facility Phase I		648,817						Grants
North Fork Las Cruces Arroyo L.O.M.R. Drainage Study		100,000						Other
Parking Lot 7 and Bathrooms		489,598						TIDD
Pavement Management System Road Condition Survey		200,000		200,000			200,000	Taxes
Rio Grande Theater - Energy Efficiency Improvements		61,901						Bonds
South Main St - Avenida de Mesilla to Boutz		3,300,000						Bonds
Spruce Ave - Telshor Blvd & Triviz Dr Intersection Improvements		180,000	650,000					Grants
Storm Water System Mapping		100,000						Taxes
Street and Flood Control Improvements		561,103						Grants
Tashiro Rd Improvements - Valley Dr to Motel Blvd		3,610,000						Loans
Telshor ADA Improvements Ph IV - Fairway to Missouri		77,811						Grants, Taxes
Traffic Calming Devices		25,000						Grants
Van Patten Ave - N. Alameda Blvd to N. Melendres St		675,000						Grants, Taxes
Villa Mora Dam		123,000						Bonds, Grants
<i>2020 Legislative Appropriation</i>			250,000					
Voluntary Assessment District Phase I • Sanitary Sewer Infrastructure • Sonoma Ranch Blvd Mile 2: Peachtree to Arroyo • Red Hawk Golf Rd: N.Bound Metro Verde S.P1E to Arroyo Rd • Regional Drainage Phase 1		1,797,967						Bonds
Voluntary Assessment District Phase II • Peachtree Hills Rd. East & West • Regional Drainage • Sonoma Ranch Blvd to Engler, Mile 1, Mile 2, Mile 3, & Roundabout • Sonoma Ranch Blvd Landscaping to Engler, Mile 1, Mile 2, & Mile 3		8,350,000						Bonds
Walnut St Resurfacing M.A.P.		172,483						Grants, Taxes
Walnut-Madrid TAP Bike/Pedestrian Improvements		100,642						Grants, Taxes
West Fleming Ave.		350,000						Bonds, Loans
Public Works - Total Carryover Projects		84,047,067	29,848,000	14,497,000	9,950,000	14,150,000	200,000	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					
		FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Funding Source
Public Works - Annual Projects							
ADA Compliance • ADA Signage • East Side Community Center Sidewalk • Park Facility pick ups & drop offs	7,500	25,000	50,000	101,000	101,000	101,000	Taxes
ADA Sidewalk Program	110,000	110,000	110,000	110,000	110,000	110,000	Taxes
Chip Seal Program	150,000	150,000	150,000	150,000	150,000	150,000	Taxes
City Building Roof Replacement Program • Roof Inspections • Roof Replacement Master Plan • Police Department Academy • Police Department Main Office • WIA Building	675,000	325,000	325,000	325,000	325,000	325,000	Taxes
CO-OP Match	100,000	50,000	50,000	50,000	50,000	50,000	Taxes
General Facilities Improvement Program • Arc Flash Plan • Branigan Electrical Improvements • City Hall Furnishings • Other	258,533	303,000	500,000	500,000	500,000	500,000	Taxes
Land Acquisition - Public Works • Flood Control • Right of Way • East Mesa • Other	200,000	250,000	250,000	250,000	250,000	250,000	Taxes
M.A.P. Match	165,000	150,000	150,000	150,000	150,000	150,000	Taxes
Materials Testing	215,000	225,000	250,000	250,000	250,000	250,000	Taxes
Neighborhood Traffic Calming Program	120,000	120,000	120,000	120,000	120,000	120,000	Taxes
Overlays - Various	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	Taxes
Pavement Maintenance Program	2,330,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	Taxes
Pavement Marking Program	475,000	522,800	522,800	522,800	522,800	522,800	Taxes
Pavement Replacement Program	2,089,663	1,350,000	1,350,000	1,350,000	1,350,000	1,350,000	Bonds, Taxes
Roadway Maintenance Program	605,000	350,000	350,000	350,000	350,000	350,000	Taxes
Safety, Health, Environmental & Emergency • City Hall - Elevator and Hallway Carpet Replacement • Municipal Court Carpet Replacement	65,000	252,500	252,500	252,500	252,500	252,500	Taxes
Storm Water Maintenance Program	50,000	50,000	50,000	50,000	50,000	50,000	Taxes
Street Lighting & Traffic Signal Maintenance Program	500,000	500,000	500,000	500,000	500,000	500,000	Taxes
Traffic Signal Program	511,834	500,000	500,000	500,000	500,000	500,000	Taxes
Transportation System Modernization ITS	600,000	1,000,000	8,335,575	1,000,000	6,240,189	6,000,000	Taxes
Unpaved Roads	250,000	250,000	250,000	250,000	250,000	250,000	Taxes
Weed Control & Maintenance • City Rights of Way • Las Cruces Dam • Ponds	95,000	95,000	95,000	95,000	95,000	95,000	Taxes
Public Works - Total Annual Projects	10,672,530	9,478,300	17,060,875	9,776,300	15,016,489	14,776,300	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Public Works - Future Projects								
Community Services Corp - Transitional Housing			2,500,000					Grants
Flood Control Infrastructure			1,500,000					Bonds
South Main/Valley Drainage Pond			1,000,000					Bonds
Bellamah Drive - Lees to Luna St.			825,000					Taxes
Municipal Court			700,000	6,000,000				Bonds
MV Community of Hope - Health Facility Phase I Dental			445,000					Grants
MV Community of Hope - Health Facility Phase II				30,000				Grants
2020 Legislative Appropriation			430,000					
Facility Parking Lot Program			250,000	250,000	250,000	250,000	250,000	Taxes, Bonds
• East Side Community Center								
• Munson Center								
• Police Station Front Entrance								
• Train Depot								
Castañeda Building - IT Generator			200,000					Taxes
HVAC Upgrade Program			200,000	200,000	200,000	200,000	200,000	Taxes
MV Community of Hope - Solar Parking Project								Grants
2020 Legislative Appropriation			200,000					
Security & Fire Alarm Installation & Upgrades - Citywide			170,000	170,000	100,000	100,000	100,000	Taxes, Bonds
Melendres Ave - Hadley to Picacho				750,000				Bonds
Evelyn St - Madrid Ave to Ash St				655,000				Taxes
Johnson St - Rouault Ave to Topley Dr				625,000				Bonds
Ethel Ave - Alameda Blvd to Miranda, and Houma				550,000				Taxes
MV Community of Hope - Health Facility Phase III				400,000				Grants
MV Community of Hope - Jardin de los Niños Re-Roof				250,000				Grants
MV Community of Hope - Jardin de los Niños Security Improvements				200,000				Grants
MV Community of Hope - El Caldito - Upgrade				100,000				Grants
South Valley Dr Reconstruction - Avenida de Mesilla to Boutz					2,920,000			Bonds
Lohman at Walnut and Walton Signal Improvements					1,000,000			Bonds, Grants
MV Community of Hope - Building 1, St. Luke's - Solar Project					600,000			Grants
Calle de Sol - Avenida Blanco to Avenida de Mesilla					500,000			Bonds
Mountain Ave - Melendres St to Armijo St					475,000			Bonds
Med Park Ave - Idaho to Perkins Ave					390,000			Bonds
MV Community of Hope - Health Facility Phase IV					330,000			Grants
Armijo St - Picacho Ave to Parker Rd					260,000			Bonds
MV Community of Hope - Expansion Remodel					250,000			Grants
MV Community of Hope - Patio to Office Remodel					200,000			Grants
Armijo St - Organ Ave to Mountain Ave						675,000		Bonds
Street Lighting Management System						500,000		Taxes
Kilmer St - Spruce Ave to Ash Ave						500,000		Bonds
Rigsby Rd - Barker to Valley Dr						295,000		Taxes
Poplar Ave - Mesquite St to Santa Fe St						260,000		Bonds
Willow St - Palomas Ave to San Juan						250,000		Bonds
Sweet St - Hadley Ave to Hayner St						207,000		Taxes

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Guthrie Place- Thomas Dr to Cul de Sac						200,000		Bonds
Pittsburg Ave - Melendres to Cul de Sac						120,000		Bonds
Sequoia Ave - Valley Dr to E.O.P.						100,000		Bonds
Spruce Road Diet - N Main to Triviz							500,000	Bonds
Miranda Ave - Picacho Ave to Court Ave							450,000	Bonds
Amis Ave - Madrid Ave to Hoagland Road							330,000	Bonds
Sacramento St - Ash Ave to Oasis Ave							315,000	Taxes
Westgate St - Amador Ave to Cul de Sac							240,000	Bonds
Amador Ave - Archuleta Road to E.O.P.							210,000	Bonds
La Fonda Dr - Idaho Ave to E.O.P.							200,000	Bonds
Oasis Ave - Mesquite St to Solano Dr							185,000	Bonds
Parkview Dr - Espina St to E.O.P.							175,000	Bonds
6th Street - Hayner Ave to Hadley Ave							150,000	Bonds
Mountain Ave - Water St to Alameda Blvd							130,000	Bonds
Conway Road Maintenance - Design							50,000	Bonds
Engler Road - Design							50,000	Bonds
Hacienda Acres Infrastructure Improvements - Design							50,000	Bonds
Sand Hill Trail - Design							50,000	Taxes
Targeted Road and Lighting Improvements - Design							50,000	Taxes
West Mesa Fiber Optics Improvements - Design							50,000	Taxes
Public Works - Total Future Projects		-	8,420,000	10,180,000	7,475,000	3,657,000	3,735,000	
Total Public Works		97,369,597	48,286,300	41,877,875	27,341,300	32,963,489	18,851,300	
ECONOMIC DEVELOPMENT								
Economic Development - Newly Funded Projects								
LRU Runway 8/26 Extension *		192,994	230,006	7,000,000				Grants, Taxes
• Construction								
• Design								
• Environmental Assessment								
Economic Development - Total Newly Funded Projects		192,994	230,006	7,000,000	-	-	-	
Economic Development - Carryover Projects								
Arts and Cultural District Improvements		1,000,000		294,000				Grants
<i>2020 Legislative Appropriation</i>			956,000					
Cinematic Infrastructure & Soundstage		3,319,646						Bonds, Grants
<i>2020 Legislative Appropriation</i>			511,035					
Convention Center FFE		75,000						Taxes
Convention Center Storage		5,277						Bonds
Current Multi Use Field Lighting - PVD/Soldados		158,201	1,553,000					Grants, Taxes, PIF
Downtown Plaza Shade Structures		154,138						Bonds
Gateway Entry Points Signage		300,000	50,000	50,000	50,000	50,000	50,000	Taxes
LRU Airport Infrastructure Improvements		620,782						Grants

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants
 Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
LRU Drainage Master Plan		176,430						Grants
LRU GA Terminal Apron - Design		9,742						Bonds, Grants
LRU GA Terminal Apron - Reconstruction		2,510,747						Grants, Taxes
LRU Security Gate and Fence Rehabilitation		2,389						Taxes
LRU Wildlife Perimeter Fence		280,354						Bonds, Grants
LRU Zia Building Renovation		529,192						Bonds
Solar Energy Photo Voltaic Projects		1,276,189						Bonds, Taxes
• ASCMV								
• Burn Lake								
• Fire Station No. 3								
• Police Department								
Economic Development - Total Carryover Projects		10,418,087	3,070,035	344,000	50,000	50,000	50,000	
Economic Development - Annual Projects								
LRU Striping and Marking Maintenance Program		75,000	75,000	75,000	75,000	75,000	75,000	Taxes
Economic Development - Total Annual Projects		75,000	75,000	75,000	75,000	75,000	75,000	
Economic Development - Future Projects								
LRU Passenger Terminal - Design			900,000	5,000,000	4,000,000			Bonds, Grants, Taxes
• Construction								
• Design								
LRU Runway 12/30 Extension				7,000,000				Grants, Taxes
<i>2020 Legislative Appropriation</i>			450,000					
• Construction								
• Design								
• Environmental Assessment								
Downtown Parking Lots Renovation			350,000	255,000	255,000	255,000	255,000	Bonds, Taxes, TIDD
• Parking Lot 3/4								
• Parking Lot 7								
• Parking Lot 9/10								
• Parking Lot at Campo & Hadley								
• Parking Lot 3/4								
LRU Taxilane Improvements								Grants
<i>2020 Legislative Appropriation</i>			300,000					
LRU Apron East Rehabilitation			135,000					Taxes
LRU Apron West Hangar Rehabilitation			70,000					Taxes
LRU Apron West Rehabilitation			70,000					Grants, Taxes
Rio Grande Theater - Stage Drapes			25,000					Taxes
LRU Runway 4/22 Rehabilitation				1,200,000				Taxes
LRU Runway 4/22 and Taxiway Delta Reconfiguration						7,000,000		Grants, Taxes
LRU Maintenance Facility Design-Construct						1,000,000		Grants, Taxes
LRU Runway 8/26 Reconfiguration and REILs							1,000,000	Grants, Taxes
LRU Runway 12/30 PAPIs -Design & Construct							300,000	Grants, Taxes
Economic Development - Total Future Projects		-	2,300,000	13,455,000	4,255,000	8,255,000	1,555,000	
Total Economic Development		10,686,081	5,675,041	20,874,000	4,380,000	8,380,000	1,680,000	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants
 Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
PARKS AND RECREATION								
Parks and Recreation - Newly Funded Projects								
BMX Track Parking Lot & ADA Improvements	*	650,000						Bonds
Chandler Tank Park - Phase I	*	500,000		250,000		375,000		Bonds, Grants, PIF
Paz Ball Field Parking Lot Improvements	*	1,275,000						Bonds
Tony Gomez Park Parking Lot Improvements	*	200,000						Bonds
Parks and Recreation - Total Newly Funded Projects		2,625,000	-	250,000	-	375,000	-	
Parks and Recreation - Carryover Projects								
Apodaca Park Aquatic Playground and Multi-Use Path		750,000						PIF
Dona Ana Move Trail		360,000						Grants
East Mesa Public Safety Area Park		100,000	3,450,000					PIF
General Park Equipment and Renovations		1,390	140,000	275,000	500,000	250,000	1,025,000	Grants
Highland Park		873,799						PIF
Interstate 10 & Interstate 25 Interchange Landscaping		418,842						Grants
Median Landscaping		1,992,012	75,000					Bonds, Grants, Loans, Taxes
Metro Verde Neighborhood Park		339,575	265,200					PIF
National Fitness Campaign Outdoor Fitness Parks		140,975						PIF
Nevada Avenue Cool Corridor		454,302						Grants, Taxes
Park Security and Lighting		268,536						Grants
Parks Smart Controllers & Pumps		117,898						Grants, Taxes
Pioneer Park Improvements		1,577		620,000	450,000	1,000,000		Bonds, Grant
2020 Legislative Appropriation			200,000					
Pueblos at Alameda		6,105						PIF
Regional Rec & Aquatic Cntr - Ph II - Competitive Pool Construction		6,994,420						Bonds
Regional Rec & Aquatic Cntr - Ph II - Competitive Pool Enclosure		10,000,000						Bonds, Taxes
University Multi-Use Trail Loop		108,400		483,680				Grants, Taxes
Veterans Park Parking Lot		500,000						Bonds
Parks and Recreation - Total Carryover Projects		23,427,831	4,130,200	1,378,680	950,000	1,250,000	1,025,000	
Parks and Recreation - Annual Projects								
Land Acquisition, Planning, and Design for Parks		500,000	500,000	500,000	500,000	500,000	500,000	PIF
Parks and Recreation - Total Annual Projects		500,000	500,000	500,000	500,000	500,000	500,000	
Parks and Recreation - Future Projects								
Future Neighborhood Parks			1,250,000	250,000				Taxes
Ballfield/Soccer Field Renovations & Upgrades				125,000	4,200,000		125,000	Bonds, Grants, Taxes
2020 Legislative Appropriation			856,000					
Skate Park Improvements								Grants
2020 Legislative Appropriation			845,000					
Apodaca Park - Splash Pad			750,000					Bonds, Grant

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants
 Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Veterans' Memorial Park Enhancements			662,500	662,500	662,500	662,500		Bonds, Grant
Benavidez Ball Field			500,000					PIF
Parks Parking Lot Program			252,500	907,500	752,500	252,500	252,500	Bonds, Grants, Taxes
• Apodaca Park								
• East Mesa Recreation Center								
• Maag Ball Park								
• Skate Park								
Valley View Park - Restrooms Replacement			240,000					Grants
Aquatic Center Solar Panels								Grants
<i>2020 Legislative Appropriation</i>			200,000					
Outdoor Swimming Pool Amenities			150,000					Grants, Taxes
La Llorona Park Restroom Plumbing Repairs and Upgrades			134,000					Taxes
A. Fielder Memorial Safe Haven Exterior Renovation			125,000	25,000				Taxes
Klein Park Improvements			100,000	700,000				Grants
New Skate Park - Plan & Design								Grants
<i>2020 Legislative Appropriation</i>			100,000					
Meerscheidt Recreation Center Wood Floor								Grants
<i>2020 Legislative Appropriation</i>			78,000					
East Mesa Bataan Memorial Pool - Shade Structure			75,000					Taxes
Juvenile Citation Program Building - Exterior Renovations			75,000					Taxes
Tortugas Trail								Grants
<i>2020 Legislative Appropriation</i>			75,000					
Albert Johnson Park Electrical Improvements			70,000					PIF, Taxes
East Mesa Bataan Memorial Pool - HVAC Replacement			60,000					Taxes
Meerscheidt Recreation Center - Restroom Shower Fixture Replacements			50,000					Taxes
Meerscheidt Recreation Center - Door Replacements			30,000					Taxes
Meerscheidt Recreation Center - Building Fascia Repair			20,000					Taxes
Meerscheidt Recreation Center - Exterior Window Frame Repair			20,000					Taxes
Meerscheidt Recreation Center - Gutter and Downspout Renovation			10,000					Taxes
Playground Amenity Renovations & Enhancements				1,275,000	1,125,000			Bonds, Grants, Taxes
Trail Renovations				580,000	500,000			Grants
Meerscheidt Recreation Center - Remodel/Expansion				200,000	1,800,000			Bonds, Grants
Lions Park Restroom Plumbing Repairs and Upgrades				134,000				Taxes
Las Cruces Regional Aquatic Center - HVAC/Dehumidifier Replacement				75,000				Taxes
Laabs Pool - HVAC Replacement				60,000				Taxes
Park Drinking Fountains				55,000				Taxes
Meerscheidt Recreation Center - Bathrooms and Locker Rooms Floor				20,000				Taxes
Four Field Baseball/Softball Complex					5,955,000			Bonds, Grants, PIF
Burn Lake/Esslinger Community Park Improvements					3,200,000			Bonds, Grants
Multi-Use Recreation Center					1,185,000			Bonds, Grants, PIF
Parks and Recreational Facilities Structural Renovations					685,000	125,000		Grants, Taxes
Veterans' Memorial Park Restroom Plumbing Repairs and Upgrades					134,000			Taxes
Valley View Park - Heske Garden Lighting Replacement					80,000			Taxes
Hadley Complex Recreation Rehabilitation					31,500	318,500		Bonds, Grants

Abbreviations and Notes

■ Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants
 Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Multi-Use Field with Lights - Soldados						1,100,000		Bonds, Grants, PIF
Klein Park - Restrooms						150,000		Grants, PIF
Laabs Pool - Shade Structures						75,000		PIF
Waterfalls Park							1,200,000	Grants, PIF
Meerscheidt Recreation Center - League Gym Floor Replacement							85,000	Taxes
Gallagher Park Improvements - Design							50,000	Taxes
New Sand Volleyball Courts							40,000	PIF
Meerscheidt Recreation Center - Carpet Replacement							15,000	Taxes
Parks and Recreation - Total Future Projects		-	6,728,000	5,069,000	20,310,500	2,683,500	1,767,500	
Total Parks and Recreation		26,552,831	11,358,200	7,197,680	21,760,500	4,808,500	3,292,500	
PUBLIC SAFETY								
Public Safety - Newly Funded Projects								
Police Department Evidence Building	1	260,000						Bonds
Public Safety - Total Newly Funded Projects		260,000	-	-	-	-	-	
Public Safety - Carryover Projects								
Fire Station No. 1 Kitchen Remodel		235,000						Other
Fire Station No. 2 Concrete Drive Pad Replacement		19,875						Grants, Taxes
Police Department East Entrance Renovations		42,000						Taxes
Police Department HVAC Filtration & Renovation		50,000						Taxes
Public Safety Regional Radio Communication System		700,000		175,000				Grants
<i>2020 Legislative Appropriation</i>			25,000					
Public Safety - Total Carryover Projects		1,046,875	25,000	175,000	-	-	-	
Public Safety - Future Projects								
Police Department Mobile Operations Command Vehicle			500,000					Grants
Fire Station No. 1 - HVAC Upgrades			470,000					Taxes
Public Safety Vehicles - Bearcat			400,000					Grants
Public Safety Vehicles - Rook			400,000					Grants
Fire Dept. Administration Building - Remodel			350,000					Grants, Other
Police Parking Lot Resurfacing			276,000					Taxes
Fire Station Equipment								Grants
<i>2020 Legislative Appropriation</i>			240,000					
Police Department Main Building Replacement Generator			180,000					Taxes
Police Department Equipment - Mobile Data Terminals			120,000					Grants
Public Safety Smart Technology								Grants
<i>2020 Legislative Appropriation</i>			100,000					
Public Safety Vehicles - Command Vehicle			90,000					Grants

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					
		FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Funding Source
Police Department Building Renovation 2020 Legislative Appropriation		50,000	150,000				Grants
Police Department Equipment - Axon Body Cameras		40,000					Grants
Police North Parking Lot Fencing		20,000					Taxes
Police/Fire Training Facility - Design/Construct						6,900,000	Grants
Metro Narcotics Building - Relocate/Expansion						3,920,000	Grants
Police/Fire Training Facility - Furniture, Fixtures and Equipment						2,100,000	Grants
Public Safety - Total Future Projects	-	3,236,000	150,000	-	-	12,920,000	
Total Public Safety	1,306,875	3,261,000	325,000	-	-	12,920,000	
QUALITY OF LIFE							
Quality of Life - Carryover Projects							
Branigan Cultural Center Improvements	370,497	224,000	10,000	10,000	25,000	1,000,000	Grants
Municipal Services Center - Transit 2020 Bond Cycle 2020 Legislative Appropriation	89,499	5,000,000 115,000	6,021,077	12,820,436			Bonds, Grants, Taxes
Quality of Life - Total Carryover Projects	459,996	5,339,000	6,031,077	12,830,436	25,000	1,000,000	
Quality of Life - Annual Projects							
Public Art Program	126,000	150,000	150,000	150,000	150,000	150,000	Taxes
Quality of Life - Total Annual Projects	126,000	150,000	150,000	150,000	150,000	150,000	
Quality of Life - Future Projects							
Munson Center Renovations 2020 Legislative Appropriation		974,000					Grants
Sage Café Expansion 2020 Legislative Appropriation		930,000					Grants
Children's Museum Facility		700,000				6,000,000	Grants, Bonds
Sage Café Backup Generator		250,000					Taxes
Senior Programs Vehicles		150,000	350,000				Grants
Munson Senior Center Fitness Room		100,000	840,000				Grants
Sage Café Multipurpose Room		100,000	840,000				Grants
Munson Senior Center Kitchen Equipment		46,800					Grants
Henry R Benavidez Center Kitchen Equipment		46,800					Grants
Eastside Senior Center Kitchen Equipment		46,800					Grants
Frank O'Brien Papen Center - Dining Room Floor		35,000					Grants
Branigan Library - Expansion Phase II			5,650,000	7,872,480			Grants, Bonds
Central Kitchen Design/Construction			5,132,000				Taxes
Branigan Library - Second Floor Renovation				125,000			Taxes
Branigan Library - New Branch					150,000	950,000	Bonds, Grants, Taxes
Branigan Library - Security System Upgrade					150,000		Taxes
Museums Collection Storage Facility						9,500,000	Taxes
Museum of Art Relocation/Remodel						5,000,000	Bonds, Grants, Taxes

Abbreviations and Notes

 Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants
 Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Museum of Art Improvements							500,000	Bonds, Grants, Taxes
Museum System On-site Server							115,000	Bonds, Grants, Taxes
MVTT Passenger Shelters							110,000	Grants, Taxes
Railroad Museum - Reroof							100,000	Taxes
Museum of Art - Gallery Flooring							100,000	Bonds, Grants, Taxes
Railroad Museum - Exterior Improvements							100,000	Bonds, Grants, Taxes
Museum of Nature and Science - Atrium Redesign							30,000	Taxes
Quality of Life - Total Future Projects		-	3,379,400	12,812,000	7,997,480	300,000	22,505,000	
Total Quality of Life		585,996	8,868,400	18,993,077	20,977,916	475,000	23,655,000	
UTILITIES								
Utilities - Newly Funded Projects								
Wastewater Treatment Plant Rehabilitation	2	80,000	900,000	100,000	100,000	100,000	100,000	Charges
Wastewater Utilities Bond Projects FY2021	*	3,298,514						Bonds
Water Utilities Bond Projects FY2021	*	10,566,613						Bonds
Utilities - Total Newly Funded Projects		13,945,127	900,000	100,000	100,000	100,000	100,000	
Utilities - Carryover Projects								
Gas Bond Projects 2015A		679,061						Bonds
Gas Street Improvement Projects		50,000						Charges
Wastewater Bond Projects 2015A		631,130						Bonds
Water Miscellaneous		80,000						Bonds
Wastewater New Interceptors		1,710,430						WWIF
Wastewater NMFA Loan		654,423	500,000		674,030	1,200,000	1,200,000	Loans
Wastewater Septic Systems - NMED Grant		1,006,370		1,572,100	1,619,000	500,000		Grants
<i>2020 Legislative Appropriation</i>			500,000					
Wastewater Street Improvement Project - 15 Bonds		20,000						Bonds
Water Bond Projects 2015A		896,083						Bonds
Water Development		742,240	1,000,000					WIF
Water Development - 2007 NMFA		13,009	387,542					Loans
Water NMFA Loan		194,605	1,482,000					Bonds
Water Rehabilitation Line Extension		18,000	40,000					Bonds
Water Rehabilitation - NMFA		229,339	16,704					Loans
Utilities - Total Carryover Projects		6,924,690	3,926,246	1,572,100	2,293,030	1,700,000	1,200,000	
Utilities - Annual Projects								
Gas Building Improvements		279,000	125,000	125,000	125,000	125,000	125,000	Charges
• Fiber optic Cable Replacement from Roundtree to JU								
Gas Development - Low & High Pressure		3,000,000	300,000	300,000	300,000	300,000	300,000	Charges
Gas Line Extension		300,000	300,000	300,000	300,000	300,000	300,000	Charges
Gas Rehabilitation Low & High Pressure		1,040,800	845,000	422,500	845,000	422,500	845,000	Charges
Gas SCADA		180,140	100,000	50,000	50,000	50,000	50,000	Charges

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.2.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Gas Street Utility Rehabilitation		1,725,000	1,845,000	1,725,000	1,725,000	1,725,000	1,725,000	Charges
Solid Waste Building Improvements		279,000	125,000	125,000	125,000	125,000	125,000	Charges
• Fiberoptic Cable Replacement from Roundtree to JU								
Wastewater Building Improvements		279,000	125,000	125,000	125,000	125,000	125,000	Charges
• Fiberoptic Cable Replacement from Roundtree to JU								
Wastewater JHWTF		100,000	100,000	100,000	100,000	100,000	100,000	Charges
Wastewater SCADA		55,140	30,000	30,000	30,000	30,000	30,000	Charges
Water Building Improvements		279,000	125,000	125,000	125,000	125,000	125,000	Charges
• Fiberoptic Cable Replacement from Roundtree to JU								
Utilities - Total Annual Projects		7,517,080	4,020,000	3,427,500	3,850,000	3,427,500	3,850,000	
Utilities - Future Projects								
Water Street Utility Rehabilitation			11,514,633	10,500,000	11,150,000	10,500,000	10,500,000	Charges
Water Reservoir Rehabilitation			2,000,000		1,535,000	2,195,000	3,427,500	Charges
Wastewater Street Utility Rehabilitation			1,175,032	482,369	261,700	166,650	166,650	Charges
Water Rehab for Septic Projects			852,350					Bonds
Wastewater East Mesa Water Reclamation			550,000	1,033,000				Charges
Wastewater Line & Manhole Rehabilitation			500,000					Bonds
Water Line Extension			377,005					Charges
Wastewater Lift Station Renovations			50,000	100,000	50,000	100,000	50,000	Charges
Water SCADA			30,000	50,000	30,000	50,000	30,000	Charges
Water Pump Station Rehabilitation			19,464	500,000				Charges
Utilities - Total Future Projects		-	17,068,484	12,665,369	13,026,700	13,011,650	14,174,150	
Total Utilities		28,386,897	25,914,730	17,764,969	19,269,730	18,239,150	19,324,150	
ALL DEPARTMENTS								
Total Newly Funded Projects		19,673,121	1,670,006	7,490,000	240,000	615,000	240,000	
Total Carryover Projects		126,324,546	46,338,481	23,997,857	26,073,466	17,175,000	3,475,000	
Total Annual Projects		18,890,610	14,223,300	21,213,375	14,351,300	19,168,989	19,351,300	
Total Future Projects		-	41,131,884	54,331,369	53,064,680	27,907,150	56,656,650	
GRAND TOTAL		164,888,277	103,363,671	107,032,601	93,729,446	64,866,139	79,722,950	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

**21-065**

City Council Action and Executive Summary

Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6
1st Reading:	Adopted: October 19, 2020
Drafter: William Blanchard	Department: Office of Management & Budget
Program: Budget	Line of Business: Fiscal Management

Title: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2021 BUDGET AND, AS APPLICABLE, THE FY2021 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE MONTH OF OCTOBER 2020.

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

PURPOSE(S) OF ACTION:

To adjust the City budget.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The 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 will adjust the budget as shown in Exhibit "A", attached to the Resolution.

The request for City Council is to: 1) accept the budget adjustments shown in Exhibit "A" to accept grants funding and designate any required match funds; and 2) as the City is required to maintain a CIP that lists all capital improvement projects that City Council has authorized on the City's behalf, this action will also approve the addition of any of the grant projects which involve capital improvements to the current fiscal year CIP, as necessary. Once accepted these funds will be used by the departments for the scope of work as defined by each grant agreement.

SUPPORT INFORMATION:

[Exhibit "A" - Fund Summaries](#)

[Exhibit "B" FY21 CIP](#)

[Attachment "A" Grant Listing 10-19-2020](#)

[Attachment "B" - Airfield Maintenance LRU-21-01.](#)

[Attachment "C" - VW EV Charging Stations.](#)

[Attachment "D" - FTA Bus Facilities FFY2018.](#)

[Attachment "E" - Mesilla Trail 20-E2536.](#)

Agenda Item #7.3.

[Attachment "F" - Tortugas Trail 20-E2548.](#)

[Attachment "G" - Skate Park Renovations 20-E2563](#)

[Attachment "H" - High Noon Soccer 20-E2564](#)

[Attachment "I" - Meerscheidt Floor Replacement 20-E2565](#)

[Attachment" J" - Smithsonian Youth](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☒ Yes

☐ No

☐ N/A

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT: Exhibit A **AVAILABLE AMOUNT:** Exhibit A **EXPENDITURE AMOUNT:**
Exhibit A

Additional Budgetary Information:

Funding Source(s):

*Refer to Exhibit "A", Fiscal Year 2020-2021 Budget
Adjustments.

Multitple

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

☒ Yes

☐ No

☐ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept the budget adjustments as presented and adjust the City's FY2021 budget.
2. Vote "No"; this will not approve the Resolution to adjust the budget as presented and return the funds to the granting agency.
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.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION 21-065

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2021 BUDGET AND, AS APPLICABLE, THE FY2021 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE MONTH OF OCTOBER 2020.

The City Council is informed that:

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

WHEREAS, these 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 with a Summary, as "Attachment A"; and each agreement will be attached as subsequent attachments; and

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

(I)

THAT the City hereby amends the FY2021 City Budget to accept all grant awards as shown in the Fund Summary, Exhibit "A", attached hereto and made part of this Resolution.

(II)

THAT the FY2021 CIP, as applicable, is hereby amended as outlined in Exhibit "B" attached hereto and made part of this Resolution.

(III)

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

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

Agenda Item #7.3.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	2100 SPECIAL REVENUE REIMB GRANTS			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 251,954	251,954	0	251,954
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
Cigarette 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	7,300	0	7,300
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	1,757,851	2,258,385	0	2,258,385
State Grants	943,860	15,167,187	0	15,167,187
Local Grants	31,033	178,355	500	178,855
Debt Service	0	0	0	0
Total Revenues	2,732,744	17,611,227	500	17,611,727
TOTAL RESOURCES	\$ 2,984,698	17,863,181	500	17,863,681
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	7,104,802	0	7,104,802
Legal	0	0	0	0
Las Cruces Police Department	132,895	351,297	0	351,297
Las Cruces Fire Department	1,435,506	1,823,824	0	1,823,824
Utilities	0	0	0	0
Economic Development	464,751	7,006,053	0	7,006,053
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	435,981	0	435,981
Community Development	347,509	347,509	0	347,509
Quality of Life	352,082	541,760	500	542,260
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 2,732,743	17,611,226	500	17,611,726
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	\$ 251,955	251,955	0	251,955
Required Reserve:				
State Required 1/12th	227,729	1,467,603	42	1,467,645
Local CLC 1/12th	227,729	1,467,603	42	1,467,645
AVAILABLE BALANCE	\$ (203,503)	(2,683,251)	(84)	(2,683,335)

Agenda Item #7.3.

CITY OF LAS CRUCES BUDGET ADJUSTMENT REQUEST BUDGET FISCAL YEAR 2020-21

	4100 CAPITAL PROJECTS REIMB GRANTS			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 244,553	244,553	0	244,553
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
Cigarette 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	73,920	58,699	0	58,699
State Grants	8,198,206	10,219,450	2,294,000	12,513,450
Local Grants	0	350,000	0	350,000
Debt Service	0	0	0	0
Total Revenues	8,272,126	10,628,149	2,294,000	12,922,149
TOTAL RESOURCES	\$ 8,516,679	10,872,702	2,294,000	13,166,702
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	150,000	150,000
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	1,000,000	1,000,000	0	1,000,000
Utilities	0	0	0	0
Economic Development	1,386,561	3,323,972	0	3,323,972
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	735,005	1,236,807	2,066,000	3,302,807
Community Development	0	0	0	0
Quality of Life	67,096	62,425	0	62,425
Public Works	5,083,464	5,004,945	78,000	5,082,945
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 8,272,126	10,628,149	2,294,000	12,922,149
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	\$ 244,553	244,553	0	244,553
Required Reserve:				
State Required 1/12th	689,344	885,680	191,167	1,076,847
Local CLC 1/12th	689,344	885,680	191,167	1,076,847
AVAILABLE BALANCE	\$ (1,134,135)	(1,526,807)	(382,334)	(1,909,141)

Agenda Item #7.3.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5010 AIRPORT 2020-21			
	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
Cigarette 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	24,500	24,500	0	24,500
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	180,000	180,000	0	180,000
Federal Grants	3,493,560	3,005,102	0	3,005,102
State Grants	1,394,966	796,772	20,000	816,772
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	5,093,026	4,006,374	20,000	4,026,374
TOTAL RESOURCES	\$ 5,093,026	4,006,374	20,000	4,026,374
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	5,904,346	4,743,083	20,000	4,763,083
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 5,904,346	4,743,083	20,000	4,763,083
Other Resources				
Operating Transfers In	825,320	825,320	0	825,320
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 825,320	825,320	0	825,320
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 14,000	88,611	0	88,611
Required Reserve:				
State Required 1/12th	492,029	395,257	1,667	396,924
Local CLC 1/12th	492,029	395,257	1,667	396,924
AVAILABLE BALANCE	\$ (970,058)	(701,903)	(3,334)	(705,237)

Agenda Item #7.3.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2020-21

	5923 TRANSIT CAPITAL			
	2020-21			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 1,061,249	1,061,249	0	1,061,249
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
Cigarette 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	3,847,704	3,784,904	11,000,000	14,784,904
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	3,847,704	3,784,904	11,000,000	14,784,904
TOTAL RESOURCES	\$ 4,908,953	4,846,153	11,000,000	15,846,153
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	4,973,984	4,872,800	11,000,000	15,872,800
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 4,973,984	4,872,800	11,000,000	15,872,800
Other Resources				
Operating Transfers In	71,000	71,000	0	71,000
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 71,000	71,000	0	71,000
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 5,969	44,353	0	44,353
Required Reserve:				
State Required 1/12th	414,499	406,067	916,667	1,322,734
Local CLC 1/12th	414,499	406,067	916,667	1,322,734
AVAILABLE BALANCE	\$ (823,029)	(767,781)	(1,833,334)	(2,601,115)

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Exhibit B

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$)	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Funding Source
PUBLIC WORKS								
Public Works - Newly Funded Projects								
Generator Buffer Program • Fire Station No. 4	8	35,000	70,000	70,000	70,000	70,000	70,000	Taxes
Lighting Upgrades to Council Chambers	9	40,000						Taxes
Madrid Ave Extension - Martha Dr to N Triviz Dr	3	300,000	400,000					Bonds, Taxes, Grants
Mesquite/Tornillo Drainage Improvements	6	625,000						Taxes, Bonds
Midway Ave - Gas Line Rd to Mesa Dr	4	240,000						Bonds
Refuse & Recycling Buffer Program • Branigan Cultural Center • Frank O'Brien Papen Community Center • Henry Benavidez Center	7	35,000	70,000	70,000	70,000	70,000	70,000	Taxes
Solar Ridge - Mars Ave to Sunridge Dr	5	75,000						Taxes
Traffic Signals • Roadrunner Prkwy & Sonora Springs • Sonoma Ranch Blvd & Northrise	*	1,300,000						Bonds
Volkswagen Electric Vehicle Charging Stations	*	185,000						Grants
Public Works - Total Newly Funded Projects		2,835,000	540,000	140,000	140,000	140,000	140,000	
Public Works - Carryover Projects								
Active Transportation Plan - Sidewalk Gaps		635,000						Bonds, Taxes
Alameda Estates • Jody Dr - Richard Dr to Karen Ave • Karen Ave - Dona Ana Rd to east end • Terry Dr - Jody Dr to Richard Dr		709,784						Bonds
Amador Hotel 2020 Legislative Appropriation		1,269,416	225,000	2,950,000	2,950,000	2,950,000		Bonds, Grants
ASCMV HVAC and Roof Replacement		414,104						Taxes
Avenida Blanco - Valley Dr to Calle Encanto		450,000						Bonds
Brown Farm Ponding Improvements		500,000						Bonds
Campo Street Design and Reconstruct		400,000	2,600,000					TIDD
Court Ave - N. Melendres St to N. Water St		831,969						Taxes
Downtown 2-Way Conversion		135,098						TIDD
Downtown Parking Garage		1,909,729	5,000,000					Bonds, Grants, TIDD
Drainage Infrastructure Improvements • EBID Drains & Laterals • Land Acquisition • Other Improvements		1,913,250						Bonds, Loans
East Lohman Land Acquisitions Master Plan		250,000						Taxes
East Mesa Recreation Complex Road		3,200,000						Bonds
East Mesa Roads and Drainage 2020 Legislative Appropriation		500,000	720,000	1,000,000				Bonds, Grants
Energy Efficiency Program - IGA		9,129,591						Bonds, Taxes

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
GO Bond Q1 - Park & Sport Field Improvements & Additions		16,726,772	10,408,910					GO Bonds
GO Bond Q2 - New Animal Shelter Facility		9,457,199	3,696,530					GO Bonds
GO Bond Q3 - New Fire Station No. 3 Building		5,740,235	2,043,020					GO Bonds
GO Bond Q4 - Walking, Jogging, Biking Trails Improvements & Additions		2,679,818	1,451,540					GO Bonds
McFie Ave - Valley Dr to First St • CDBG Match		535,000						Grants, Taxes
Municipal Services Center		20,000	1,400,000	7,000,000	7,000,000	11,200,000		Bonds
MV Community of Hope - Flooring		55,000						Grants
MV Community of Hope - Food Rescue Warehouse		661,780		3,347,000				Grants
<i>2020 Legislative Appropriation</i>			1,403,000					
MV Community of Hope - Health Facility Phase I		648,817						Grants
North Fork Las Cruces Arroyo L.O.M.R. Drainage Study		100,000						Other
Parking Lot 7 and Bathrooms		489,598						TIDD
Pavement Management System Road Condition Survey		200,000		200,000			200,000	Taxes
Rio Grande Theater - Energy Efficiency Improvements		61,901						Bonds
South Main St - Avenida de Mesilla to Boutz		3,300,000						Bonds
Spruce Ave - Telshor Blvd & Triviz Dr Intersection Improvements		180,000	650,000					Grants
Storm Water System Mapping		100,000						Taxes
Street and Flood Control Improvements		561,103						Grants
Tashiro Rd Improvements - Valley Dr to Motel Blvd		3,610,000						Loans
Telshor ADA Improvements Ph IV - Fairway to Missouri		77,811						Grants, Taxes
Traffic Calming Devices		25,000						Grants
Van Patten Ave - N. Alameda Blvd to N. Melendres St		675,000						Grants, Taxes
Villa Mora Dam		123,000						Bonds, Grants
<i>2020 Legislative Appropriation</i>			250,000					
Voluntary Assessment District Phase I • Sanitary Sewer Infrastructure • Sonoma Ranch Blvd Mile 2: Peachtree to Arroyo • Red Hawk Golf Rd: N.Bound Metro Verde S.P1E to Arroyo Rd • Regional Drainage Phase 1		1,797,967						Bonds
Voluntary Assessment District Phase II • Peachtree Hills Rd. East & West • Regional Drainage • Sonoma Ranch Blvd to Engler, Mile 1, Mile 2, Mile 3, & Roundabout • Sonoma Ranch Blvd Landscaping to Engler, Mile 1, Mile 2, & Mile 3		8,350,000						Bonds
Walnut St Resurfacing M.A.P.		172,483						Grants, Taxes
Walnut-Madrid TAP Bike/Pedestrian Improvements		100,642						Grants, Taxes
West Fleming Ave.		350,000						Bonds, Loans
Public Works - Total Carryover Projects		79,047,067	29,848,000	14,497,000	9,950,000	14,150,000	200,000	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Public Works - Annual Projects								
ADA Compliance • ADA Signage • East Side Community Center Sidewalk • Park Facility Pick Ups & Drop Offs		7,500	25,000	50,000	101,000	101,000	101,000	Taxes
ADA Sidewalk Program		110,000	110,000	110,000	110,000	110,000	110,000	Taxes
Chip Seal Program		150,000	150,000	150,000	150,000	150,000	150,000	Taxes
City Building Roof Replacement Program • Roof Inspections • Roof Replacement Master Plan • Police Department Academy • Police Department Main Office • WIA Building		675,000	325,000	325,000	325,000	325,000	325,000	Taxes
CO-OP Match		100,000	50,000	50,000	50,000	50,000	50,000	Taxes
General Facilities Improvement Program • Arc Flash Plan • Branigan Electrical Improvements • City Hall Furnishings • Other		258,533	303,000	500,000	500,000	500,000	500,000	Taxes
Land Acquisition - Public Works • Flood Control • Right of Way • East Mesa • Other		200,000	250,000	250,000	250,000	250,000	250,000	Taxes
M.A.P. Match		165,000	150,000	150,000	150,000	150,000	150,000	Taxes
Materials Testing		215,000	225,000	250,000	250,000	250,000	250,000	Taxes
Neighborhood Traffic Calming Program		120,000	120,000	120,000	120,000	120,000	120,000	Taxes
Overlays - Various		1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	Taxes
Pavement Maintenance Program		2,330,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	Taxes
Pavement Marking Program		475,000	522,800	522,800	522,800	522,800	522,800	Taxes
Pavement Replacement Program		2,089,663	1,350,000	1,350,000	1,350,000	1,350,000	1,350,000	Bonds, Taxes
Roadway Maintenance Program		605,000	350,000	350,000	350,000	350,000	350,000	Taxes
Safety, Health, Environmental & Emergency • City Hall - Elevator and Hallway Carpet Replacement • Municipal Court Carpet Replacement		65,000	252,500	252,500	252,500	252,500	252,500	Taxes
Storm Water Maintenance Program		50,000	50,000	50,000	50,000	50,000	50,000	Taxes
Street Lighting & Traffic Signal Maintenance Program		500,000	500,000	500,000	500,000	500,000	500,000	Taxes
Traffic Signal Program		511,834	500,000	500,000	500,000	500,000	500,000	Taxes
Transportation System Modernization ITS		600,000	1,000,000	8,335,575	1,000,000	6,240,189	6,000,000	Taxes
Unpaved Roads		250,000	250,000	250,000	250,000	250,000	250,000	Taxes
Weed Control & Maintenance • City Rights of Way • Las Cruces Dam • Ponds		95,000	95,000	95,000	95,000	95,000	95,000	Taxes
Public Works - Total Annual Projects		10,672,530	9,478,300	17,060,875	9,776,300	15,016,489	14,776,300	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$)	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Funding Source
Public Works - Future Projects								
Community Services Corp - Transitional Housing			2,500,000					Grants
Flood Control Infrastructure			1,500,000					Bonds
South Main/Valley Drainage Pond			1,000,000					Bonds
Bellamah Drive - Lees to Luna St.			825,000					Taxes
Municipal Court			700,000	6,000,000				Bonds
MV Community of Hope - Health Facility Phase I Dental			445,000					Grants
MV Community of Hope - Health Facility Phase II				30,000				Grants
2020 Legislative Appropriation			430,000					
Facility Parking Lot Program			250,000	250,000	250,000	250,000	250,000	Taxes, Bonds
• East Side Community Center								
• Munson Center								
• Police Station Front Entrance								
• Train Depot								
Castañeda Building - IT Generator			200,000					Taxes
HVAC Upgrade Program			200,000	200,000	200,000	200,000	200,000	Taxes
MV Community of Hope - Solar Parking Project								Grants
2020 Legislative Appropriation			200,000					
Security & Fire Alarm Installation & Upgrades - Citywide			170,000	170,000	100,000	100,000	100,000	Taxes, Bonds
Melendres Ave - Hadley to Picacho				750,000				Bonds
Evelyn St - Madrid Ave to Ash St				655,000				Taxes
Johnson St - Rouault Ave to Topley Dr				625,000				Bonds
Ethel Ave - Alameda Blvd to Miranda, and Houma				550,000				Taxes
MV Community of Hope - Health Facility Phase III				400,000				Grants
MV Community of Hope - Jardin de los Niños Re-Roof				250,000				Grants
MV Community of Hope - Jardin de los Niños Security Improvements				200,000				Grants
MV Community of Hope - El Caldito - Upgrade				100,000				Grants
South Valley Dr Reconstruction - Avenida de Mesilla to Boutz					2,920,000			Bonds
Lohman at Walnut and Walton Signal Improvements					1,000,000			Bonds, Grants
MV Community of Hope - Building 1, St. Luke's - Solar Project					600,000			Grants
Calle de Sol - Avenida Blanco to Avenida de Mesilla					500,000			Bonds
Mountain Ave - Melendres St to Armijo St					475,000			Bonds
Med Park Ave - Idaho to Perkins Ave					390,000			Bonds
MV Community of Hope - Health Facility Phase IV					330,000			Grants
Armijo St - Picacho Ave to Parker Rd					260,000			Bonds
MV Community of Hope - Expansion Remodel					250,000			Grants
MV Community of Hope - Patio to Office Remodel					200,000			Grants
Armijo St - Organ Ave to Mountain Ave						675,000		Bonds
Street Lighting Management System						500,000		Taxes
Kilmer St - Spruce Ave to Ash Ave						500,000		Bonds
Rigsby Rd - Barker to Valley Dr						295,000		Taxes
Poplar Ave - Mesquite St to Santa Fe St						260,000		Bonds
Willow St - Palomas Ave to San Juan						250,000		Bonds
Sweet St - Hadley Ave to Hayner St						207,000		Taxes
Guthrie Place- Thomas Dr to Cul de Sac						200,000		Bonds

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Pittsburg Ave - Melendres to Cul de Sac						120,000		Bonds
Sequoia Ave - Valley Dr to E.O.P.						100,000		Bonds
Spruce Road Diet - N Main to Triviz							500,000	Bonds
Miranda Ave - Picacho Ave to Court Ave							450,000	Bonds
Amis Ave - Madrid Ave to Hoagland Road							330,000	Bonds
Sacramento St - Ash Ave to Oasis Ave							315,000	Taxes
Westgate St - Amador Ave to Cul de Sac							240,000	Bonds
Amador Ave - Archuleta Road to E.O.P.							210,000	Bonds
La Fonda Dr - Idaho Ave to E.O.P.							200,000	Bonds
Oasis Ave - Mesquite St to Solano Dr							185,000	Bonds
Parkview Dr - Espina St to E.O.P.							175,000	Bonds
6th Street - Hayner Ave to Hadley Ave							150,000	Bonds
Mountain Ave - Water St to Alameda Blvd							130,000	Bonds
Conway Road Maintenance - Design							50,000	Bonds
Engler Road - Design							50,000	Bonds
Hacienda Acres Infrastructure Improvements - Design							50,000	Bonds
Sand Hill Trail - Design							50,000	Taxes
Targeted Road and Lighting Improvements - Design							50,000	Taxes
West Mesa Fiber Optics Improvements - Design							50,000	Taxes
Public Works - Total Future Projects		-	8,420,000	10,180,000	7,475,000	3,657,000	3,735,000	
Total Public Works		92,554,597	48,286,300	41,877,875	27,341,300	32,963,489	18,851,300	
ECONOMIC DEVELOPMENT								
Economic Development - Newly Funded Projects								
LRU Runway 8/26 Extension *		192,994	230,006	7,000,000				Grants, Taxes
• Construction								
• Design								
• Environmental Assessment								
Economic Development - Total Newly Funded Projects		192,994	230,006	7,000,000	-	-	-	
Economic Development - Carryover Projects								
Arts and Cultural District Improvements		1,000,000		294,000				Grants
2020 Legislative Appropriation			956,000					
Cinematic Infrastructure & Soundstage		3,319,646						Bonds, Grants
2020 Legislative Appropriation			511,035					
Convention Center FFE		75,000						Taxes
Convention Center Storage		5,277						Bonds
Current Multi Use Field Lighting - PVD/Soldados		158,201	1,553,000					Grants, Taxes, PIF
Downtown Plaza Shade Structures		154,138						Bonds
Gateway Entry Points Signage		300,000	50,000	50,000	50,000	50,000	50,000	Taxes
LRU Airport Infrastructure Improvements		620,782						Grants
LRU Drainage Master Plan		176,430						Grants

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
LRU GA Terminal Apron - Design		9,742						Bonds, Grants
LRU GA Terminal Apron - Reconstruction		2,510,747						Grants, Taxes
LRU Security Gate and Fence Rehabilitation		2,389						Taxes
LRU Wildlife Perimeter Fence		280,354						Bonds, Grants
LRU Zia Building Renovation		529,192						Bonds
Solar Energy Photo Voltaic Projects		1,276,189						Bonds, Taxes
• ASCMV								
• Burn Lake								
• Fire Station No. 3								
• Police Department								
Economic Development - Total Carryover Projects		10,418,087	3,070,035	344,000	50,000	50,000	50,000	
Economic Development - Annual Projects								
LRU Striping and Marking Maintenance Program		75,000	75,000	75,000	75,000	75,000	75,000	Taxes
Economic Development - Total Annual Projects		75,000	75,000	75,000	75,000	75,000	75,000	
Economic Development - Future Projects								
LRU Passenger Terminal - Design			900,000	5,000,000	4,000,000			Bonds, Grants, Taxes
• Construction								
• Design								
LRU Runway 12/30 Extension				7,000,000				Grants, Taxes
<i>2020 Legislative Appropriation</i>			450,000					
• Construction								
• Design								
• Environmental Assessment								
Downtown Parking Lots Renovation			350,000	255,000	255,000	255,000	255,000	Bonds, Taxes, TIDD
• Parking Lot 3/4								
• Parking Lot 7								
• Parking Lot 9/10								
• Parking Lot at Campo & Hadley								
• Parking Lot 3/4								
LRU Taxilane Improvements								Grants
<i>2020 Legislative Appropriation</i>			300,000					
LRU Apron East Rehabilitation			135,000					Taxes
LRU Apron West Hangar Rehabilitation			70,000					Taxes
LRU Apron West Rehabilitation			70,000					Grants, Taxes
Rio Grande Theater - Stage Drapes			25,000					Taxes
LRU Runway 4/22 Rehabilitation				1,200,000				Taxes
LRU Runway 4/22 and Taxiway Delta Reconfiguration						7,000,000		Grants, Taxes
LRU Maintenance Facility Design-Construct						1,000,000		Grants, Taxes
LRU Runway 8/26 Reconfiguration and REILs							1,000,000	Grants, Taxes
LRU Runway 12/30 PAPIs -Design & Construct							300,000	Grants, Taxes
Economic Development - Total Future Projects		-	2,300,000	13,455,000	4,255,000	8,255,000	1,555,000	
Total Economic Development		10,686,081	5,675,041	20,874,000	4,380,000	8,380,000	1,680,000	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Funding Source
PARKS AND RECREATION								
Parks and Recreation - Newly Funded Projects								
Ballfield/Soccer Field Renovations & Upgrades	*	856,000	125,000	4,200,000		125,000		Bonds, Grants
BMX Track Parking Lot & ADA Improvements	*	650,000						Bonds
Chandler Tank Park - Phase I	*	500,000		250,000		375,000		Bonds, Grants, PIF
Meerscheidt Recreation Center Wood Floor	*	78,000						Grants
Paz Ball Field Parking Lot Improvements	*	1,275,000						Bonds
Skate Park Improvements	*	845,000						Grants
Tony Gomez Park Parking Lot Improvements	*	200,000						Bonds
Tortugas Trail	*	75,000						Grants
Parks and Recreation - Total Newly Funded Projects		4,479,000	125,000	4,450,000	-	500,000	-	
Parks and Recreation - Carryover Projects								
Apodaca Park Aquatic Playground and Multi-Use Path		750,000						PIF
Dona Ana Move Trail		650,000						Grants
East Mesa Public Safety Area Park		100,000	3,450,000					PIF
General Park Equipment and Renovations		1,390	140,000	275,000	500,000	250,000	1,025,000	Grants
Highland Park		873,799						PIF
Interstate 10 & Interstate 25 Interchange Landscaping		418,842						Grants
Median Landscaping		1,992,012	75,000					Bonds, Grants, Loans, Taxes
Metro Verde Neighborhood Park		339,575	265,200					PIF
National Fitness Campaign Outdoor Fitness Parks		140,975						PIF
Nevada Avenue Cool Corridor		454,302						Grants, Taxes
Park Security and Lighting		268,536						Grants
Parks Smart Controllers & Pumps		117,898						Grants, Taxes
Pioneer Park Improvements		1,577		620,000	450,000	1,000,000		Bonds, Grant
2020 Legislative Appropriation			200,000					
Pueblos at Alameda		6,105						PIF
Regional Rec & Aquatic Cntr - Ph II - Competitive Pool Construction		6,994,420						Bonds
Regional Rec & Aquatic Cntr - Ph II - Competitive Pool Enclosure		10,000,000						Bonds, Taxes
University Multi-Use Trail Loop		108,400		483,680				Grants, Taxes
Veterans Park Parking Lot		500,000						Bonds
Parks and Recreation - Total Carryover Projects		23,717,831	4,130,200	1,378,680	950,000	1,250,000	1,025,000	
Parks and Recreation - Annual Projects								
Land Acquisition, Planning, and Design for Parks		500,000	500,000	500,000	500,000	500,000	500,000	PIF
Parks and Recreation - Total Annual Projects		500,000	500,000	500,000	500,000	500,000	500,000	

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Parks and Recreation - Future Projects								
Future Neighborhood Parks			1,250,000	250,000				Taxes
Apodaca Park - Splash Pad			750,000					Bonds, Grant
Veterans' Memorial Park Enhancements			662,500	662,500	662,500	662,500		Bonds, Grant
Benavidez Ball Field			500,000					PIF
Parks Parking Lot Program			252,500	907,500	752,500	252,500	252,500	Bonds, Grants, Taxes
• Apodaca Park								
• East Mesa Recreation Center								
• Maag Ball Park								
• Skate Park								
Valley View Park - Restrooms Replacement			240,000					Grants
Aquatic Center Solar Panels								Grants
2020 Legislative Appropriation			200,000					
Outdoor Swimming Pool Amenities			150,000					Grants, Taxes
La Llorona Park Restroom Plumbing Repairs and Upgrades			134,000					Taxes
A. Fielder Memorial Safe Haven Exterior Renovation			125,000	25,000				Taxes
Klein Park Improvements			100,000	700,000				Grants
New Skate Park - Plan & Design								Grants
2020 Legislative Appropriation			100,000					
East Mesa Bataan Memorial Pool - Shade Structure			75,000					Taxes
Juvenile Citation Program Building - Exterior Renovations			75,000					Taxes
Albert Johnson Park Electrical Improvements			70,000					PIF, Taxes
East Mesa Bataan Memorial Pool - HVAC Replacement			60,000					Taxes
Meerscheidt Recreation Center - Restroom Shower Fixture Replacements			50,000					Taxes
Meerscheidt Recreation Center - Door Replacements			30,000					Taxes
Meerscheidt Recreation Center - Building Fascia Repair			20,000					Taxes
Meerscheidt Recreation Center - Exterior Window Frame Repair			20,000					Taxes
Meerscheidt Recreation Center - Gutter and Downspout Renovation			10,000					Taxes
Playground Amenity Renovations & Enhancements				1,275,000	1,125,000			Bonds, Grants, Taxes
Trail Renovations				580,000	500,000			Grants
Meerscheidt Recreation Center - Remodel/Expansion				200,000	1,800,000			Bonds, Grants
Lions Park Restroom Plumbing Repairs and Upgrades				134,000				Taxes
Las Cruces Regional Aquatic Center - HVAC/Dehumidifier Replacement				75,000				Taxes
Laabs Pool - HVAC Replacement				60,000				Taxes
Park Drinking Fountains				55,000				Taxes
Meerscheidt Recreation Center - Bathrooms and Locker Rooms Floor				20,000				Taxes
Four Field Baseball/Softball Complex					5,955,000			Bonds, Grants, PIF
Burn Lake/Esslinger Community Park Improvements					3,200,000			Bonds, Grants
Multi-Use Recreation Center					1,185,000			Bonds, Grants, PIF
Parks and Recreational Facilities Structural Renovations					685,000	125,000		Grants, Taxes
Veterans' Memorial Park Restroom Plumbing Repairs and Upgrades					134,000			Taxes
Valley View Park - Heske Garden Lighting Replacement					80,000			Taxes

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Hadley Complex Recreation Rehabilitation					31,500	318,500		Bonds, Grants
Multi-Use Field with Lights - Soldados						1,100,000		Bonds, Grants, PIF
Klein Park - Restrooms						150,000		Grants, PIF
Laabs Pool - Shade Structures						75,000		PIF
Waterfalls Park							1,200,000	Grants, PIF
Meerscheidt Recreation Center - League Gym Floor Replacement							85,000	Taxes
Gallagher Park Improvements - Design							50,000	Taxes
New Sand Volleyball Courts							40,000	PIF
Meerscheidt Recreation Center - Carpet Replacement							15,000	Taxes
Parks and Recreation - Total Future Projects		-	4,874,000	4,944,000	16,110,500	2,683,500	1,642,500	
Total Parks and Recreation		28,696,831	9,629,200	11,272,680	17,560,500	4,933,500	3,167,500	
PUBLIC SAFETY								
Public Safety - Newly Funded Projects								
Police Department Evidence Building	1	260,000						Bonds
Public Safety - Total Newly Funded Projects		260,000	-	-	-	-	-	
Public Safety - Carryover Projects								
Fire Station No. 1 Kitchen Remodel		235,000						Other
Fire Station No. 2 Concrete Drive Pad Replacement		19,875						Grants, Taxes
Police Department East Entrance Renovations		42,000						Taxes
Police Department HVAC Filtration & Renovation		50,000						Taxes
Public Safety Regional Radio Communication System		700,000		175,000				Grants
<i>2020 Legislative Appropriation</i>			25,000					
Public Safety - Total Carryover Projects		1,046,875	25,000	175,000	-	-	-	
Public Safety - Future Projects								
Police Department Mobile Operations Command Vehicle			500,000					Grants
Fire Station No. 1 - HVAC Upgrades			470,000					Taxes
Public Safety Vehicles - Bearcat			400,000					Grants
Public Safety Vehicles - Rook			400,000					Grants
Fire Dept. Administration Building - Remodel			350,000					Grants, Other
Police Parking Lot Resurfacing			276,000					Taxes
Fire Station Equipment								Grants
<i>2020 Legislative Appropriation</i>			240,000					
Police Department Main Building Replacement Generator			180,000					Taxes
Police Department Equipment - Mobile Data Terminals			120,000					Grants
Public Safety Smart Technology								Grants
<i>2020 Legislative Appropriation</i>			100,000					
Public Safety Vehicles - Command Vehicle			90,000					Grants

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Police Department Building Renovation				150,000				Grants
2020 Legislative Appropriation			50,000					
Police Department Equipment - Axon Body Cameras			40,000					Grants
Police North Parking Lot Fencing			20,000					Taxes
Police/Fire Training Facility - Design/Construct							6,900,000	Grants
Metro Narcotics Building - Relocate/Expansion							3,920,000	Grants
Police/Fire Training Facility - Furniture, Fixtures and Equipment							2,100,000	Grants
Public Safety - Total Future Projects		-	3,236,000	150,000	-	-	12,920,000	
Total Public Safety		1,306,875	3,261,000	325,000	-	-	12,920,000	
QUALITY OF LIFE								
Quality of Life - Carryover Projects								
Branigan Cultural Center Improvements		370,497	224,000	10,000	10,000	25,000	1,000,000	Grants
Municipal Services Center - Transit		16,089,499		7,841,513				Bonds, Grants, Taxes
2020 Legislative Appropriation			115,000					
Quality of Life - Total Carryover Projects		16,459,996	224,000	7,851,513	10,000	25,000	1,000,000	
Quality of Life - Annual Projects								
Public Art Program		126,000	150,000	150,000	150,000	150,000	150,000	Taxes
Quality of Life - Total Annual Projects		126,000	150,000	150,000	150,000	150,000	150,000	
Quality of Life - Future Projects								
Munson Center Renovations								Grants
2020 Legislative Appropriation			974,000					
Sage Café Expansion								Grants
2020 Legislative Appropriation			930,000					
Children's Museum Facility			700,000				6,000,000	Grants, Bonds
Sage Café Backup Generator			250,000					Taxes
Senior Programs Vehicles			150,000	350,000				Grants
Munson Senior Center Fitness Room			100,000	840,000				Grants
Sage Café Multipurpose Room			100,000	840,000				Grants
Munson Senior Center Kitchen Equipment			46,800					Grants
Henry R Benavidez Center Kitchen Equipment			46,800					Grants
Eastside Senior Center Kitchen Equipment			46,800					Grants
Frank O'Brien Papen Center - Dining Room Floor			35,000					Grants
Branigan Library - Expansion Phase II				5,650,000	7,872,480			Grants, Bonds
Central Kitchen Design/Construction				5,132,000				Taxes
Branigan Library - Second Floor Renovation					125,000			Taxes
Branigan Library - New Branch						150,000	950,000	Bonds, Grants, Taxes
Branigan Library - Security System Upgrade						150,000		Taxes
Museums Collection Storage Facility							9,500,000	Taxes
Museum of Art Relocation/Remodel							5,000,000	Bonds, Grants, Taxes

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Museum of Art Improvements							500,000	Bonds, Grants, Taxes
Museum System On-site Server							115,000	Bonds, Grants, Taxes
MVITT Passenger Shelters							110,000	Grants, Taxes
Railroad Museum - Reroof							100,000	Taxes
Museum of Art - Gallery Flooring							100,000	Bonds, Grants, Taxes
Railroad Museum - Exterior Improvements							100,000	Bonds, Grants, Taxes
Museum of Nature and Science - Atrium Redesign							30,000	Taxes
Quality of Life - Total Future Projects		-	3,379,400	12,812,000	7,997,480	300,000	22,505,000	
Total Quality of Life		16,585,996	3,868,400	20,813,513	8,157,480	475,000	23,655,000	
UTILITIES								
Utilities - Newly Funded Projects								
Wastewater Treatment Plant Rehabilitation	2	80,000	900,000	100,000	100,000	100,000	100,000	Charges
Wastewater Utilities Bond Projects FY2021	*	3,298,514						Bonds
Water Utilities Bond Projects FY2021	*	10,566,613						Bonds
Utilities - Total Newly Funded Projects		13,945,127	900,000	100,000	100,000	100,000	100,000	
Utilities - Carryover Projects								
Gas Bond Projects 2015A		679,061						Bonds
Gas Street Improvement Projects		50,000						Charges
Wastewater Bond Projects 2015A		631,130						Bonds
Water Miscellaneous		80,000						Bonds
Wastewater New Interceptors		1,710,430						WWIF
Wastewater NMFA Loan		654,423	500,000		674,030	1,200,000	1,200,000	Loans
Wastewater Septic Systems - NMED Grant		1,006,370		1,572,100	1,619,000	500,000		Grants
<i>2020 Legislative Appropriation</i>			500,000					
Wastewater Street Improvement Project - 15 Bonds		20,000						Bonds
Water Bond Projects 2015A		896,083						Bonds
Water Development		742,240	1,000,000					WIF
Water Development - 2007 NMFA		13,009	387,542					Loans
Water NMFA Loan		194,605	1,482,000					Bonds
Water Rehabilitation Line Extension		18,000	40,000					Bonds
Water Rehabilitation - NMFA		229,339	16,704					Loans
Utilities - Total Carryover Projects		6,924,690	3,926,246	1,572,100	2,293,030	1,700,000	1,200,000	
Utilities - Annual Projects								
Gas Building Improvements		279,000	125,000	125,000	125,000	125,000	125,000	Charges
• Fiberoptic Cable Replacement from Roundtree to JU								
Gas Development - Low & High Pressure		3,000,000	300,000	300,000	300,000	300,000	300,000	Charges
Gas Line Extension		300,000	300,000	300,000	300,000	300,000	300,000	Charges
Gas Rehabilitation Low & High Pressure		1,040,800	845,000	422,500	845,000	422,500	845,000	Charges
Gas SCADA		180,140	100,000	50,000	50,000	50,000	50,000	Charges
Gas Street Utility Rehabilitation		1,725,000	1,845,000	1,725,000	1,725,000	1,725,000	1,725,000	Charges

Abbreviations and Notes

Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

CITY OF LAS CRUCES
CAPITAL IMPROVEMENT PROGRAM
FY 2021-2026

Approved as of 10/19/2020

Agenda Item #7.3.

Project Title	Rank	FUNDED CAPITAL PROJECTS (\$) FY 2021	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Funding Source
			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	
Solid Waste Building Improvements • Fiberoptic Cable Replacement from Roundtree to JU		279,000	125,000	125,000	125,000	125,000	125,000	Charges
Wastewater Building Improvements • Fiberoptic Cable Replacement from Roundtree to JU		279,000	125,000	125,000	125,000	125,000	125,000	Charges
Wastewater JHWTF		100,000	100,000	100,000	100,000	100,000	100,000	Charges
Wastewater SCADA		55,140	30,000	30,000	30,000	30,000	30,000	Charges
Water Building Improvements • Fiberoptic Cable Replacement from Roundtree to JU		279,000	125,000	125,000	125,000	125,000	125,000	Charges
Utilities - Total Annual Projects		7,517,080	4,020,000	3,427,500	3,850,000	3,427,500	3,850,000	
Utilities - Future Projects								
Water Street Utility Rehabilitation			11,514,633	10,500,000	11,150,000	10,500,000	10,500,000	Charges
Water Reservoir Rehabilitation			2,000,000		1,535,000	2,195,000	3,427,500	Charges
Wastewater Street Utility Rehabilitation			1,175,032	482,369	261,700	166,650	166,650	Charges
Water Rehab for Septic Projects			852,350					Bonds
Wastewater East Mesa Water Reclamation			550,000	1,033,000				Charges
Wastewater Line & Manhole Rehabilitation			500,000					Bonds
Water Line Extension			377,005					Charges
Wastewater Lift Station Renovations			50,000	100,000	50,000	100,000	50,000	Charges
Water SCADA			30,000	50,000	30,000	50,000	30,000	Charges
Water Pump Station Rehabilitation			19,464	500,000				Charges
Utilities - Total Future Projects		-	17,068,484	12,665,369	13,026,700	13,011,650	14,174,150	
Total Utilities		28,386,897	25,914,730	17,764,969	19,269,730	18,239,150	19,324,150	
ALL DEPARTMENTS								
Total Newly Funded Projects		21,712,121	1,795,006	11,690,000	240,000	740,000	240,000	
Total Carryover Projects		137,614,546	41,338,481	25,818,293	13,253,030	17,175,000	3,475,000	
Total Annual Projects		18,890,610	14,223,300	21,213,375	14,351,300	19,168,989	19,351,300	
Total Future Projects		-	39,277,884	54,206,369	48,864,680	27,907,150	56,531,650	
GRAND TOTAL		178,217,277	96,634,671	112,928,037	76,709,010	64,991,139	79,597,950	

Abbreviations and Notes

■ Indicates a change

* Indicates a project added after original CIP and does not require a rank

Grants includes Local, State, Federal, or private entity grants

Other includes State Entitlements, Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

TIDD - Tax Increment Development District

GRANT ACCEPTANCE SUMMARY
COUNCIL MEETING DATE: 10/19/2020

Attachment #: B

Grant Title: **NMDOT Airfield Maintenance Grant FY2021**

Department: Economic Development – Airport

Grant/Agreement #: LRU-21-01

Grant Type: State Operating

Granting Agency: New Mexico Department of Transportation (NMDOT)

Grant Amount: \$20,000.00

Cash Match Amount: \$2,200.00

Total Grant Project Amount: \$22,200.00

Cash Match Source: General Fund – Airport

Match Fund #: 1000

Grant Start Date: 7/1/2020

Grant End Date: 6/30/2021

Amendment Needed: **CIP:** NO

VAF: NO

Project Code #: 11975

Use of Funds Description:

Provides operating funding for the Airport in Economic Development to include airfield maintenance and supplies.

Attachment #: C

Grant Title: **Volkswagen EV Charging Stations FY2020**

Department: City Manager's Office – Sustainability

Grant/Agreement #: NM-VW-20-05 *Grant Type:* State Capital

Granting Agency: New Mexico Environmental Department

Grant Amount: \$150,000.00 *Cash Match Amount:* \$35,000.00

Total Grant Project Amount: \$185,000.00

Cash Match Source: General Fund - Sustainability *Match Fund #:* 1000

Grant Start Date: 09/17/2020 *Grant End Date:* 09/30/2022

Amendment Needed: **CIP:** NO **VAF:** NO

Project Code #: 11965

Use of Funds Description:

Provides funds for the purchase and instillation of EV charging stations at several locations throughout Las Cruces, including: La Llorona Park, Hadley Recreation Sports Complex, Sage Café, Museum of Nature and Science, Plaza de Las Cruces, City Hall – Albert Johnson Park, and Las Cruces Convention Center (2 stations).

Attachment #: **D**

Grant Title: **FTA Bus & Bus Facilities FFY2018**

Department: Quality of Life – RoadRUNNER Transit

Grant/Agreement #: NM-2020-036-00 *Grant Type:* Federal Capital

Granting Agency: Federal Transit Administration

Grant Amount: \$11,000,000 *Cash Match Amount:* \$2,750,000.00

Total Grant Project Amount: \$13,750,000.00

Cash Match Source: Facilities Bonds *Match Fund #:* 4620

Grant Start Date: 08/01/2020 *Grant End Date:* 06/30/2023

Amendment Needed: **CIP:** YES **VAF:** NO

Project Code #: 11830

Use of Funds Description:

Provides funding to design and construct the new Maintenance & Operations Facility for RoadRUNNER Transit.

Foundation/Other

Attachment #: **E**

Grant Title: **Trail System – Mesilla Connection**

Department: Parks & Recreation -

Grant/Agreement #: 20-E2536 *Grant Type:* State Capital Outlay

Granting Agency: New Mexico Department of Finance & Administration

Grant Amount: \$290,000 *Cash Match Amount:* \$0.00

Total Grant Project Amount: \$290,000

Cash Match Source: N/A *Match Fund #:*

Grant Start Date: 08/18/2020 *Grant End Date:* 06/30/2024

Amendment Needed: **CIP:** YES **VAF:** NO

Project Code #: 11925

Use of Funds Description:

Provides funding to plan, design, construct, equip, and install a multipurpose trail to connect Mesilla with the Las Cruces trail system in Las Cruces in Dona Ana County.

Attachment #: **F**

Grant Title: **Trail System – Tortugas Connection**

Department: Parks & Recreation

Grant/Agreement #: 20-E2548 *Grant Type:* State Capital Outlay

Granting Agency: New Mexico Department of Finance & Administration

Grant Amount: \$75,000 *Cash Match Amount:* \$0.00

Total Grant Project Amount: \$75,000

Cash Match Source: N/A *Match Fund #:*

Grant Start Date: 09/16/2020 *Grant End Date:* 06/30/2024

Amendment Needed: **CIP:** YES **VAF:** NO

Project Code #: 11968

Use of Funds Description:

Provides funding to plan, design, construct, furnish and equip a multipurpose trail with the Tortugas trail development in Las Cruces in Dona Ana County.

State Capital Outlay

Attachment #: G

Grant Title: **Skate Park Renovations**

Department: Parks & Recreation

Grant/Agreement #: 20-E2563 *Grant Type:* State Capital Outlay

Granting Agency: New Mexico Department of Finance & Administration

Grant Amount: \$845,000.00 *Cash Match Amount:* \$0.00

Total Grant Project Amount: \$845,000

Cash Match Source: N/A *Match Fund #:*

Grant Start Date: 08/19/2020 *Grant End Date:* 06/30/2024

Amendment Needed: **CIP:** YES **VAF:** NO

Project Code #: 11969

Use of Funds Description:

Provides funding to plan, design, construct, renovate and equip the stake park in Las Cruces in Dona Ana County.

Attachment #: H

Grant Title: **High Noon Soccer Park Renovations**

Department: Parks & Recreation

Grant/Agreement #: 20-E2564 *Grant Type:* State Capital Outlay

Granting Agency: New Mexico Department of Finance & Administration

Grant Amount: \$856,000.00 *Cash Match Amount:* \$0.00

Total Grant Project Amount: \$856,000

Cash Match Source: N/A *Match Fund #:*

Grant Start Date: 08/19/2020 *Grant End Date:* 06/30/2024

Amendment Needed: **CIP: YES** **VAF: NO**

Project Code #: 11968

Use of Funds Description:

Provides funding to plan, design, construct, purchase, equip and install renovations at the High Noon soccer complex in Las Cruces in Dona Ana County.

Attachment #: I

Grant Title: **Meerscheidt Wood Floor Replacement**

Department: Parks & Recreation

Grant/Agreement #: 20-E2565 *Grant Type:* State Capital Outlay

Granting Agency: New Mexico Department of Finance & Administration

Grant Amount: \$78,000.00 *Cash Match Amount:* \$0.00

Total Grant Project Amount: \$78,000

Cash Match Source: N/A *Match Fund #:*

Grant Start Date: 08/19/2020 *Grant End Date:* 06/30/2024

Amendment Needed: **CIP: YES** **VAF: NO**

Project Code #: 11964

Use of Funds Description:

Provides funding to plan, design, construct, replace and renovate the wood floors at Meerscheidt recreation center in Las Cruces in Dona Ana County.

Attachment #: J

Grant Title: **Smithsonian Youth Summit FY2021**

Department: Quality of Life – Museum Systems

Grant/Agreement #: 33330220CT0010420 *Grant Type:* Foundation/Other

Granting Agency: Smithsonian Affiliates

Grant Amount: \$500 *Cash Match Amount:* \$0.00

Total Grant Project Amount: \$500.00

Cash Match Source: N/A *Match Fund #:*

Grant Start Date: 09/01/2020 *Grant End Date:* 10/12/2020

Amendment Needed: **CIP:** NO **VAF:** NO

Project Code #: 11977

Use of Funds Description:

Provides support for Museums to host a virtual Regional Youth Summit on Teen Resistance to Systemic Racism and supplemental activities.

Agenda Item #7.3.

A-1330

Updated:04/2019

Aviation

NEW MEXICO DEPARTMENT OF TRANSPORTATION

Aviation Grant Agreement Form



Date

Aug 20, 2020

Project Location

LRU - LAS CRUCES INTERNATIONAL AIRPORT

Sponsor

LAS CRUCES, CITY OF

Address

PO BOX 20000

City

LAS CRUCES

NM

Zip Code

88004

The Sponsor must print and mail (3) three copies all with original signatures to:

NMDOT - AVIATION DIVISION
3501 ACCESS RD. C
ALBUQUERQUE, NM 87106

Participation

STATE ONLY

Funding Breakdown

90/10

Contract No. AVA1308

Project No.

LRU-21-01

Vendor No.

0000054342-2

Expiration Date

9/3/2022

Purchase Order No:

AVIATION GRANT AGREEMENT

This Agreement is between the New Mexico Department of Transportation, acting through its Aviation Division (Department), and the Sponsor. This Agreement is effective as of the date of the last party to sign on the signature page below.

Now Therefore, pursuant to the New Mexico Aviation Act, NMSA 1978, Section 64-1-11 et seq., and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq., the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an aviation project.

a. Project Description:

AIRFIELD AND MAINTENANCE AND CONSUMABLE ITEMS

b. Site of Development. The site of development is identified on the property map, attached as Exhibit A.

c. Funding. Below is the funding for the Project. The State's contribution is the maximum amount that the Department will contribute. Attached as Exhibit B is the engineer's cost estimate.

State	Sponsor	Other	Total
\$ 20,000	\$ 2,222	\$ 0	\$ 22,222

2. The Sponsor Shall:

- a. Pay all costs, perform all labor, and supply all material, except as described in the Engineers Estimate attached as EXHIBIT B.
- b. Provide a representative from its organization who shall serve as the single point of contact for the Department.
- c. Establish and maintain a resolution by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for management of the program.
- d. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
- e. Be responsible for all design and pre-construction activities.
- f. Initiate and cause to be prepared all necessary documents including plans, specifications, estimates (PS&E), and reports for this Project.
- g. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
- h. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. Construction projects will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

Agenda Item #7.3.

- i. Notify the Department when the plans and specifications are sufficiently complete for review.
- j. Make no changes in design or scope of work without documented approval of the Department.
- k. Advertise for and contract for the construction of the Project in accordance with federal and state laws or local ordinances.
- l. Require the Engineer to prepare a final detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Department in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.
- m. The Sponsor shall submit to the Department one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
- n. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent in violation of state laws and rules. The Sponsor shall return any recovered state funds to the Department. It shall furnish to the Department, upon request, all documents and records pertaining to the determination of the amount of the state's share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such state funds shall be approved in advance by the Department.
- o. The Sponsor shall, upon reasonable notice, allow the Department the right to inspect the Project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being complied with satisfactorily. If an inspection discloses a failure to substantially meet such requirements and standards the Department may terminate payment or payments until a mutually satisfactory remedy is reached.

3. The Department Shall:

- a. Assign a contact person for this project.
- b. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
- c. The Department shall not provide an extensive check of any plans submitted by the Sponsor. The Department's concurrence of the Project plans does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

4. Both Parties Agree:

- a. The allowable costs of this Project shall not include costs determined by the Department to be ineligible for consideration under the Aviation Act.
- b. The expenditure of any State money is subject to approval by the Department.
- c. Funds granted under the Local Governments Road Fund, NMSA 1978 Section 67-3-28.2, shall not be used to administer this Project or used to meet the local match.

5. Method of Payment - Reimbursement.

The Department shall reimburse the Sponsor in accordance with the terms of this agreement. Claims for reimbursement shall be completed on form A-1159, Request for Reimbursement. Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Department reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

6. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Department or State Auditor, upon demand, all records which support the terms of this Agreement.

Agenda Item #7.3.

The Agreement becomes effective upon signatures of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This agreement shall expire two (2) years from the effective date, unless terminated pursuant to Sections 8 and 17, below.

8. Termination for Cause.

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

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

By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

9. Disposition of Property.

- a. Upon termination of this Agreement, the Sponsor shall account for any remaining property, materials or equipment belonging to the Department and dispose of them as directed by the Department.
- b. Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes maintained according to the manufacturers guidelines and stored at the airport.

10. Representations and Certification.

The Sponsor, by signing this Agreement, represents and certifies the following:

- a. Legal Authority - The Sponsor has the legal power and authority to: (1) do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) accept, receive and disburse grant funds from the State of New Mexico in aid of the Project; and (3) carry out all provisions stated in this Aviation Grant Agreement.
- b. Defaults - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.
- c. Possible Disabilities - The Sponsor states, by execution of this Agreement, there are no facts or circumstance (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.
- d. Land - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

11. Assurances.

The Sponsor, by signing this Agreement, covenants and agrees to the following Assurances:

- a. That it will operate the airport for the use and benefit of the public on fair and reasonable terms and without unjust discrimination.
- b. That it will keep the airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes. The Sponsor shall establish fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation.

Agenda Item #7.3.

- c. Neither it nor any person or organization occupying space at the airport will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility and, further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis.
- d. Operate and maintain in a safe and serviceable condition the airport and all facilities which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
- e. By acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
- f. Comply with the New Mexico Aviation Act and associated provisions, NMSA 1978 Sections 64-1-1 to 64-5-4 and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq.
- g. That it shall not award the contract nor give bidding documents to any contractor who is subject to suspension or debarment by the U.S. Department of Transportation or the Department at the time of the bidding or award of the contract. Violation of this provision shall void this Agreement.

12. Third Party Beneficiaries.

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

13. New Mexico Tort Claims Act.

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

14. Scope of Agreement.

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

15. Terms of this Agreement.

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

16. Equal Opportunity Compliance.

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

Agenda Item #7.3.

17. Appropriations and Authorizations of State and Federal Funds.

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

18. Severability.

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

19. Applicable Law.

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

20. Principal Contacts and Notices.

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

Name: Daniel R. Moran
Title: Finance & Administrative Manager

Address: New Mexico Department of Transportation - Aviation Division
3501 Access Rd C.
Albuquerque, NM 87106
Office: (505) 244-1788 ext. 9112
Fax: (505) 244-1790
E-mail: dan.moran@state.nm.us

Name	ANDY HUME		
Title	AIRPORT MANAGER		
Sponsor	LAS CRUCES, CITY OF		
Address	PO BOX 20000		
City	LAS CRUCES	NM	Zip Code 88004
Office Phone	+1 (575) 541-2473	Fax	
E-Mail	ahume@las-cruces.org		

21. Amendment.

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties.

Agenda Item #7.3.

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

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: 
Justin Reese (Sep 3, 2020 13:37 MDT)
Cabinet Secretary or Designee

Date: Sep 3, 2020

Recommended by:

By: 
Pedro Rael (Sep 3, 2020 09:56 MDT)
Aviation Division Director
or Designee

Date: Sep 3, 2020

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

By: 
Cynthia A. Christ
Assistant General Counsel

Date: Sep 3, 2020

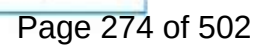
SPONSOR

Print Name: City of Las Cruces

By: 
David Maestas

Date: 8.27.2020

Title: Interim City Manager



Annual airfield maintenance/expendable materials			
		FY 2021-22	
Airport		LRU	
Item	units requested	Unit Price	Total
	0	\$0.00	\$0.00
Wind sock, 18"	5	\$37.00	\$185.00
Wind sock, 24"	0	\$0.00	\$0.00
Wind sock, 36"	2	\$105.00	\$210.00
light fixture parts windsock	0	\$0.00	\$0.00
Runway lights, 45 watt	20	\$13.00	\$260.00
Runway Parts - Refractors	0	\$0.00	\$0.00
Runway Parts - Fuses	0	\$70.00	\$0.00
Runway Parts - Fuses	0	\$0.00	\$0.00
Light fixture dome/lens (clr, yellow, blue)	18	\$21.50	\$387.00
Light fixture dome/lens (red/green)	16	\$55.00	\$880.00
Threshold lights, 100 watt	15	\$13.00	\$195.00
Isolation xformers, 300 watt	10	\$120.00	\$1,200.00
Isolation xformers, 45 watt	10	\$65.00	\$650.00
Flood light bulbs for lighted X	65	\$15.00	\$975.00
Battery for lighted X	1	\$75.00	\$75.00
PCB controllers	4	\$293.00	\$1,172.00
Sign end panels size 1	10	\$132.00	\$1,320.00
Sign end panels size 2	10	\$136.00	\$1,360.00
REIL lights	2	\$280.00	\$560.00
Approach lights	0	\$0.00	\$0.00
Guidance sign lights	16	\$9.00	\$144.00
Guidance sign panels	12	\$200.00	\$2,400.00
Frangible couplings	18	\$10.00	\$180.00
Primary cable connector kits	0	\$0.00	\$0.00
Fixture leads	0	\$0.00	\$0.00
Secondary connector kits	0	\$0.00	\$0.00
Heat shrink kits	4	\$4.00	\$16.00
Beacon bulbs	4	\$30.00	\$120.00

Agenda Item #7.3.

Beacon spare parts	4	\$16.00	\$64.00
Herbicide	100	\$26.50	\$2,650.00
Herbicide additive	14	\$35.00	\$490.00
Pavement marking supplies (5 gal paint)	8	\$93.00	\$744.00
ASOS/AWOS maintenance (quarterly)	3	\$1,000.00	\$3,000.00
ASOS/AWOS maintenance (Annual)	1	\$1,200.00	\$1,200.00
Obstruction lights	0	\$0.00	\$0.00
Other - Fuel tank filters	2	\$750.00	\$1,500.00
Other - in-ground lighting 105.w/6.6 a	12	\$24.00	\$288.00

Estimated cost	\$22,225
----------------	----------

Sponsor share	10%	\$2,223
Aviation Division share	90%	\$20,003

LRU-21-01 AIRFIELD MAINTENANCE AND CONSUMABLE ITEMS_Sponsor signed

Final Audit Report

2020-09-03

Created:	2020-09-03
By:	Marilu Melendez (marilu.melendez@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAC7bQRReZKK7MS7gbba9859EewSmqw2faK

"LRU-21-01 AIRFIELD MAINTENANCE AND CONSUMABLE IT EMS_Sponsor signed" History

-  Document created by Marilu Melendez (marilu.melendez@state.nm.us)
2020-09-03 - 3:05:58 PM GMT- IP address: 174.28.235.178
-  Document emailed to Pedro Rael (pedro.rael@state.nm.us) for signature
2020-09-03 - 3:07:09 PM GMT
-  Email viewed by Pedro Rael (pedro.rael@state.nm.us)
2020-09-03 - 3:47:14 PM GMT- IP address: 174.28.236.252
-  Document e-signed by Pedro Rael (pedro.rael@state.nm.us)
Signature Date: 2020-09-03 - 3:56:05 PM GMT - Time Source: server- IP address: 174.28.236.252
-  Document emailed to Cynthia A. Christ (cynthia.christ@state.nm.us) for signature
2020-09-03 - 3:56:06 PM GMT
-  Email viewed by Cynthia A. Christ (cynthia.christ@state.nm.us)
2020-09-03 - 7:29:10 PM GMT- IP address: 45.41.142.183
-  Document e-signed by Cynthia A. Christ (cynthia.christ@state.nm.us)
Signature Date: 2020-09-03 - 7:30:04 PM GMT - Time Source: server- IP address: 73.26.149.154
-  Document emailed to Justin Reese (Justin.Reese@state.nm.us) for signature
2020-09-03 - 7:30:06 PM GMT
-  Email viewed by Justin Reese (Justin.Reese@state.nm.us)
2020-09-03 - 7:36:51 PM GMT- IP address: 45.41.142.207
-  Document e-signed by Justin Reese (Justin.Reese@state.nm.us)
Signature Date: 2020-09-03 - 7:37:08 PM GMT - Time Source: server- IP address: 174.237.129.241

Agenda Item #7.3.

- ✓ Signed document emailed to Cynthia A. Christ (cynthia.christ@state.nm.us), Justin Reese (Justin.Reese@state.nm.us), Marilu Melendez (marilu.melendez@state.nm.us), Christina Lucero (Christina.Lucero3@state.nm.us), and 2 more

2020-09-03 - 7:37:08 PM GMT

NEW MEXICO ENVIRONMENT DEPARTMENT
AIR QUALITY BUREAU
NEW MEXICO VOLKSWAGEN MITIGATION TRUST

LAS CRUCES CONNECT PROJECT
NM-VW-20-05 PROJECT AGREEMENT

THIS PROJECT AGREEMENT ("Agreement") is made and entered into by the New Mexico Environment Department ("NMED") and City of Las Cruces ("AWARDEE").

WHEREAS, the United States District Court for the Northern District of California entered an order on October 25, 2016 adopting the proposed Partial Consent Decree in the matter of *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC);

WHEREAS, the Partial Consent Decree establishes a mitigation trust to be used by the beneficiaries for the reduction of Oxides of Nitrogen (NOx);

WHEREAS, NMED has been designated as the Lead Agency for purposes of administering New Mexico's portion of the Mitigation Trust;

WHEREAS, based upon the project described within the scope of work of the Agreement in Attachment A, the AWARDEE has a qualified project for the beneficiary mitigation program;

WHEREAS, the AWARDEE has agreed to use the funds for the construction of light-duty zero emission vehicle (LDZEV) infrastructure;

WHEREAS, both parties wish to enter into this Agreement; and

WHEREAS, this Agreement is exempt from the provisions of the Procurement Code in accordance with NMSA 1978, § 13-1-98A because funds will be provided directly from the trustee to the AWARDEE on a cost-reimbursement basis;

NOW THEREFORE, in consideration of the premises and mutual obligations of this Agreement, the parties agree to the following:

ARTICLE 1 FUNDING

Pursuant to the terms of the Partial Consent Decree and the New Mexico Beneficiary Mitigation Plan, NMED authorizes reimbursement of 55% but not to exceed one hundred fifty thousand, dollars (\$150,000) of the total project equipment costs to the AWARDEE for the execution of the project as referenced in Article 5 and defined in the Project Description, attached as "Attachment A". Such funds shall be paid as reimbursement for allowable costs as defined in Article 10.

ARTICLE 2 EFFECTIVE DATE AND TERMS OF AGREEMENT

This Agreement shall become effective upon execution by the NMED Secretary or their delegated representative. No funds shall be expended nor work undertaken unless and until this Agreement is executed by the Secretary of NMED or their delegated representative.

If it becomes apparent that this Agreement cannot be brought to full completion, the Awardee shall so notify NMED in writing within 14 days of becoming aware of this situation. NMED shall, at its sole discretion, determine whether there is need or sufficient justification to amend this Agreement or withdraw the unencumbered amount of the project award.

ARTICLE 3 SPECIAL TERMS AND CONDITIONS

The Awardee agrees to abide by the following:

- A. None of the funds shall be used to pay, refund, renew, roll over, retire or replace any other obligations previously issued or incurred by the Awardee.
- B. NMED shall instruct the Trustee to reimburse Awardee for incurred expenditures as described in Article 10 only if incurred after the effective date of this Agreement.
- C. This award is funded by the Volkswagen Mitigation Trust. The Awardee agrees to comply with all applicable requirements as conditions of the award. Disbursement of trust funds is expressly contingent upon the Awardee's agreement that it shall fully comply with the requirements specified in the Partial Consent Decree, the Trust, and the New Mexico Beneficiary Trust Mitigation Plan. NMED will not approve any request for reimbursement until applicable requirements are met and the project has been completed.

ARTICLE 4 TRUST CONTRIBUTIONS

The parties recognize that the costs of the project may exceed the available funds under this Agreement, and the Awardee shall additionally contribute the amount of the difference between the total cost of the awarded funds under this Agreement plus any matching funds secured by Awardee from another source, or the scope of work (Article 5) shall be reduced, subject to NMED's right of prior approval as provided in Article 5(B) of this Agreement.

ARTICLE 5 SCOPE OF WORK

- A. The Awardee agrees to implement, in all respects, the project outlined in Attachment A. The Awardee also agrees to expend funds under this Agreement in accordance with the Budget, attached as "Attachment B".

B. The Awardee agrees to make no change to Attachment A without (i) submitting a written request to NMED and obtaining NMED's written approval of the required change, and (ii) amending this Agreement if necessary pursuant to Article 16.

ARTICLE 6 ADMINISTRATIVE PROCEDURES

Upon execution of this Agreement, the Awardee shall follow the procedures listed below unless waived in writing by NMED. Reimbursement by the Trust through NMED may be withheld if any of these procedures are not followed by the Awardee.

A. The Awardee shall submit all modifications to plans and contracts in writing to NMED's representative (Article 21) for written approval prior to implementation of such modification or change. NMED's decision shall be rendered in a timely manner in writing to the Awardee. In cases necessitating immediate action, a verbal decision shall be rendered by NMED and shall be followed by written notification to the Awardee.

B. Notwithstanding those inspections performed by the Awardee and its representatives, NMED shall have the right to examine all vehicle replacements, disabled vehicles, and installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations shall not be considered an inspection for compliance with contract plans, but shall be in the nature of general NMED review as described in Article 7.

C. The Awardee shall submit written requests for reimbursement payments in accordance with Article 9.

D. NMED shall require proof of payment to contractors and vendors, including the disbursement of other funds prior to approval of the request for reimbursement. The funds shall not be used for the purchase of used equipment.

E. The project shall not be considered complete until the work as defined in this Agreement has been fully performed and finally and unconditionally accepted by NMED.

ARTICLE 7 NMED REVIEW

NMED inspection, review, and approval are only for purposes of compliance with applicable requirements, procedures, and regulations. NMED's approval shall not be interpreted as any warranty or guarantee, and all defects and their correction shall be the responsibility of the Awardee. Approval of projects means only that the submitted projects are complete and in compliance with applicable state and Partial Consent Decree requirements, procedures, and regulations. The Awardee and its contractors, vendors and consultants shall be responsible for the completion and success of the project. Approval by NMED does not relieve the Awardee of legal responsibilities for the overall integrity of the project or compliance with applicable requirements.

ARTICLE 8 OPERATION AND MAINTENANCE

The AWARDEE shall be responsible for all operation and maintenance of the project, after completion and acceptance.

ARTICLE 9 COMPENSATION AND METHOD OF PAYMENT

A. NMED shall instruct the Trustee to reimburse the AWARDEE upon satisfactory performance of all work and services required under the terms of this Agreement and upon receipt of payment requests for actual costs incurred, up to the limit set forth in Article 1. A transmittal letter is required with every payment request for reimbursement. Payment requests shall be certified by the AWARDEE authenticating that the requests accurately reflect work completed, amount due, remaining Agreement balance, and NMED Project Number. Reimbursement requests shall include expenditures to date by approved budget category (Attachment B). All expenses shall be actual rather than estimated and shall be listed on the reimbursement request as charged. Actual invoices, receipts, or other proof of payment from the fleet owner to the vendor or contractor shall be attached to the reimbursement request. The proper signatory authority, as designated in Article 22, shall sign all reimbursement requests. NMED shall authorize reimbursement for only those expenses that NMED, at its sole discretion, determines are properly documented eligible costs under Article 10 and within the approved scope of work as described in Attachment A. Incomplete submittals shall be returned to the AWARDEE for corrections. NMED shall not reimburse the AWARDEE for any costs incurred prior to the full execution of this Agreement, after the termination of the Agreement, or in excess of the maximum dollar amount of the Agreement.

B. When multiple funding sources are used to complete this project, the project Budget (Attachment B) shall identify all funding sources and the line item to which funds are allocated from each source.

C. Any portion of funds correlated to this Agreement that remain unexpended after all conditions of this Agreement have been satisfied or upon expiration or termination of this Agreement shall remain with the Trust.

D. The funds referred to in Article 1 shall constitute full and complete payment of monies to be received by the AWARDEE from the Trust.

E. The project shall not be considered complete until the work as defined in this Agreement has been fully performed and finally and unconditionally accepted by NMED.

F. Upon completion of the project, payment shall be made after the final inspection has been conducted by NMED and where the AWARDEE has contracted or subcontracted with others, the following, unless waived by NMED, have been reviewed and approved by NMED:

1. A final reimbursement request including the final certified pay request approved by the AWARDDEE's signatory authority.
2. A certification of project acceptance, prepared by the AWARDDEE, stating that work has been satisfactorily completed and all contractors have fulfilled all of the obligations required under the contract documents with the AWARDDEE.
3. If applicable, certification letter by the AWARDDEE that the Labor Standards Contract Provisions have been met.
4. If applicable, complete and legally effective release or waivers (satisfactory to the AWARDDEE), of liens arising out of the contract documents and the labor services performed and the materials and equipment furnished thereunder. In lieu of, and as approved by the AWARDDEE, contractor(s) may furnish receipt or releases in full, and releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the AWARDDEE or its property might in any way be responsible, have been paid or otherwise satisfied.
5. A written consent of the surety, if any, to final payment.
6. AWARDDEE's accounting ledger sheets, including all payments made by the AWARDDEE, may be requested with the final reimbursement request, and before the final reimbursement request is processed by NMED.

ARTICLE 10 ALLOWABLE AND UNALLOWABLE COSTS

A. The parties agree that allowable costs shall be limited to those costs that are necessary, reasonable, and directly related to the efficient achievement of the objectives of this Agreement as defined in Attachment A. AWARDDEE shall justify all expenditures for which it requests reimbursement, according to accepted NMED criteria and procedures. NMED may withhold reimbursement of any item or expenditure and may reclaim improperly documented reimbursement until the AWARDDEE provides sufficient justification.

B. Unallowable costs include but are not limited to: costs of preparing grant applications, costs of AWARDDEE employees not directly employed for the project, late fees, interest or penalties and in accordance with 2 C.F.R. Part 200.

ARTICLE 11 ACCOUNTING

The AWARDDEE shall comply with generally accepted accounting principles to account for all funds.

ARTICLE 12 RECORDS/AUDIT AND INSPECTION

A. The AWARDDEE shall maintain books, records, documents, and other evidence sufficient to reflect the costs incurred in the performance of this Agreement. The project site and AWARDDEE facilities that are in any part the subject of this Agreement, including all books, records, documents, ledgers, and other evidence required by this Article, shall be preserved and made available to NMED, the State Auditor and/or their agent(s) during the agreement period and for

a period of six (6) years from date of final payment. If, upon expiration or termination of this Agreement, questions exist concerning proper expenditure of funds, the AWARDDEE shall preserve and make available all books, records, documents, ledgers, and other evidence relating to this Agreement until such questions are settled and the AWARDDEE has received written notice to that effect from NMED. All contracts let by the AWARDDEE and costs that are to be claimed for reimbursements shall be the substance of this record/audit and inspection clause.

B. Additional Audit and Inspector General Reviews: In accordance with the access to records provisions of 2 CFR 215.53 or 40 CFR 31.42, the AWARDDEE agrees to allow any appropriate representative of the Office of Inspector General to:

1. Examine any records of the AWARDDEE, contractors and subcontractors, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the procurement contract or subcontract; and
2. Interview any officer or employee of the AWARDDEE, contractor, subcontractor, or agency regarding such transactions.
3. Nothing in this Article shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

C. AWARDDEE further agrees to abide by the following:

1. Allow access by the Government Accountability Office Comptroller General and their representatives to examine any records of the AWARDDEE or any of the AWARDDEE'S subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, this Agreement or subcontract;
2. Allow the Comptroller General and their representatives to interview any officer or employee of the AWARDDEE or any of the AWARDDEE'S subcontractors, or of any State or local government agency administering the Agreement, regarding such transactions; and
3. Nothing in this Article shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

D. The AWARDDEE agrees to maintain documentation and records that support all information submitted to NMED for federal reporting purposes.

E. The AWARDDEE is advised that providing false, fictitious or misleading information with respect to the receipt and disbursement of Volkswagen Mitigation Trust funds may result in criminal, civil or administrative fines and/or penalties.

F. The AWARDDEE agrees that it shall include in any contract agreement pertaining to this Agreement an affirmative obligation upon any contractor to comply with and submit to all of the additional audit requirements specified herein.

ARTICLE 13 CERTIFICATION

The AWARDDEE gives assurance and certifies, by signing this Agreement that:

A. The Awardee possesses legal authority to make application for these funds and to execute this Agreement.

B. The Awardee's current governing body, if any, has duly adopted or passed a resolution authorizing the person(s) identified as the official representative of the Awardee to submit any documents pertaining to the project, along with all understandings and assurances contained in this agreement. The official resolution identifies the person(s) with signatory authority for the Awardee (the person(s) authorized to submit and sign reimbursement requests to NMED). The person(s) with signatory authority for the Awardee pursuant to the official resolution are listed in Article 23 of this Agreement. The Awardee shall submit a copy of the official resolution to NMED when the Awardee returns the signed Agreement.

C. The Awardee shall provide all necessary qualified personnel, material, and facilities to implement the project described in this Agreement.

D. The Awardee shall comply with federal, state and local regulations, policies, guidelines and any other legal requirements with respect to the acceptance and use of funds for this project.

E. No officer or employee of the Awardee or its designees or agents, or member of the governing body of the locality in which the project is situated during their tenure or for one year after their tenure, shall have any interest, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the project assisted under this Agreement. The Awardee shall incorporate in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.

ARTICLE 14 OCCUPATIONAL SAFETY

The Awardee covenants that it shall take affirmative action to ensure that the project shall be conducted in conformance with federal and state laws and regulations relating to occupational health and safety. Authorized inspectors from NMED's Occupational Health and Safety Bureau shall have unobstructed access to project sites and shall not be impeded in any way from performance of their duties. These provisions will be included in any contract entered into by the Awardee and its contractors.

ARTICLE 15 EQUAL EMPLOYMENT OPPORTUNITY

The Awardee agrees to abide by all federal and state laws, rules, and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations, and executive orders of the Governor of the State of New Mexico, the Awardee agrees to assure that no person will, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or otherwise be subject to, discrimination under any activity performed under this Agreement. If Awardee is not in compliance with these

requirements during the life of this Agreement, AWARDDEE agrees to take appropriate steps to correct any deficiencies.

ARTICLE 16 SCOPE OF AGREEMENT AND AMENDMENTS

This Agreement constitutes the entire and exclusive agreement between the AWARDDEE and NMED with respect to the project. This Agreement supersedes any and all prior agreements, discussions, communication, representation, or negotiations, written or verbal. The parties may amend this Agreement if the amendment is in writing and signed by both parties.

ARTICLE 17 TERMINATION

NMED shall have the right to terminate this Agreement if at any time in the judgment of NMED the terms of the Agreement have been violated or the activities described in the attached exhibits are not progressing satisfactorily. This Agreement may also be terminated for failure to provide adequate deliverables within the agreed upon time frames, non-performance of tasks, for missing mutually agreed upon deliverable work plan dates, or any other reason as determined by NMED.

Upon termination, NMED may demand a refund of all or part of the funds disbursed to AWARDDEE. Any termination shall be in writing and is effective upon receipt of the written notice by the AWARDDEE or as determined by NMED in the termination letter. Such termination will be effected by sending written a notice to the AWARDDEE. The AWARDDEE shall accept as final NMED's decision as to terminate the contract.

ARTICLE 18 GENERAL LIABILITY

As between NMED and the AWARDDEE, each party shall be responsible for liability arising from personal injury or damage to persons or property occasioned by its own agents or employees in the performance of this Agreement, subject in all instances to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 to -30, and any amendments thereto.

ARTICLE 19 NOTICE

The AWARDDEE shall give notice to all contractors that the Procurement Code, NMSA 1978, §§ 13-1-28 to -199, imposes civil and criminal penalties for its violation and that the New Mexico criminal statutes impose felony penalties for illegal bribes, kickbacks or rebates.

ARTICLE 20 SEVERABILITY

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

ARTICLE 21 NMED REPRESENTATIVE / SIGNATORY AUTHORITIES

NMED hereby designates the person(s) listed below as the official NMED Representative(s) responsible for overall supervision of the Project and the official NMED Signatory Authority(s).

NMED REPRESENTATIVE(s)

Name: Elizabeth Bisbey-Kuehn Phone: (505) 476-4305 elizabeth.kuehn@state.nm.us

Name: Kerwin Singleton Phone: (505) 476-4350 kerwin.singleton@state.nm.us

Address: 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico 87505

NMED SIGNATORY AUTHORITY(s)

Name: James Kenney, Secretary of NMED Phone: (505) 827-2855

Address: 1190 Saint Francis Dr., PO Box 5469, Santa Fe, New Mexico 87502-5469

Name: Sandra Ely, Director, Environmental Protection Division Phone: (505) 827-2855

Address: 1190 Saint Francis Dr., PO Box 5469, Santa Fe, New Mexico 87502-5469

Name: Marlene Velasquez, Chief Financial Officer Phone: (505) 476-3723

Address: 1190 Saint Francis Dr., PO Box 5469, Santa Fe, New Mexico 87502-5469

ARTICLE 22 AWARDDEE REPRESENTATIVE / SIGNATORY AUTHORITY

The AWARDDEE hereby designates the person(s) listed below as the official AWARDDEE Representative(s) responsible for overall supervision of the Project and the official AWARDDEE Signatory Authority(s).

AWARDEE REPRESENTATIVE(s)

Name: Amy Bassford | Phone: 575-541-2281 | E-mail: abassford@las-cruces.org
Address: Grant Administrator, City of Las Cruces, 700 N. Main St., Las Cruces, NM 88001

AWARDEE SIGNATORY AUTHORITY(s)

Name: David Maestas | Phone: 575-541-2076 | E-mail: grants@las-cruces.org
Address: Interim City Manager, City of Las Cruces, 700 N. Main St., Las Cruces, NM 88001

AWARDEE RESPONSIBLE FINANCIAL OFFICER

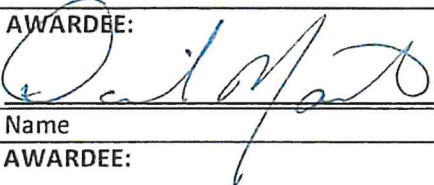
Name: Terri Gayhart | Phone: 575-5412080 | E-mail: tgayhart@las-cruces.org
Address: Finance Director, City of Las Cruces, 700 N. Main St., Las Cruces, NM 88001

REPORTING REPRESENTATIVE(s)

Name: Lisa Larocque | Phone: 575-541-2177 | E-mail: llarocque@las-cruces.org
Address: Sustainability Officer, City of Las Cruces, 700 N. Main St., Las Cruces, NM 88001

Agenda Item #7.3.

In witness whereof, the parties have set their hands the day and year set forth below.

AWARDEE: 	<u>6-18-2020</u>
Name	Date
AWARDEE:	
AWARDEE:	
	Date
NMED: Stephanie Stringer Digitally signed by Stephanie Stringer Date: 2020.09.17 23:58:04 -06'00' for	
James Kenney, Cabinet Secretary	Date
NMED: Marlene Velasquez Digitally signed by Marlene Velasquez Date: 2020.09.17 09:53:19 -06'00'	
Marlene Velasquez, Chief Financial Officer	Date
NMED: Reviewed for legal sufficiency: Jennifer Hower Digitally signed by Jennifer Hower Date: 2020.09.15 10:45:19 -06'00'	
Jennifer Hower, General Counsel	Date

**ATTACHMENT A
PROJECT DESCRIPTION**

**NEW MEXICO ENVIRONMENT DEPARTMENT
NEW MEXICO VOLKSWAGEN MITIGATION TRUST**

**LAS CRUCES CONNECT PROJECT
NM-VW-20-05 PROJECT AGREEMENT**

This project will consist of eight (8) dual-port Level II charging stations at seven (7) sites throughout the City of Las Cruces, and located on City-owned property.

The sites will be:

1. La Llorna Park – 1 charger
2. Hadley Recreation Center – 1 charger
3. Sage Café Senior Center – 1 charger
4. Museum of Nature and Science – 1 charger
5. Plaza de Las Cruces – 1 charger
6. Albert Johnson Park – 1 charger
7. LC Convention Center – 2 chargers

Additionally – the City will commit \$35,000 to the project to ensure electrical upgrades are completed where needed, move the existing out-of-date chargers, and possibly add additional lower-cost chargers to City fleet areas. Exact costs are dependent upon bids from potential vendors once an RFP is issued as required by the City's Procurement Code. As noted in the application, the marketing/outreach program to kick-off the use of the chargers and fee schedule will be provided by the City.

**ATTACHMENT B
PROJECT BUDGET**

**NEW MEXICO ENVIRONMENT DEPARTMENT
NEW MEXICO VOLKSWAGEN MITIGATION TRUST**

**LAS CRUCES CONNECT PROJECT
NM-VW-20-05 PROJECT AGREEMENT**

The following is the detailed cost estimate per station location from the original proposal – these are rounded to the nearest \$25. Each is inclusive of the charger cost, 10-year warranty and service agreement with provider, site development and installation costs, and gross receipts tax. Exact pricing is dependent on actual bids received by potential vendors per the City's Procurement Code.

1. La Llorona Park (1 Station)	Estimate: \$25,425
o 3479 W Picacho Ave, Las Cruces, NM 88007	
2. Hadley Recreation Sports Complex (1 Station)	Estimate: \$24,325
o 1501 E Hadley Ave, Las Cruces, NM 88001	
3. Sage Cafe (1 Station)	Estimate: \$24,625
o 6121 Reynolds Dr, Las Cruces, NM 88011	
4. Museum of Nature and Science (1 Station)	Estimate: \$18,750
o 411 N Downtown Mall, Las Cruces, NM 88001	
5. Plaza de Las Cruces (1 Station)	Estimate: \$15,625
o 100 N Main St, Las Cruces, NM 88001	
6. City Hall - Albert Johnson Park (1 Station)	Estimate: \$17,175
o 700 N Main St, Las Cruces, NM 88001	
7. Las Cruces Convention Center (2 Stations),	1 Station Estimate: \$27,600
	2 nd Station Estimate: \$21,650
o 680 E University Ave, Las Cruces, NM 88001	
<u>Total</u>	<u>\$175,175</u>
Amount in Excess of \$20,000 per unit	\$23,625
Movement of Existing Chargers to New Locations (3)	\$ 6,000
Purchase of Low-Cost Chargers for Fleet Areas	<u>\$ 5,375</u>
Total City Commitment	<u>\$35,000</u>

FY2021 Budgeted Amount for Marketing Program / Promotion \$ 5,000
(Separate from funding budgeted for project commitment)

Las Cruces Connect Project
Project Agreement

Page 13 of 13



New Mexico Environment Department
Light Duty Electric Vehicle Supply Equipment Program

Appendix J – Budget Detail And Sample Quotes for Each Selected Location

City of Las Cruces Budget Estimates Per Location for EV Charging Stations

Location:	La Ilorona Park	Regional Aquatic Center X 2	Hadley Recreation Bldg.	Sage Cafe	Apodaca Park	Museum of Nature & Science	Plaza De Las Cruces	City Hall - Rear Parking	City Hall - Albert Johnson Park	Convention Center x2		
LODSEVSE Project Component Cost:												TOTAL
Charger(s) Purchase	\$ 6,568.00	\$ 13,136.00	\$ 6,568.00	\$ 6,568.00	\$ 6,568.00	\$ 3,000.00	\$ 3,000.00	\$ 6,568.00	\$ 3,000.00	\$ 13,136.00	\$ 68,112.00	
Electrical System Upgrades -- included in Other Cost Item below				\$							\$	
Other Components (Please list) -- Warranty & Service Agreement -- 10 Years	\$ 9,410.00	\$ 18,820.00	\$ 9,410.00	\$ 9,410.00	\$ 9,410.00	\$ 9,410.00	\$ 9,410.00	\$ 9,410.00	\$ 9,410.00	\$ 13,830.00	\$ 107,930.00	
Labor Installation Costs -- included in Other Cost Item below											\$	
Permitting Fees, if applicable (Please itemize) -- included in Other Cost Item below											\$	
Other Cost (Please itemize) -- Site Prep, installation, charger mount, electrical upgrades	\$ 7,485.00	\$ 8,505.28	\$ 6,461.49	\$ 6,737.35	\$ 6,404.97	\$ 4,885.00	\$ 1,994.65	\$ 9,147.69	\$ 3,440.80	\$ 14,338.38	\$ 69,400.61	
Tax -- Las Cruces 8.3125% *	\$ 1,950.36	\$ 3,363.34	\$ 1,865.28	\$ 1,888.21	\$ 1,860.58	\$ 1,437.65	\$ 1,197.39	\$ 2,088.57	\$ 1,317.60	\$ 3,433.43	\$ 20,402.42	
Total Estimated Purchase and Construction Costs	\$ 25,413.36	\$ 43,824.62	\$ 24,304.77	\$ 24,603.56	\$ 24,243.55	\$ 18,732.65	\$ 15,602.04	\$ 27,214.26	\$ 17,168.40	\$ 44,737.81	\$ 265,845.03	
Amount allowed by NMED	\$ 20,000.00	\$ 40,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 40,000.00	\$ 240,000.00	
Overage (to be provided by City)	\$ 5,413.36	\$ 3,824.62	\$ 4,304.77	\$ 4,603.56	\$ 4,243.55			\$ 7,214.26	\$	\$ 4,737.81	\$ 34,341.95	

* Cost Estimate Quotes were not calculated at the Las Cruces Gross Receipts Tax Rate -- tax has been adjusted here to the correct rate.

Agenda Item #7.3.



Solar Smart Living LLC
108 Ray Ward Pl,
Santa Teresa, NM 88008

System Estimate & Quote

Valid Till: 01/31/2020
Quote Number : 1979909000022241464
Reference Number:

BILL TO:

700 N Main Street
Las Cruces, NM 88001

SHIP TO:

3479 Picacho Ave
Las Cruces, NM 88007

Project: La Llorona Park EV Location (1 Station)

Account Name: City of Las Cruces
Contact Name: Lisa LaRocque

Quote Stage: Draft

Description

Needs service panel upgrade. Install charger near where the lightpost is at the head of the cul de sac.

S.No.	Product Details	Qty	List Price	Total
1.	CT4025 - Chargepoint EV Charger (Commercial) CT4000 Series Bollard Mount CT4025-GW1 **SOURCEWELL PRICING Dual Output, Gateway Option, Bollard Unit - 208/240V @30A with Cord Management, 23' Cords, 8' Cord Management System	1	\$ 6,568.00	\$ 6,568.00
2.	CT4001-CCM - Bollard Concrete Mounting Kit CT4001-CCM Bollard Concrete Mounting Kit. Bolts: 5/8 - 11 x 9, F1554 Grade 55 hot-dipped galvanized threaded bolts - 3 ea. Nuts: 5/8 - Heavy Galvanized Hex Nuts (DH Rated) - 12 ea. Washers: Galvanized Washers (ASTM F436) - 9 ea. Plastic Template - 1 ea	1	\$ 95.00	\$ 95.00
3.	CPCLD-COMMERCIAL-5 - 5yr Prepaid Commercial Cloud Plan CPCLD-COMMERCIAL-5 Updated to 10 years Cloud Services This plan includes Secure Network Connection, On-going Station Software updates, Station Inventory, 24x7 Driver Support, Host Support, Session Data and Analytics, Fleet Vehicle Management and Integration, Fleet Access Control, Valet Dashboard, Power Management (Circuit, Panel, Site Sharing), Scheduled Charging, Driver Access Control, Pricing and Automatic Funds Collection, Waitlist, Videos (on supported hardware). The price below is per port.	4	\$ 1,105.00	\$ 4,420.00
4.	CPSUPPORT-ACTIVE - Site Activation CPSUPPORT-ACTIVE Initial Station Activation & Configuration Service includes activation of cloud services and configuration of radio groups, custom groups, connections, access control, visibility control, pricing, reports and alerts. One time initial service per station.	1	\$ 0.00	\$ 0.00
5.	CT4000-ASSURES - 5yr Prepaid Assure Warranty Plan CT4000-ASSURES Updated to 10yrs of Assure Assure is the most comprehensive parts and on-site labor warranty. Parts and On-Site Labor to repair or replace any manufacturing defect and includes station management, remote monitoring of station and proactive repair dispatch. A successful Site Validation is required to activate any ChargePoint Assure product. Site Validations are sold separately. ChargePoint will invoice annually. Assure is priced per station. Site Validation and Activation are free if purchasing ASSURES.	2	\$ 2,495.00	\$ 4,990.00
6.	PARTNER-SELFVALID - Site Validation by SSL PARTNER-SELFVALID Customer works directly with a self-validating Channel Partner where the Channel Partner will be performing all construction and station installation services. These services include on-site validation of electrical capacity, transformers, panels, breakers, wiring, cellular coverage and that the station installation meets all ChargePoint published requirements and local codes. A site is defined as a group of stations all connected to the same gateway station. The name of the self-validating partner must be indicated on the Channel Partner's purchase order. A successful Site Validation is a prerequisite to purchase ChargePoint Assure.	1	\$ 0.00	\$ 0.00
7.	Chargepoint EV Charger (Commercial) Site Prep and Installation Chargepoint Site-Prep and Installation Site preparation and electrical work. Concept Item Quantity Unit Concrete pad 1 Labor and material Trench Trench on asphalt 1 Labor and material Bollard Installation 16 Man Hours Electrical Lineal ft of conduit Conduit 1" 3 EMT Lineal ft of PVC PVC 1" 6 PVC Connectors EMT RT connectors and couplings 7 Conn and Coupl	1	\$ 7,390.00	\$ 7,390.00

S.No.	Product Details	Quantity	Unit Price	Total Price
1	...	...	...	...
2	...	...	...	...
3	...	...	...	...
4	...	...	...	...
5	...	...	...	...
6	...	...	...	...
7	...	...	...	...
8	...	...	...	...
9	...	...	...	...
10	...	...	...	...
11	...	...	...	...
12	...	...	...	...
13	...	...	...	...
14	...	...	...	...
15	...	...	...	...
16	...	...	...	...
17	...	...	...	...
18	...	...	...	...
19	...	...	...	...
20	...	...	...	...
21	...	...	...	...
22	...	...	...	...
23	...	...	...	...
24	...	...	...	...
25	...	...	...	...
26	...	...	...	...
27	...	...	...	...
28	...	...	...	...
29	...	...	...	...
30	...	...	...	...
31	...	...	...	...
32	...	...	...	...
33	...	...	...	...
34	...	...	...	...
35	...	...	...	...
36	...	...	...	...
37	...	...	...	...
38	...	...	...	...
39	...	...	...	...
40	...	...	...	...
41	...	...	...	...
42	...	...	...	...
43	...	...	...	...
44	...	...	...	...
45	...	...	...	...
46	...	...	...	...
47	...	...	...	...
48	...	...	...	...
49	...	...	...	...
50	...	...	...	...
51	...	...	...	...
52	...	...	...	...
53	...	...	...	...
54	...	...	...	...
55	...	...	...	...
56	...	...	...	...
57	...	...	...	...
58	...	...	...	...
59	...	...	...	...
60	...	...	...	...
61	...	...	...	...
62	...	...	...	...
63	...	...	...	...
64	...	...	...	...
65	...	...	...	...
66	...	...	...	...
67	...	...	...	...
68	...	...	...	...
69	...	...	...	...
70	...	...	...	...
71	...	...	...	...
72	...	...	...	...
73	...	...	...	...
74	...	...	...	...
75	...	...	...	...
76	...	...	...	...
77	...	...	...	...
78	...	...	...	...
79	...	...	...	...
80	...	...	...	...
81	...	...	...	...
82	...	...	...	...
83	...	...	...	...
84	...	...	...	...
85	...	...	...	...
86	...	...	...	...
87	...	...	...	...
88	...	...	...	...
89	...	...	...	...
90	...	...	...	...
91	...	...	...	...
92	...	...	...	...
93	...	...	...	...
94	...	...	...	...
95	...	...	...	...
96	...	...	...	...
97	...	...	...	...
98	...	...	...	...
99	...	...	...	...
100	...	...	...	...

Service Change upgrade from 100 to 200 amp 1

Qty	List Price	Total
-----	------------	-------

Sub Total	\$ 24,813.13
Tax	\$ 1350.13
Adjustment	\$ 0.00
Grand Total	\$ 24,813.13

If this quote is accepted by the company (City of Las Cruces) it is proposed to, the acting representative may sign below and the project can proceed.

Accounting Contact Name

Accounting Contact Email & Phone Number

Date _____

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

**GRANT AGREEMENT
(FTA G-26, October 1, 2019)**

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official signs this Grant Agreement, FTA has obligated and awarded federal assistance as provided below. Upon execution of this Grant Agreement by the Recipient named below, the Recipient affirms this FTA Award, enters into this Grant Agreement with FTA, and binds its compliance with the terms of this Grant Agreement.

The following documents are incorporated by reference and made part of this Grant Agreement:

- (1) "Federal Transit Administration Master Agreement," FTA MA(26), October 1, 2019, <http://www.transit.dot.gov>,
- (2) The Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA, and
- (3) Any Award notification containing special conditions or requirements, if issued.

WHEN THE TERM "FTA AWARD" OR "AWARD" IS USED, EITHER IN THIS GRANT AGREEMENT OR THE APPLICABLE MASTER AGREEMENT, "AWARD" ALSO INCLUDES ALL TERMS AND CONDITIONS SET FORTH IN THIS GRANT AGREEMENT.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE RECIPIENT DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING FTA'S AWARD DATE SET FORTH HEREIN.

FTA AWARD

Federal Transit Administration (FTA) hereby awards a Federal Grant as follows:

Recipient Information

Recipient Name: Las Cruces, City Of

Recipient ID: 1580

DUNS No: 077609279

Award Information

Federal Award Identification Number: NM-2020-036-00

Award Name: FFY2018 Bus & Bus Facilities M&O Facility

Award Start Date: 9/18/2020

Original Award End Date: 6/30/2023

Current Award End Date: 6/30/2023

Award Executive Summary: This project will be the construction of a new Transit Operations and Maintenance Center for the City of Las Cruces' RoadRUNNER Transit System. This facility will be one of several City operations activities to occupy a 22.832-acre City-owned parcel purchased in 1993 expressly for the purpose of consolidating City operational and maintenance functions at a single location. The site located on the east side of Motel Blvd and north of Amador Ave in Las Cruces NM and the Transit Operations and Maintenance part of this facility will be on approximately 1/5 of the city-owned parcel. The City has had all environmental work done on this site and was issued a Categorical Exclusion by FTA. FTA approved a documented CE under Class II(d) - Categorical Exclusions (D-List) on February 14, 2019. documentation is attached in Application Documents.

Total identified funding for this project is summarized in the attachment to this grant labeled "Transit Operations and Maintenance Center Identified Funding". This funding includes Las Cruces' FFY18 State of Good Repair (Section 5339 Discretionary) Bus & Bus Facility application (\$11,000,00 FTA + \$2,750,000 match, total \$13,750,000). Additional construction funding will also come from an amendment to grant NM-2019-037 (FFY 2019 Section 5307 funds) to reallocate the balance of funds in this grant to this project (\$1,830,331 FTA + \$457,583 match, total \$2,287,917) and from all of the unobligated FFY20 Section 5307 apportionment (\$2,128,497 FTA + \$532,124 match, total \$2,660,621). A grant amendment to NM-2019-037 and a new grant request for the FFY20 Section 5307 funds will be submitted concurrent with this application. Finally, the City will provide additional local funding for the building construction in the amount of \$2,250,000 and the State of New Mexico is funding \$115,000.

The final construction documents are nearly complete. This facility is designed to meet the City's transit operational needs for the next 30+ year's new transit facility will also accommodate the electric buses and bus charging system designed for the five electric buses the City plans to put into operation in early 2022.

Architect renditions of the proposed site and construction are attached to this grant as "Transit Operations and Maintenance Facility Architectural Overview".

The existing Transit operations and maintenance facility was built in 1986 on a City-owned site at 1501 E Solano Avenue. Other City maintenance and operation functions are also located on this same site. The existing transit facility, like the other City facilities at this site, are aging, antiquated, overcrowded and unable to accommodate the growth of the City that has occurred over the last 34 years.

The new transit facility, as designed, is estimated to cost between \$24M and \$25M. Just over \$21M has been identified for this project so far and the City is continuing to seek additional funding resources to fully build out the project. The project will be scaled according to prioritize construction of the new electric bus charging infrastructure, as well as vehicle maintenance and storage.

Research and Development: This award does not include research and development activities.

Indirect Costs: This award does not include an indirect cost rate.

Suballocation Funds: Recipient organization is directly allocated these funds and is eligible to apply for and receive these funds directly.

Pre-Award Authority: This award is using Pre-Award Authority.

Award Budget

Total Award Budget: \$13,750,000.00

Amount of Federal Assistance Obligated for This FTA Action (in U.S. Dollars): \$11,000,000.00

Amount of Non-Federal Funds Committed to This FTA Action (in U.S. Dollars): \$2,750,000.00

Total FTA Amount Awarded and Obligated (in U.S. Dollars): \$11,000,000.00

Total Non-Federal Funds Committed to the Overall Award (in U.S. Dollars): \$2,750,000.00

Award Budget Control Totals

(The Budget includes the individual Project Budgets (Scopes and Activity Line Items) or as attached)

Funding Source	Section of Statute	CFDA Number	Amount
----------------	--------------------	-------------	--------

5339 – Buses and Bus Facilities Competitive	5339-3	20526	\$11,000,000
Local			\$2,750,000
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$13,750,000

(The Transportation Development Credits are not added to the amount of the Total Award Budget.)

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Review Decision: DOL Concurrs - Certified
Original Certification Date: 9/17/2020

Special Conditions

There are no special conditions.

FINDINGS AND DETERMINATIONS

By signing this Award on behalf of FTA, I am making all the determinations and findings required by federal law and regulations before this Award may be made.

FTA AWARD OF THE GRANT AGREEMENT

Awarded By:
Gail Lyssy
Regional Administrator
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
Contact Info: gail.lyssy@dot.gov
Award Date: 9/18/2020

EXECUTION OF THE GRANT AGREEMENT

Upon full execution of this Grant Agreement by the Recipient, the Effective Date will be the date FTA or the Federal Government awarded Federal assistance for this Grant Agreement.

By executing this Grant Agreement, the Recipient intends to enter into a legally binding agreement in which the Recipient:

- (1) Affirms this FTA Award,
- (2) Adopts and ratifies all of the following information it has submitted to FTA:
 - (a) Statements,
 - (b) Representations,
 - (c) Warranties,
 - (d) Covenants, and
 - (e) Materials,
- (3) Consents to comply with the requirements of this FTA Award, and
- (4) Agrees to all terms and conditions set forth in this Grant Agreement.

Executed By:
Michael Bartholomew
Transit Section Administrator
Las Cruces, City Of
9/24/2020

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this 19th day of August, 2020, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the City of Las Cruces, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 192, 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; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2536 \$290,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Paragraph 192, Two Hundred Ninety Thousand Dollars
(\$290,000.00) to plan, design, construct, equip and install a multipurpose trail to connect Mesilla
with the Las Cruces trail system in Las Cruces in Dona Ana county.

Agenda Item #7.3.

The Grantee's total reimbursements shall not exceed Two Hundred Ninety Thousand Dollars (**\$290,000.00**) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount") [1], if applicable, Zero Dollars (**\$0.00**), which equals Two Hundred Ninety Thousand (**\$290,000.00**) (the "Adjusted Appropriation Amount").

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 (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse [2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
- a. The 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.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT
DESIGNATED REPRESENTATIVES**

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

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

Grantee City of Las Cruces
Name Amy Johnson Bassford
Title Grants Administrator
Address 700 N. Main Street, Las Cruces, NM 88001
Email abassford@las-cruces.org
Telephone 575-541-2281

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.

Grantee City of Las Cruces
Name Terri Gayhart
Title Finance Director
Address 700 N. Main Street, Las Cruces, NM 88001
Email tgayhart@las-cruces.org
Telephone 575-541-2080

Agenda Item #7.3.

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

Department	DFA/Local Government Division
Name	Donna Stewart
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email	DonnaJ.Stewart@state.nm.us
Telephone	505-827-4972

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Agenda Item #7.3.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

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

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or
- (iii) Twenty (20) days from the date of Early Termination; or
- (iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit 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, "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

Agenda Item #7.3.

- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

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

B. For a period of five (5) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

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

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Las Cruces** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Las Cruces**' decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Las Cruces**, the Department of Finance and Administration, Local Government Division (DFA/LGD), 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 Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a 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:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Las Cruces** may early terminate this

Agenda Item #7.3.

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Las Cruces'** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

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

1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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

Agenda Item #7.3.

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

Agenda Item #7.3.

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

GRANTEE

City of Las Cruces
Entity Name

By: David Maestas
(Type or Print Name)

Its: Interim City Manager
(Type or Print Title)


Signature of Official with Authority to Bind Grantee

8.18.2020
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

Brenna L. Suazo-Vila On behalf of Donnie Quintana
Signature

8/19/2020
Date

**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. Address: _____
 (Complete Mailing, including Suite, if applicable)

 City, State, Zip
 C. Phone No: _____
 D. Grant No: _____
 E. Project Title: _____
 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. 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)

Grantee Representative

 Printed Name

Date: _____

 Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

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

 Division Fiscal Officer

 Date

 Division Project Manager

 Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

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 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: _____

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: \$ 0.00 _____

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: _____

1 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.

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this 16th day of September 20 20, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the City of Las Cruces, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 204, 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; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2548 \$75,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Para. 204, Seventy Five Thousand Dollars (\$75,000.00) to plan, design, construct, furnish and equip a multipurpose trail with the Tortugas trail development in Las Cruces in Dona Ana county.

Agenda Item #7.3.

The Grantee's total reimbursements shall not exceed Seventy Five Thousand Dollars (**\$75,000.00**) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")^[1], if applicable, Zero Dollars (**\$0.00**), which equals Seventy Five Thousand (**\$75,000.00**) (the "Adjusted Appropriation Amount").

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 (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse^[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including

Agenda Item #7.3.

terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The 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.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

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

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

Grantee	City of Las Cruces
Name	Amy Johnson Bassford
Title	Grants Administrator
Address	700 N. Main Street, Las Cruces, NM 88001
Email	abassford@las-cruces.org
Telephone	575-541-2281

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.

Grantee	City of Las Cruces
Name	Terri Gayhart
Title	Finance Director
Address	700 N. Main Street, Las Cruces, NM 88001
Email	tgayhart@las-cruces.org
Telephone	575-541-2080

Agenda Item #7.3.

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

Department	DFA/Local Government Division
Name	Donna Stewart
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email	DonnaJ.Stewart@state.nm.us
Telephone	505-827-4972

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

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

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or
- (iii) Twenty (20) days from the date of Early Termination; or
- (iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit 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, "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

Agenda Item #7.3.

- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

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

B. For a period of five (5) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

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

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Las Cruces** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Las Cruces'** decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Las Cruces**, the Department of Finance and Administration, Local Government Division (DFA/LGD), 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 Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a 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:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Las Cruces** may early terminate this

Agenda Item #7.3.

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Las Cruces'** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

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

1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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

Agenda Item #7.3.

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

Agenda Item #7.3.

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

GRANTEE

City of Las Cruces

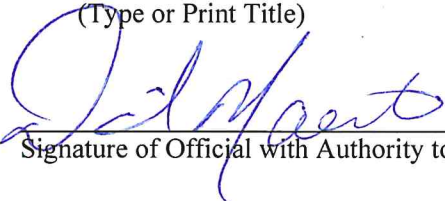
Entity Name

By: David Maestas

(Type or Print Name)

Its: Interim City Manager

(Type or Print Title)



Signature of Official with Authority to Bind Grantee

8-18-2020

Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

Brenda L. Suazo-Dila On behalf of Donnie Quintana

Signature

9/16/2020

Date

Agenda Item #7.3.

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. Address: _____
(Complete Mailing, including Suite, if applicable)

City, State, Zip
- C. Phone No: _____
- D. Grant No: _____
- E. Project Title: _____
- 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. 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)

Grantee Representative

Printed Name

Date: _____

Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

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

Division Fiscal Officer

Date

Division Project Manager

Date

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee #

DATE:

TO:

Department Representative:

FROM:

Grantee Entity:

Grantee Official Representative:

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 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:

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:

\$ 0.00

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:

1 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.

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this 19th day of August, 2020, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the **City of Las Cruces**, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 219, 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; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2563 \$845,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Paragraph 219, Eight Hundred Forty Five Thousand Dollars (\$845,000.00) to plan, design, construct, renovate and equip the skate park in Las Cruces in Dona Ana county.

Agenda Item #7.3.

The Grantee's total reimbursements shall not exceed Eight Hundred Forty Five Thousand Dollars **(\$845,000.00)** (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")^[1], if applicable, Zero Dollars **(\$0.00)**, which equals Eight Hundred Forty Five Thousand **(\$845,000.00)** (the "Adjusted Appropriation Amount").

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 (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse^[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
- a. The 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.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT
DESIGNATED REPRESENTATIVES**

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

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

Grantee City of Las Cruces
Name Amy Johnson Bassford
Title Grants Administrator
Address 700 N. Main Street, Las Cruces, NM 88001
Email abassford@las-cruces.org
Telephone 575-541-2281

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.

Grantee City of Las Cruces
Name Terri Gayhart
Title Finance Director
Address 700 N. Main Street, Las Cruces, NM 88001
Email tgayhart@las-cruces.org
Telephone 575-541-2080

Agenda Item #7.3.

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

Department	DFA/Local Government Division
Name	Donna Stewart
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email	DonnaJ.Stewart@state.nm.us
Telephone	505-827-4972

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Agenda Item #7.3.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

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

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or
- (iii) Twenty (20) days from the date of Early Termination; or
- (iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit 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, "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

Agenda Item #7.3.

- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

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

B. For a period of five (5) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

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

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Las Cruces** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Las Cruces'** decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Las Cruces**, the Department of Finance and Administration, Local Government Division (DFA/LGD), 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 Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a 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:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Las Cruces** may early terminate this

Agenda Item #7.3.

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Las Cruces'** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

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

1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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

Agenda Item #7.3.

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

Agenda Item #7.3.

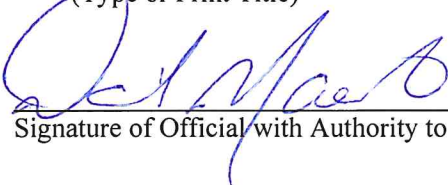
IN WITNESS WHEREOF, the parties have duly executed Agreement as of the date of execution by the Department.

GRANTEE

City of Las Cruces
Entity Name

By: David Maestas
(Type or Print Name)

Its: Interim City Manager
(Type or Print Title)


Signature of Official with Authority to Bind Grantee

8-18-2020
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

Brenda L. Suazo-Dila On behalf of Donnie Quintana
Signature

8/19/2020
Date

Agenda Item #7.3.

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. Address: _____
(Complete Mailing, including Suite, if applicable)

City, State, Zip
- C. Phone No: _____
- D. Grant No: _____
- E. Project Title: _____
- 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. 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)

Grantee Representative

Printed Name

Printed Name

Date: _____

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

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

Division Fiscal Officer

Date

Division Project Manager

Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

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 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: _____

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: \$ 0.00 _____

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: _____

1 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.

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this 19th day of August, 2020, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the City of Las Cruces, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 220, 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; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2564 \$856,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Para. 220, Eight Hundred Fifty Six Thousand Dollars (\$856,000.00) to plan, design, construct, purchase, equip and install renovations at the High Noon soccer complex in Las Cruces in Dona Ana county.

Agenda Item #7.3.

The Grantee's total reimbursements shall not exceed Eight Hundred Fifty Six Thousand Dollars (**\$856,000.00**) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")^[1], if applicable, Zero Dollars (**\$0.00**), which equals Eight Hundred Fifty Six Thousand (**\$856,000.00**) (the "Adjusted Appropriation Amount").

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 (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse^[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

Agenda Item #7.3.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
- a. The 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.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

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

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

Grantee	City of Las Cruces
Name	Amy Johnson Bassford
Title	Grants Administrator
Address	700 N. Main Street, Las Cruces, NM 88001
Email	abassford@las-cruces.org
Telephone	575-541-2281

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.

Grantee	City of Las Cruces
Name	Terri Gayhart
Title	Finance Director
Address	700 N. Main Street, Las Cruces, NM 88001
Email	tgayhart@las-cruces.org
Telephone	575-541-2080

Agenda Item #7.3.

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

Department	DFA/Local Government Division
Name	Donna Stewart
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email	DonnaJ.Stewart@state.nm.us
Telephone	505-827-4972

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Agenda Item #7.3.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

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

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or
- (iii) Twenty (20) days from the date of Early Termination; or
- (iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit 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, "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

Agenda Item #7.3.

- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

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

B. For a period of five (5) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

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

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Las Cruces** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Las Cruces**' decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Las Cruces**, the Department of Finance and Administration, Local Government Division (DFA/LGD), 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 Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a 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:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Las Cruces** may early terminate this

Agenda Item #7.3.

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Las Cruces'** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

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

1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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

Agenda Item #7.3.

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

Agenda Item #7.3.

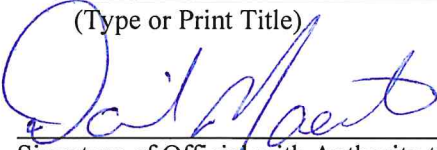
IN WITNESS WHEREOF, the parties have duly executed Agreement as of the date of execution by the Department.

GRANTEE

City of Las Cruces
Entity Name

By: David Maestas
(Type or Print Name)

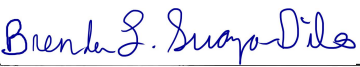
Its: Interim City Manager
(Type or Print Title)


Signature of Official with Authority to Bind Grantee

8.18.2020
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

 On behalf of Donnie Quintana
Signature

8/19/2020
Date

**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. Address: _____
(Complete Mailing, including Suite, if applicable)

City, State, Zip
- C. Phone No: _____
- D. Grant No: _____
- E. Project Title: _____
- F. Grant Expiration Date: _____

II. Payment Computation

- A. Payment Request No. _____
- B. Grant Amount: _____
- C. AI PP Amount (If Applicable): _____
- D. Funds Requested to Date: _____
- E. 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)

Grantee Representative

Printed Name

Date: _____

Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

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

Division Fiscal Officer

Date

Division Project Manager

Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

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 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: _____

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: \$ 0.00 _____

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: _____

1 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.

**STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this 19th day of August, 2020, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the **City of Las Cruces**, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 221, 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; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2565 \$78,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Para. 221, Seventy Eight Thousand Dollars (\$78,000.00) to plan, design, construct, replace and renovate the wood floors at Meerscheidt recreation center in Las Cruces in Dona Ana county.

Agenda Item #7.3.

The Grantee's total reimbursements shall not exceed Seventy Eight Thousand Dollars (**\$78,000.00**) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")^[1], if applicable, Zero Dollars (**\$0.00**), which equals Seventy Eight Thousand (**\$78,000.00**) (the "Adjusted Appropriation Amount").

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 (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse^[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code 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, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that 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:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including

Agenda Item #7.3.

terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The 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.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that 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 attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the 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. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.
- B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.
- C. Project funds shall not be used for purposes other than those specified in the Project Description.
- D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT
DESIGNATED REPRESENTATIVES**

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

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

Grantee City of Las Cruces
Name Amy Johnson Bassford
Title Grants Administrator
Address 700 N. Main Street, Las Cruces, NM 88001
Email abassford@las-cruces.org
Telephone 575-541-2281

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.

Grantee City of Las Cruces
Name Terri Gayhart
Title Finance Director
Address 700 N. Main Street, Las Cruces, NM 88001
Email tgayhart@las-cruces.org
Telephone 575-541-2080

Agenda Item #7.3.

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

Department	DFA/Local Government Division
Name	Donna Stewart
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email	DonnaJ.Stewart@state.nm.us
Telephone	505-827-4972

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five 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 email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

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

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The 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 Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the 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. Such corrective action plan must be approved by the Department and be signed by the Grantee. 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)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the 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.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, 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 such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or
- (iii) Twenty (20) days from the date of Early Termination; or
- (iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability 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 due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) 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 (or local procurement ordinance, where applicable).
- (ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit 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, "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

Agenda Item #7.3.

- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. 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 employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.
- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The 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 the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) 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 this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

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

B. For a period of five (5) years following the Project's completion, the 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 total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, 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 of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. 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.

ARTICLE XIV. SCOPE OF AGREEMENT

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

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall 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:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the **City of Las Cruces** may immediately terminate this Agreement by giving Contractor written notice of such termination. The **City of Las Cruces**' decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the **City of Las Cruces**, the Department of Finance and Administration, Local Government Division (DFA/LGD), 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 Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a 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:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the **City of Las Cruces** may early terminate this

Agenda Item #7.3.

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the **City of Las Cruces'** only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

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

1. submit all reports of annual audits and agreed upon procedures required by Section 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 Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. 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;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a 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 effective without 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 contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant 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

Agenda Item #7.3.

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

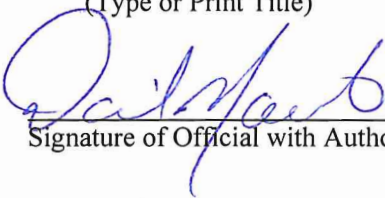
IN WITNESS WHEREOF, the parties have duly executed Agreement as of the date of execution by the Department.

GRANTEE

City of Las Cruces
Entity Name

By: David Maestas
(Type or Print Name)

Its: Interim City Manager
(Type or Print Title)


Signature of Official with Authority to Bind Grantee

8.18.2020
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

Brenna L. Suazo-Dila On behalf of Donnie Quintana
Signature

8/19/2020
Date

Agenda Item #7.3.

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. Address: _____
(Complete Mailing, including Suite, if applicable)

City, State, Zip
- C. Phone No: _____
- D. Grant No: _____
- E. Project Title: _____
- 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. 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)

Grantee Representative

Printed Name

Date:

Printed Name

Date:

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

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

Division Fiscal Officer

Date

Division Project Manager

Date

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

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 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: _____

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: _____ \$ 0.00

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: _____

1 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.

Smithsonian Invoice/ERP No. T20C010420
Smithsonian Contract No. 33330220CT0010420
Fee: \$500.00

AGREEMENT

THIS AGREEMENT is effective this 1st day of September, 2020, (the “Effective Date”) by and between the **SMITHSONIAN INSTITUTION** (“Smithsonian”), a non-profit trust instrumentality of the United States established by the Congress of the United States in 1846 (20 U.S.C. 41 *et seq.*) and having its principal offices at 1000 Jefferson Drive, SW, Washington, DC 20560, on behalf of its **National Museum of American History** (“NMAH”) and the **CITY OF LAS CRUCES dba Las Cruces Museum Systems**, whose principal address is 700 North Main, Las Cruces, NM 88001 (“Host”).

WHEREAS, NMAH is hosting the virtual National Youth Summit on Teen Resistance to Systemic Racism on September 22, 2020, and is seeking schools, libraries, other museums, and organizations to host and facilitate a discussion with participating high-school students either synchronously or asynchronously (“Regional Youth Summit”); and

WHEREAS, Host desires to participate in the Regional Youth Summit in accordance with the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, the parties agree as follows:

1. NMAH OBLIGATIONS.

- a. National Youth Summit on Teen Resistance to Systemic Racism: On September 22, 2020 at 3:00 to 4:00 p.m. Eastern Daylight Time (EDT), NMAH will livestream a discussion program from NMAH in Washington, DC, entitled National Youth Summit on Teen Resistance to Systemic Racism. The event will include a slate of experts discussing and examining the history and legacy of teen resistance to systemic racism in the United States and its connections to the present.
- b. Webcast: NMAH will produce a live webcast of the event and provide Host access for participating students through the Host’s chosen virtual platform.
- c. Conversation Kit: NMAH will provide Host with a Conversation Kit for use with student participants in the Regional Youth Summit. The Conversation Kit shall include educational content regarding the history and legacy of teen resistance to systemic racism in the United States.
- d. Evaluation and Feedback: NMAH will provide Host with a final survey for feedback regarding the experience of the Host and their participation in the Regional Youth Summit.

2. HOST DELIVERABLES.

- a. Regional Youth Summit Programming: Host will design programming and educational content around the subject of teen resistance to systemic racism for an audience of **local high school students who are at least 14 years old**. The programming must also include an on-site Host moderator and/or speaker(s) to engage participating students in discussion about the content provided and the live Webcast. (*If Host cannot host the live Webcast, Host may facilitate its Regional Youth Summit during the week of September 21st. Host will receive all the necessary materials to host their own Summit with their students.) The programming must be designed in accordance with the terms of the attached statement of work, attached hereto as Attachment A (“Statement of Work”).
- b. Marketing Plan: Host will submit a plan to NMAH on how Host will publicize, market, and promote

Agenda Item #7.3.

the Regional Youth Summit and Webcast to local school districts and other organizations in order to maximize participation in the Regional Youth Summit at Host's location by area high-school students. The marketing plan shall be completed in accordance with the requirements outlined in the attached Statement of Work.

- c. Location: Host will host the Regional Youth Summit virtually on a platform of Host's choosing. Host is solely responsible for securing the location for the Regional Youth Summit at its sole expense.
 - d. Watch Party: On September 22, 2020 at 3:00 to 4:00 p.m. Eastern Daylight Time (EDT), Host will host a watch party with students participating in the Regional Youth Summit and show the live Webcast. Host will also provide its designed education programming to students and lead students in a discussion about the Webcast, and the history and legacy of teen resistance to systemic racism in the United States. Host will accommodate all accessibility requests for the Watch Party, such as sign language interpretation. **Host shall get signed permission from a parent or guardian of each student participant aged 14 through 17, for each Host facilitator, moderator, and/or speaker, and/or all other participants.** The Watch Party shall be conducted in accordance with the requirements outlined in the attached Statement of Work.
 - e. Final Survey and Report/Feedback: Host will complete the final evaluation survey provided by NMAH and return the survey with report/feedback to NMAH (email acceptable) no later than October 12, 2020. Host facilitators, moderators, and/or speakers should complete the survey and provide feedback on their experience with the Regional Youth Summit. **No student responses, data, or personal information shall be collected or reported in this survey.** Host will also submit a final report detailing the marketing plan and feedback on its effectiveness. The Final Survey and Report/Feedback shall be completed and submitted in accordance with the requirements outlined in the attached Statement of Work.
3. **PERIOD OF PERFORMANCE.** This Agreement is effective upon September 1, 2020, and shall continue until October 12, 2020, unless terminated earlier in accordance with the termination provisions of this Agreement.
 4. **PARTICIPATION FEE.** Host shall be paid a total fee of **Five Hundred U.S. Dollars (US\$500.00)** for its participation in the Regional Youth Summit and completion of all services and deliverables outlined in Section 2 of this Agreement ("Participation Fee"). No other amounts shall be due and payable to Host as result of this Agreement. The Participation Fee shall be paid to Host in one (1) installment upon Host's submission and Smithsonian's acceptance of the Deliverables identified in Section 2, and Smithsonian's receipt of a properly submitted invoice. Host shall submit a written invoice for payment to Abby Pfisterer (pfisterera@si.edu) referencing the Smithsonian Invoice No. and Fee referenced on the top right corner of Page 1 of this Agreement. **NOTE:** The Prompt Payment Act, P.L.97-177 (31 U.S.C Section 3903 et. seq.), is not applicable to the Smithsonian. The Smithsonian shall take all reasonable measures to ensure that payment for invoice(s) properly documented and submitted shall be paid within 30 days from receipt of an approved proper invoice(s), unless otherwise indicated herein.
 5. **INSURANCE.** Intentionally omitted.
 6. **USE OF SMITHSONIAN NAMES.**
 - a. The Smithsonian owns, controls and/or has registered the trademarks/service marks "Smithsonian," "Smithsonian Institution," "National Museum of American History" "NMAH," and the Smithsonian sunburst logo (collectively, the "Names"). Host acknowledges the great value,

prestige, publicity and goodwill associated with the Names, and in such connection, acknowledges that such goodwill belongs exclusively to the Smithsonian and that the Names have acquired a secondary meaning in the mind of the purchasing public as a source of museum services and museum products of the Smithsonian. Host agrees that it shall not knowingly harm, misuse, or bring into disrepute the Names, and will assist the Smithsonian as it may reasonably request in preserving the integrity and dignity of the Names and any trademark interest therein.

- b. Restricted Uses. Host may use the Names in connection with its marketing and promotion of the Regional Youth Summit and the Webcast only. Host may make use of the Names in a client “resume” format, so long as Host lists the Smithsonian among a significant portion of its other clients, without placing the Names in a prominent position or typeface, or otherwise drawing special attention to the Names among other client names. Host shall not have the Names printed on its letterhead stationery or brochures advertising non-Smithsonian sponsored activities. Host is specifically barred from claiming any endorsement from the Smithsonian or from claiming that Host is a preferred provider or otherwise special among other similar clients.
- c. Inclusion of Section. Host shall include the terms of this Section (“Use of Names”) in any contracts with other parties providing services related to the performance of this Agreement, such as but not limited to subcontractors related to or performing the work contemplated in this Agreement.
- d. Smithsonian Approvals. Host’s use of the Names shall maintain the dignity and integrity of the Smithsonian. All of the language, phrases, format, and/or layout concerning or referring to the Names pertaining to the subject matter of this Agreement shall be submitted to the Smithsonian for prior written approval. Once approved, Host may continue to use such materials without further approval, provided that there are no significant changes in text, layout, content or design. Host shall place an appropriate notice of trademark ownership or federal trademark registration next to all of the Names as they are displayed. Any inadvertent failure shall not constitute a breach of this Agreement.

7. **INDEMNIFICATION.** To the extent authorized by law, Host shall be responsible for all damage and expense to person(s) or property caused by the negligent and/or unlawful acts of Host, its employees, agents, invited guests and participants in connection with the services performed under this Agreement to include, but not limited to any and all claims, liability, loss, injury, including death, damages, expenses, and/or costs related to its breach of this Agreement; Host’s participation in the Regional Youth Summit and Webcast; Host’s marketing and promotion activities and/or materials; any use of content and materials created or distributed by Host to participants, filming and/or photography of the Watch Party by Host; Host’s Watch Party event; Smithsonian’s use of the video of student(s)’ questions and use of any and all other materials created and/or provided by Host to NMAH, speakers, moderators, students, and other participants in the Regional Youth Summit. To the extent authorized by law, Host shall indemnify, hold harmless, and defend the Smithsonian Institution, its museums, Regents, officers, agents, employees and the United States Government from and against all claims, liability, injury, costs and expenses (including reasonable attorney fees) for any act and/or omission of Host, its employees, agents, participants, invited guests, or subcontractors related directly or indirectly to any aspect of this Agreement or performance of the services hereunder.

8. **INTELLECTUAL PROPERTY.**

- a. Smithsonian Property: The Smithsonian Institution shall retain all right, title and interest in and to the Webcast, Conversation Kit, final evaluation survey and collected data, final reports of all Hosts, the video(s) of student questions, and any and all other materials provided and/or produced by Smithsonian in connection with the National Youth Summit on Teen Resistance to Systemic Racism and/or the Webcast (collectively “Smithsonian Property”). In no event, will anything in this Agreement be construed to convey any ownership rights in any Smithsonian Property to Host and/or its participants. Host has a limited one-time license to distribute the Conversation Kit and

Webcast during the Watch Party to participants in the Regional Youth Summit at Host's location only. Host shall not use the Conversation Kit in whole or in part for any purpose other than the Regional Youth Summit without the prior express written permission of the Smithsonian. Host shall not record or otherwise duplicate the Webcast or make any use whatsoever of the Webcast in whole or in part other than during the live Watch Party.

- b. Host: Subject to Smithsonian's underlying rights specified in subsection 8.a. above, Host shall retain all rights, title and interest to the Conversation Kit produced for student participants, any photography and/or filming done by Host to document the Watch Party / Regional Youth Summit, Host's marketing and promotional plan and materials ("Host Property"). Host shall conduct any photography and/or filming at its chosen Watch Party / Regional Youth Summit location on its own and is solely responsible for obtaining written releases from all persons (including but not limited to facilitators, moderators, and speakers) featured, and from parent/guardian of student participants for any photography and filming of student participants. In no event shall the Smithsonian be liable for any filming or photography activities of Host.

9. **AUTHORIZED REPRESENTATIVES.**

- a. Smithsonian's Contracting Officer. For the purposes of liaison and direction in contractual interpretation matters, dispute resolution, or for modification of this Agreement, Smithsonian shall be represented by Smithsonian's Contracting Officer, or his/her designee.
- b. Contracting Officer's Representative ("COR"). For purposes of liaison, providing guidance, and direction in daily operational matters, granting approvals or withholding same, and for general contract coordination as detailed herein, Smithsonian's Contracting Officer shall be represented by **Abby Pfisterer, Education Specialist**, National Museum of American History. The COR does not have the authority to, and may not issue any technical direction which: (1) constitutes an assignment of additional work outside the existing specifications/scope of work; (2) constitutes a change; (3) in any manner causes an increase or decrease in the total contract cost, the total fee, or the time required for contract performance; (4) changes any of the expressed terms, conditions, or specifications of the contract; or (5) interferes with the Host's right to perform the terms and conditions of the contract. All authorities not herein delegated are reserved to the Contracting Officer.
- c. Host. Host shall be represented by **Jennifer Robles, Museum Administrator**, for all matters pertaining to this Agreement.
- d. Substitution of Representatives. The parties shall advise each other in writing of any substitution for said representatives.

10. **NOTICES**. Any permissions or notices required to be sent under this Agreement shall be sent by registered mail, return receipt requested, or other method evidencing receipt, to the following addresses:

For SMITHSONIAN:

For Project Coordination Matters:

Abby Pfisterer
National Museum of American History, Smithsonian Institution
12th Street and Constitution Avenue NW
MRC 603, Room MBB66
Washington, DC 20013
Tel: 202-633-7771
Email: pfisterera@si.edu

For Contractual Matters:

Contracting Officer

Agenda Item #7.3.

Office of Contracting, Smithsonian Institution
MRC 1200, PO Box 37012
Washington, D.C. 20013-7012
Attn: Kimberly Brown
Tel: 202-633-7409
Email: brownk2@si.edu

For HOST:

City of Las Cruces dba Las Cruces Museum Systems

Jennifer Robles
Museum Administrator
Las Cruces Museum Systems
700 North Main
Las Cruces, New Mexico 88001
jrobles@las-cruces.org
(575) 541-2321

11. TERMINATION.

- a. **Force Majeure.** If either party is delayed or prevented from performing its obligations hereunder due to an act of God, pandemic, fire, flood, labor dispute, war, riot, civil disturbance, terrorist act or credible threat of same, act of the U.S. Government in either its sovereign or contractual capacity, or any other cause beyond the reasonable control of such party, such delay shall be excused during the continuance of and to the extent of such cause. However, if such delay exceeds sixty (60) days, either party may terminate this Agreement upon written notice to the other party, and all rights and obligations hereunder shall cease.
- b. **Breach.** This Agreement may be terminated upon breach of any material term of the Agreement, provided that the party claiming a breach has provided written notice to the other party and offered such party thirty (30) days, from the date notice is given, in which to cure such breach. If the breach is not cured, the Agreement shall terminate effective the thirty-first (31st) day following the date of notice, subject to the terms set forth below.
- c. **Conduct Upon Termination.** Upon termination, the parties shall proceed in an orderly fashion to terminate any outstanding commitments and to conclude all services. The parties agree that in the case of termination, the parties respectively will return any original materials in possession at the time of termination furnished or owned by the other party in conjunction with the performance of this Agreement. In particular, Host will cease and desist from any and all use of the Smithsonian Names. Furthermore, Host shall not exploit in any manner its association with Smithsonian, unless the parties otherwise agree in the writing at the time of termination.

12. **AMENDMENTS.** No amendments, modifications, or waivers to this Agreement shall be valid unless in writing and signed by all parties to the Agreement.

13. **ASSIGNMENT.** No assignment shall be permitted absent the written approval of both parties. This Agreement shall be binding upon the heirs, assigns, executors, or administrators of Smithsonian and upon the successors in interest of Host.

14. **APPLICABLE LAW.** This agreement shall be governed by and in accordance with federal law, and, to the extent applicable, the laws of the District of Columbia, regardless of the place of execution or performance.

15. **NON-DISCRIMINATION.** In fulfilling its obligations under this Agreement, both parties agree not to discriminate on the basis of race, creed, color, religion, sex, sexual orientation, age, national origin, disability or for any other reason prohibited by Federal or applicable state law.
16. **NO WAIVERS.** The waiver by any party or the failure by either party to claim a breach or default of any of the provisions of this Agreement shall not constitute a waiver of any succeeding breach whether of a similar or dissimilar nature, nor shall any delay or omission on the part of either party to exercise any right that it has under this Agreement operate as a waiver of such right.
17. **INDEPENDENT CONTRACTOR:** It is understood that Host is an independent contractor and not an employee of the Smithsonian, and neither Host nor Host's employees are eligible for Smithsonian benefits, including but not limited to, coverage under FECA (worker's compensation) or coverage under any Smithsonian worker's compensation, medical, liability or other insurance policy or for legal protections afforded to employees under law applicable to employment relationships.
18. **NOT A PARTNERSHIP.** The parties, by this Agreement, do not intend to create a partnership, principal/agent, master/servant, or joint venture relationship and nothing in this Agreement shall be construed as creating such a relationship between the parties. Neither party may incur any obligation on behalf of the other.
19. **NO THIRD-PARTY BENEFICIARIES.** This Agreement has been made and is solely for the benefit of Smithsonian and Host. Nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any persons or entities other than the parties to it. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons or entities to any party to this Agreement.
20. **SEVERABILITY.** If any term or provision of this Agreement shall be held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.
21. **RECITALS & HEADINGS.** The recitals herein constitute an integral part of the Agreement reached and are to be considered as such. However, the captions and headings contained in this Agreement have been inserted for reference and convenience only and shall not be used in its interpretation.
22. **JOINTLY DRAFTED.** This Agreement shall be deemed to have been drafted by both parties and, in the event of a dispute, shall not be construed against either party as drafter.
23. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall constitute an original.

24. **ENTIRE AGREEMENT.** This Agreement together with its attachment(s), constitutes the entire agreement between the parties and supersedes all previous agreements on this matter. There are no other written or oral agreements, representations, or understandings with respect to the subject matter of this Agreement.

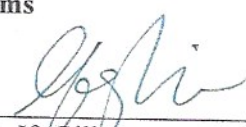
ACCEPTED AND AGREED:

SMITHSONIAN INSTITUTION


Contracting Official

10/7/2020
Date

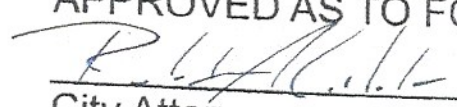
**CITY OF LAS CRUCES dba Las Cruces Museum
Systems**


Name: Ifo Pili
Title: City Manager

9/20/20
Date

Attachment A: Statement of Work

APPROVED AS TO FORM:


City Attorney

ATTACHMENT A: STATEMENT OF WORK

National Youth Summit on Teen Resistance to Systemic Racism

Introduction

On September 22, 2020, the Smithsonian Institution, National Museum of American History (NMAH) will host a program, National Youth Summit on Teen Resistance to Systemic Racism. A panel of experts will examine the topic and participating students will discuss the history and connections to the present through discussions led by their teachers and caregivers, regional summits and Smithsonian educators. The program is designed to help students examine the history and legacy of teen civic engagement to address injustice in American History.

Scope of Work

To create a program about the history and legacy of teen civic engagement to address systemic injustice, the Affiliate shall organize a Regional Youth Summit in conjunction with the webcast of NMAH's National Youth Summit on September 22, 2020.

Contracting Officer Technical Representative (COTR)

Abby Pfisterer, Education Specialist
National Museum of American History
12th Street and Constitution Avenue N.W.
MRC 603 Room MBB66
Washington, DC 20013-7012
Telephone #: 202-633-7771
Fax #: 202-357-9849
Email: pfisterera@si.edu

Specific Tasks:

The Affiliate shall:

- Work with local school districts to host a 60 minute virtual Regional Youth Summit on the topic of the National Youth Summit. The Regional Youth Summit can be held synchronously with the National Youth Summit from NMAH or asynchronously, depending on the Regional Summit's institutional needs and needs of your local community. Regional Summits should include:
 - Screening or sharing via the Affiliate's social media channels two 15-minute webcast panel discussions from NMAH about the Summit topic.
 - Facilitating a virtual discussion with participating students on the Summit topic and using the educational materials provided by NMAH
 - Sharing supplemental materials or resources with teachers, students, and caregivers from your institution that connect to the Summit topic

Agenda Item #7.3.

- The program should include, but not be limited to:
 - An audience of at least 10 9th-12th grade students
 - Skilled facilitator(s) (Regional Summit staff or external) to moderate virtual group discussion during the Regional Summit. The moderator should be someone who is comfortable and/or familiar with the subject matter and with facilitating a public, age-appropriate conversation.
- Submit a description of the planned Regional Youth Summit to NMAH once the program participants are confirmed and no later than September 10, 2020.
- Provide teachers with the digital PDF Case Study and Conversation Kit for the 2020 National Youth Summit and other educational material from NMAH that shall contain pre- and post-summit materials supplied by NMAH. Collaborator shall encourage teens to leave the program thinking about social activism in their communities today.
- Actively utilize approved marketing/communications tools including but not limited to:
 - Marketing in newsletters, email lists, via social media, or other advertising to promote local participation in the Regional Youth Summit.
 - Mandatory use of approved Smithsonian Institution logo and tagline on all collateral/marketing materials (*Smithsonian Affiliations to provide*).
 - Distribute a press release—Smithsonian template or draft a press release.

All materials referencing the Smithsonian must be sent to Aaron Glavas at Smithsonian Affiliations prior to publication for logo and credit line approval. All materials referencing the National Youth Summit should include the following credit line: This program is presented by the National Museum of American History in collaboration with Smithsonian Affiliations. All materials referencing the Regional Youth Summit should include the following credit line: This program is made possible through the support of the Smithsonian Institution.

- Affiliate is solely responsible for its operation of its Regional Youth Event, including but not limited to taking steps to ensure its own legal compliance such as:
 - Reasonable accommodations for accessibility requests
 - Protection of minors, including establishing and following its own code of conduct. If Affiliate does not have an established code of conduct at this time, Affiliate shall take steps to ensure that the Regional Youth Summit facilitator and any other persons involved in the Regional Summit comply with the Smithsonian's Code of Conduct for the Protection of Minors. <https://sinet.sharepoint.com/sites/PRISM2/SIOrganization/OCFO/OPMB/SD/SD124-AppA.pdf>
 - Cybersecurity, such as taking steps to prevent "zoom bombings" or similar disruption.
 - Adequately staffing the event to promptly resolve disruptions, whether resulting from technical glitches or participant behavior.

Agenda Item #7.3.

- Obtaining any consents and releases needed from adults who will contribute to or participate in the Regional Summit.
 - Obtaining parent or legal guardian consents for (i) student participation in the event; (ii) any photography or other recordings Affiliate will make of its Regional Summit in which the student may appear; (iii) how the affiliate will use such photographs/recording (to include sharing images and documentation of the Regional Summit with the Smithsonian for reporting purposes under this Agreement, which may include the student's image, comments, or other participation (and if public/social media uses are contemplated, Affiliate shall explicitly seek consent for that); (iv) student participation in an optional Smithsonian survey following the event.
- Notify Smithsonian Affiliations if unforeseen circumstances prevent you from completing the requirements for implementation (glavasc@si.edu)
 - After completion of your program:
 - Distribute an anonymous and voluntary evaluation to all teachers and students following the program. Evaluation must include questions provided by NMAH as well as ones developed by the Regional Summit that address their established goals for the program.
 - Provide an invoice, photographs and videos of the program, and a report outlining the results of the discussion and general observations to NMAH by October 12, 2020.

Deliverables:

September 10, 2020	1. Submit a description of the Regional Youth Summit including moderator, speakers, anticipated number of participating students with grade level(s), and a marketing plan to promote the event to your local community especially local teachers.	
September 22, 2020	2. 3:00 - 4:00 PM ET Time determined by Affiliate	<i>National Youth Summit</i> <i>Regional Youth Summit</i>
October 12, 2020	3. Submit videos and photos of the event, report detailing the program and marketing efforts, evaluation data, and invoice #1 to NMAH.	

All deliverables shall be forwarded to Abby Pfisterer, COTR.

Period of Performance:

All work for this contract shall begin on or about September 1, 2020, and shall end no later than October 12, 2020. Payment shall be made in one part as listed in the payment schedule.

Payment Schedule:

Agenda Item #7.3.

One payment in the amount of \$500.00 shall be made by Electronic Funds Transfer (EFT) upon completion of deliverables 1-3 and receipt of a proper invoice.

**21-066**

City Council Action and Executive Summary

Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6		
1st Reading:	October 19, 2020	Adopted:	October 19, 2020
Drafter:	Catherine Duarte	Department:	Economic Development
Program:	Land Management and Real Estate Services	Line of Business:	Land Management and Real Estate Services

Title: A RESOLUTION AUTHORIZING A REAL ESTATE PURCHASE AGREEMENT BETWEEN PKL PROPERTY MANAGEMENT, LLC TO CITY OF LAS CRUCES FOR THE PURCHASE OF A 1.64 ACRE PARCEL OF LAND LOCATED AT 850 N. MOTEL BOULEVARD FOR THE PURCHASE PRICE OF ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND DOLLARS (\$1,272,000.00), IN ACCORDANCE WITH PROVISIONS OF THE LCMC 1997, SECTION 2-1312.

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

PURPOSE(S) OF ACTION:

To approve the purchase of real property by the City of Las Cruces.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

This Resolution authorizes the City to purchase a 1.64-acre parcel of land located at 850 N. Motel Boulevard from PKL Property Management LLC (PKL). The property includes a 15,000 square foot commercial office building and is legally described as Palms Center Subdivision, No. 7. The negotiated purchase price is \$1,272,000.00.

The City will purchase this property from PKL for the benefit of Children Healing in Las Cruces and Dona Ana County (CHILD). CHILD exists as a non-profit entity to the support of and ownership of capital assets for the benefit of La Pinon Sexual Assault Recovery Services and Child Advocacy Center (or La Pinon). The City has had a professional relationship with La Pinon for over 25-years in providing support to the Las Cruces community for victims of sexual assault through various programs. As La Pinon provides support to the needy in the community and works diligently on cases with local law enforcement, a proposal was submitted by CHILD and La Pinon for the City to assist with the property acquisition, with the intent of CHILD (and thus La Pinon) to lease the property with the intent to purchase the property at appraised value over time.

CHILD has leased the property from PKL on behalf of La Pinon, which has offered its services out of this location for many years. Thus, the property is the preferred location for La Pinon to continue providing these much needed services.

CHILD will provide \$72,000.00 of its own funds as an earnest money deposit, to be credited towards the purchase price upon closing. The City shall furnish the remaining balance of \$1,200,000 upon closing.

City has negotiated a Lease to Purchase agreement with CHILD (and thus La Pinon) to lease the property with the intent to purchase. The agreement will provide monthly rental payments, with interest, to the City as landlord, in which each rental payment will provide credit towards the purchase of the property by CHILD. This

Agenda Item #7.4.

arrangement will provide assistance to CHILD and La Pinon for continued and uninterrupted services to the community out of their long-established location.

The property was appraised by two local appraisers in May 2020. One appraiser concluded a value of \$1,275,000 while the other appraiser valued the property at \$1,285,000. The negotiated purchase price is \$1,272,000.00. Summaries of both appraisals are shown on Attachment "A".

The closing for the sale of the Property shall occur on a mutually agreeable date after the adoption of this proposed Resolution authorizing City's acquisition and completion of the City's due diligence. The proposed Resolution, if approved, will authorize the City Manager to sign the Purchase Agreement and any other required documents to purchase the property on the City's behalf.

SUPPORT INFORMATION:

[Exhibit "A"; Real Estate Purchase Agreement.](#)

[Attachment "A"; Appraisal Reports.](#)

[Attachment "B"; Vicinity Map.](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☐ Yes

☒ No

☐ N/A

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:

\$1,200,000

AVAILABLE AMOUNT:

\$1,200,000

EXPENDITURE AMOUNT:

\$1,200,000

Additional Budgetary Information:

Earnest money of \$72,000 being paid by Children
Healing in Las Cruces and Dona Ana County
(CHILD)

Funding Source(s):

20153001-801000-11822

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

☐ Yes

☐ No

☐ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and the Real Estate Purchase Agreement for the City to purchase the commercial property located 850 Motel Boulevard from PKL Property Management LLC for \$1,272,000.00.

2. Vote "No"; this will not approve the Resolution and will reject the Real Estate Purchase Agreement and PKL Property Management will retain ownership of the land.

3. Vote to "Amend"; this will allow the City Council to modify the terms of the agreement and then adopt the Resolution.

Agenda Item #7.4.

4. Vote to "Table"; this will allow the City County to table/postpone the proposal and/or direct staff to seek alternative direction.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION 21-066

A RESOLUTION AUTHORIZING A REAL ESTATE PURCHASE AGREEMENT BETWEEN PKL PROPERTY MANAGEMENT, LLC TO CITY OF LAS CRUCES FOR THE PURCHASE OF A 1.64 ACRE PARCEL OF LAND LOCATED AT 850 N. MOTEL BOULEVARD FOR THE PURCHASE PRICE OF ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND DOLLARS (\$1,272,000.00), IN ACCORDANCE WITH PROVISIONS OF THE LCMC 1997, SECTION 2-1312.

The City Council is informed that:

WHEREAS, City desires to purchase a 1.64 acre parcel of land located at 850 N. Motel Boulevard from PKL Property Management LLC (PKL). The property includes a 15,000 square foot commercial office building also legally described as Palms Center Subdivision No. 7; and

WHEREAS, the property includes a 15,000 square foot commercial office building and is legally described as Palms Center Subdivision No. 7; and

WHEREAS, the negotiated purchase price is \$1,272,000.00; and

WHEREAS, the property will be utilized to benefit the Children Healing in Las Cruces and Dona Ana County, (CHILD) a non-profit organization to continue to operate as La Pinon Sexual Assault Recovery Services and Child Advocacy Center for the Las Cruces community and Dona Ana County; and

WHEREAS, CHILD will give \$72,000.00 of its funds as earnest money at closing to be credited towards the purchase price of the property; and

WHEREAS, the property was appraised at by two local appraisers, one appraiser concluded a value of \$1,275,000, while the other appraiser valued the property at \$1,285,000; and

WHEREAS, pending the approval from of purchase, from PKL, City staff will bring forward for City Council's consideration a Lease to Purchase (LTP) Agreement between City and CHILD; and

WHEREAS, this LTP agreement will allow CHILD to continue uninterrupted operations and services to the community out of their long-established location and will ultimately will provide the provision for CHILD to obtain ownership of the property; and

WHEREAS, CHILD will pay the Lease/Purchase monthly with interest to the CITY as landlord and for each rental payment will provide credit towards the purchase of the subject property by CHILD.

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

(I)

THAT the Real Estate Purchase Agreement for the purchase of commercial property located at 850 N. Motel Boulevard from "PKL" attached hereto as Exhibit "A", and made a 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

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT is entered into on this 19th day of June, 2020, between the **City of Las Cruces**, a New Mexico municipal corporation ("City") and **PKL Property Management LLC** ("PKL."), whose address is 5120 Calle Bellisima, Las Cruces, NM 88011.

RECITALS

1. PKL is the owner of the real property and improvements thereon as more particularly described in Exhibit "A," attached hereto and incorporated herein (the "Property").
2. PKL desires to sell the Property, including all fixtures and improvements located at the Property, to City.
3. City desires to purchase the Property for cash or certified funds.

NOW, THEREFORE, for valuable consideration, the City and PKL agree as follows:

TERMS AND CONDITIONS**1) Purchase Price.**

The purchase price for the Property shall be One Million Two Hundred Seventy Two Thousand Dollars (\$1,272,000) cash or certified funds, payable as follows:

- A. \$72,000 as an earnest money deposit which City shall deposit with Las Cruces Abstract & Title Company upon signing this Agreement by the parties. The earnest money is to be applied to the purchase of the Property at the Closing. As the City will be entering into a lease/purchase agreement with C.H.I.L.D. immediately following this closing, the \$72,000 credit will apply for C.H.I.L.D. as well. That lease/purchase agreement shall be a separate agreement and not involve PKL. If contract terminates prior to closing, the earnest money will be returned to the Buyer; and
- B. And \$1,200,000.00 in cash or certified funds at Closing (defined below).

2) Closing Date.

The "Closing" for purchase of the Property shall occur on a mutually agreeable date after the adoption of the resolution authorizing City's acquisition of the Property pursuant to the terms of this Agreement (the "Resolution") by the City Council pursuant to Section 2-1313. The City Council approval of the Resolution shall occur prior to the expiration of the Inspection Period (defined below). No closing can occur without the adoption of the

Resolution authorizing the City's acquisition. Parties agree to set closing on or before _____, 2020, which may be extended by the City if either inspection are incomplete or the Resolution is not adopted.

3) **Inspection Period.**

- A. The "Inspection Period" shall commence on the date of the City's execution of this Agreement (the "Acceptance Date") and shall end sixty (60) days from the Acceptance Date; provided, however, City shall be granted three (3) fifteen (15) day extensions of the Inspection Period. City will provide written notification of its intent to exercise any such extension option prior to the expiration of the Inspection Period including any applicable extensions thereof.
- B. Seller is required to disclose to Buyer any adverse material defect know to Seller about the Property. Within 15 days of an Agreement, Seller shall provide to Buyer true, correct and complete copies, to the extent that they are in the Seller's control or possession of the following: previously prepared environmental audits and inspections, physical inspection reports, maintenance information, warranties, service and other contracts, engineering reports, hydrology reports, drainage information, grading information, soils reports, topography information, utility reports and information, building plans and specifications, certificates of occupancy, plats, prior surveys, site plans, tax assessments and tax bills for the past two (2) years, utility bills, governmental and quasi-governmental notices, a schedule of all lawsuits (except suits initiated by Seller against tenants no longer occupying space at the Property) pending or threatened related to the Property (including a summary of relevant facts, status of the action, parties, court and attorneys involved), and such other information, notices, correspondence, agreements and other materials, if any, in Seller's possession related to the Property.
- C. Prior to the end of the Inspection Period, Buyer may disapprove the Property and/or any time related to the Property in writing. In such event, Buyer, at Buyer's election, may either terminate this Agreement or give notice to Seller requesting that Seller cure the items disapproved by Buyer. Seller shall have the obligation, at Seller's expense, to satisfy and remove at or before the Closing all monetary encumbrances disapproved by Buyer. Regarding disapproval by Buyer of items other than monetary encumbrances, within five (5) days of Buyer's notice requesting Seller's cure, Seller shall provide notice to Buyer of Seller's proposed cure and the time period necessary for Seller to effectuate the cure. If Buyer agrees to Seller's proposed cure, the Closing Date shall be extended, if necessary, consistent with the time period specified for Seller's cure. If Buyer elects to terminate this Agreement, the Earnest Money, shall be delivered to C.H.I.L.D.
- D. City shall review all the information regarding the Property provided by PKL. In addition, during the Inspection Period, City may perform such other inspections and review such other information as reasonably desired by it. Such inspection, unless otherwise specified in this Agreement, shall be at City's sole expense. Such inspections and reviews may include, but are not limited to, physical inspection of the Property, environmental inspection of the Property, soil inspection, and review of governmental approvals and permits related to the properties' zoning, title, survey, service agreements, management

- contracts, leases, and financial information. After signing the Agreement, City or designated agents of City, may inspect the Property and conduct tests deemed necessary by City at its expense; however, any damage to the Property will be repaired at City's expense promptly if this Agreement is terminated.
- E. As soon as reasonably possible following the execution of this Agreement, PKL, shall furnish City a commitment of owner's policy of title insurance ("Commitment") for the Property together with full copies of all exceptions set forth therein, including but not limited to covenants, conditions, restrictions, reservations, easements, rights of way, assessments, liens and other matters of record. During the Inspection Period, City shall notify PKL of its disapproval of any title discrepancies shown in the Commitment. Seller will pay for Title Commitment and Survey. Parties agree to use current Survey if approved by Title.
- F. PKL shall have until fifteen (15) days prior to the Closing to eliminate any valid exception(s) or reservations, except patent reservation(s) from the policy of title insurance to be issued in favor of City, and if not eliminated, then the earnest money deposit and accrued interest, in its entirety, shall be refunded, unless City then elects to waive such condition. The policy of title insurance shall be a standard coverage policy in the amount of the total purchase price and shall be paid for by PKL.
- G. During the Inspection Period, City may disapprove the Property and/or any items related to the Property in its sole discretion for any reason or no reason. In such event, City may elect to either terminate this Agreement or give written notice to the PKL requesting that PKL, cure the items disapproved by the City. In the event this contingency or any other contingency to this Agreement has not been eliminated or satisfied within the time limits and pursuant to the provisions herein, and unless City elects to waive the specific contingency by written notice to PKL, this Agreement shall be deemed null and void, the earnest money deposit and accrued interest, in its entirety, shall be promptly returned to C.H.I.L.D., and neither party shall have any rights or liabilities under this Agreement.
- D. At Closing, PKL shall execute and deliver a warranty deed conveying the Property to City, reserving and excepting therefrom any surface irrigation or supplemental ground water rights appurtenant to the Property; however, such appurtenant water rights shall be suspended and transferred by PKL at its sole expense; and further subject to all patent reservations and to all other existing liens, encumbrances and other exceptions of record except those exceptions and reservations which are eliminated by PKL pursuant to this Agreement; provided, however, the Property shall be delivered free of any monetary liens and encumbrances other than taxes and assessments not yet due and payable.
- E. PKL, to the best of its knowledge, represents and warrants to City as of the date of this Agreement and as of the date of Closing as follows: 1) PKL, is the sole owner of the Property and has the full right, power and authority to sell the Property to City as provided in this Agreement; 2) PKL is not aware of any unpaid liens or assessments, or items which could result in a lien, related to the Property; 3) the Property is not subject to any historical property designation and/or development limitation; 4) no other party has any rights to possession of the Property; 5) no work has been performed which has not been paid for or which could give rise to any mechanic's or materialmen's lien being filed against the

Property; and 6) no lawsuit or other claim is pending or threatened against PKL (with respect to the Property or the terms of this Agreement) and/or the Property.

4) **Lead-Based Paint (LBP).**

If any part of this Property is a RESIDENCE built before 1978, SELLER MAY NOT ACCEPT AN OFFER FROM BUYER UNTIL SPECIFIC DISCLOSURES REGARDING LBP HAVE BEEN MADE TO THE BUYER. Additionally, both Residential AND certain commercial building built prior to 1978 are subject to the Lead Based Paint Renovation Repair and Painting Program (RRPP).

5) **Costs, Fees, and Alternative Dispute Resolution.**

- A. The Commitment of Title Insurance and the Title Policy Premium shall be paid by PKL; and all other closing costs will be split equally between the City and PKL.
- B. Applicable real property taxes shall be prorated through the date of Closing based on the latest tax information available to the Title Company. PKL shall pay all special assessments, standby charges, prorated charges and other similar charges and/or assessments existing at the time of Closing.
- C. Prior to the institution of any litigation, however, the parties have the contractual duty to, in good faith, attempt to resolve any controversy hereunder at the least possible expense using alternative dispute resolution. Should alternative dispute resolution fail and litigation be brought, if either party is found by a court to have breached this Agreement, the other party may recover its costs, including reasonable attorney fees.

6) **Compliance with Code and Statutes.**

The City has complied or will comply with the requirements of the Las Cruces Municipal Code and New Mexico State statutes and has or will obtain the authority to purchase the Property from PKL.

7) **Material Change.**

No Material Change, as hereinafter defined, shall have occurred before the Closing with respect to the Property that has not been approved in writing by Buyer. For purposes of this Agreement, "Material Change" shall mean a change in the status of a use, occupancy, tenants, financial condition or physical condition of the Property. In the event of a Material Change, Buyer, at Buyer's election, may terminate this Agreement after receiving notice from Seller of such Material Change. If Buyer terminates this Agreement, the Earnest Money and all interest accrued thereon shall be returned to Buyer.

8) **Risk of Loss.**

In the event of damage or destruction of all or any portion of the Property by wind, water, fire or other casualty, Seller will promptly notify Buyer of the nature and extent of such damage or destruction. In such event, Buyer in its sole discretion, may either terminate this

Agreement, negotiate a mutually acceptable reduction in the Purchase Price, obtain an assignment of insurance proceeds from Seller or apply insurance proceeds received by Seller as of the Closing to the Purchase Price. Prior to Closing, risk of loss with respect to the Property shall be on Seller. After Closing, risk of loss with respect to the Property shall be on the Buyer.

9) **Possession.**

Possession of the Property will be released to City at Closing and keys shall be delivered by Seller to Buyer at the Closing.

10) **Counterparts, Amendments, Invalidity & Entire Agreement.**

This Agreement may be executed in one or more identical counterparts, and all counterparts so executed shall constitute one agreement which shall be binding on the parties. This Agreement cannot be amended except as agreed to in writing by the parties. If any provision of this Agreement is determined to be invalid, ineffective, inoperative, unenforceable, or contrary to law, all the remaining provisions of this Agreement shall remain in full force and effect. This Agreement (included all exhibits and addenda) and Disclosure Statements covering the Property constitute a fully integrated document and represent the entire understanding and agreement between Buyer and Seller regarding the Property. All prior discussions, events, or representation, warranties and agreements regarding the Property are hereby superseded and replaced by this Agreement. The parties to this Agreement affirm that the terms and provisions of this Agreement accurately reflect their intent. All exhibits and addenda to this Agreement are incorporated into this Agreement as operative provisions.

11) **Successors and Assigns.**

This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. Neither party may assign this Agreement or duties hereunder without the express written consent of the other party which consent shall not be unreasonably withheld.

12) **Termination.**

This Agreement shall be terminated on the closing date for the sale of the Property, unless either party terminates the Agreement prior to that date per the provisions of this Agreement. The City will be responsible for any additions, personal projects, and taxes on the Property from date of closing and thereafter. PKL will be responsible for any of said taxes prior to the closing date.

13) **Foreign Sellers.**

The Foreign Investment Real Property Tax Act of 1980 (FIRPTA) requires buyers who purchase real property from foreign sellers to without fifteen percent (15%) of the amount realized from the sale of the real property for remittance to the Internal Revenue Service (IRS). In the event the seller(s) is NOT a foreign person, FIRPTA requires the buyer to

obtain proof of the seller's non-foreign status in order to avoid withholding requirements. Exceptions may apply. Prior to or at Closing, Seller(s) shall provide to Buyer or to a Qualified Substitute (generally, the Title Company) either a Non-Foreign Seller Affidavit(s) OR a letter from the IRS indicating Seller(s) is exempt from withholding. In the event Seller(s) fails to do so, Buyer shall have the right to withhold fifteen percent (15%) of the amount realized from the sale of the Property for remittance to the IRS.

14) **Governing Law and Venue.**

This Agreement is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties. Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Property or any portion of the Property is located in connection with any claim, action, suit or proceeding relating to this Agreement and agrees that all suits or proceeds relating to this Agreement shall be brought only in such courts.

15) **Notice.**

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by certified mail, postage prepaid, to the City of Las Cruces, Attn: City Attorney, P.O. Box 20000, Las Cruces, NM 88004; and to PKL Property Management, LLC, 5120 Bellissima, Las Cruces, NM 88011 or to such address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

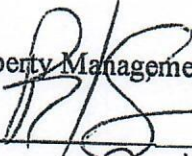
16) **Miscellaneous.**

- A. Inspection of the Property. After signing this Agreement, City or the designated Agents of City, may inspect the Property and conduct test deemed necessary by City at its expense, however, any damage to the Property will be repaired at City's Expense promptly if this Agreement is terminated.
- B. City will be responsible for any additions, personal project, and taxes on the Property from date of closing and thereafter. PKL will be responsible for any of said taxes prior to the closing date.
- C. PKL shall be responsible for paying a six percent real estate commission to Steinborn & Associates Real Estate per a former separate agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement of the date first written above.

CITY OF LAS CRUCES

City Manager

PKL Property Management, LLC
By: 
Printed Name: Paul Lewis
Title: Member

APPROVED AS TO FORM:

Jennifer Vega-Brown, City Attorney

EXHIBIT "A"

Palms Center Subdivision No. &, a commercial summary subdivision, Las Cruces, New Mexico, as the same is shown and designated on the plat of said, filed in the Office of the County Clerk of Dona Ana County, New Mexico on June 18, 1996 in Plat Book 18, Folio 488.

APPRAISAL REPORT

850 Motel Blvd.
Las Cruces, New Mexico
P.O.: 20204925



Prepared for:
Bill Hamm
Real Estate Manager
Economic Development Department
City of Las Cruces
Las Cruces, New Mexico 88001

Date of Value: May 13, 2020
Date of Report: May 14, 2020

MILLER APPRAISAL GROUP
Real Estate Appraisers and Consultants

Don Miller, MAI, SRA
State Certified General - New Mexico
New Mexico Certificate #397-G
Miller.Appraisal.LC@gmail.com

PO Box 1042
Mesilla Park, New Mexico 88047
(575)640-3500

May 14, 2020

Real Estate Manager
Economic Development Department
City of Las Cruces
Las Cruces, New Mexico 88001
Attn: Bill Hamm

Re: Real Estate Appraisal
850 Motel Blvd.
Las Cruces, New Mexico
PKL Property Management LLC
P.O.: 20204925

Dear: Mr. Hamm:

At your request, I have completed an appraisal and am pleased to submit this report on the above referenced property for the purpose of estimating an "as is" Market Value for the property referenced above and identified and described in more detail within the following pages. It is understood the intended use of the appraisal report is to assist the City of Las Cruces, Economic Development Department, our client, with the valuing of the real estate which will be used in the decision making process regarding a possible purchase of the property referenced above. The effective date of this appraisal is the date of my primary inspection of the property, which was May 13, 2020.

This is an **Appraisal Report**, which is intended to comply with the reporting requirements set forth under Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser is not responsible for unauthorized use of this report. Additional Contingent, Limiting, Special, and/or Extraordinary Conditions affecting this report can be found on pages 7 - 9.

This appraisal is prepared in accordance with the standards and reporting requirements of USPAP as promulgated by the Appraisal Standards Board of the Appraisal Foundation, the Appraisal Institute, and appropriate state laws, regulations, policies, and procedures. Furthermore, in accordance with prior agreement between the client and the appraiser, this report is in compliance with the minimum **Scope of Work** as outlined in the engagement letter.

850 Motel Blvd.
Las Cruces, New Mexico

This report is made following my on-site inspection, measuring and inspection of the improvements, and an investigation into recent pertinent market information including, but not limited: to cost, rental, and sales data of properties exhibiting physical, locational, and economical characteristics judged to be similar to the subject property. The following value estimate is for the real estate only.

850 Motel Blvd.

After considering the merits of the data and information contained within our files, and the application of conventional appraisal approaches, I estimate the "as is" Market Value of the subject property, as of May 13, 2020, to be:

ONE MILLION TWO HUNDRED SEVENTY FIVE THOUSAND DOLLARS
\$1,275,000

Retained in our files are field notes, drawings, maps and work papers upon which, in part, my opinions were based. If you have any questions, or if I can be of further service, please call me. Thank you for this opportunity to be of service.

Cordially,

MILLER APPRAISAL GROUP



Donald E. Miller, MAI, SRA
Certified General Appraiser
Certificate No.: 397-G, NM

BROOKS REAL ESTATE SERVICES

REAL ESTATE
APPRAISAL & CONSULTING

300 W. UNION AVE., LAS CRUCES NM 88005

PH. 575.541.5555
SW_BROOKS@ICLOUD.COM

LETTER OF TRANSMITTAL

June 8, 2020

Mr. Bill Hamm
City of Las Cruces
Attn: Economic Development
700 N. Main St.
Las Cruces, NM 88001

RE: Two-Tenant – Professional Office Building
La Pinion Sexual Assault Recovery Services
850 N. Motel Blvd.
Las Cruces, Dona Ana County, New Mexico 88007
Purchase Order # 20204923

Dear Mr. Hamm,

This assignment has been developed in conformity with the City of Las Cruces Purchase Order # 20204923 and client / appraiser discussions. The scope of work developed and applied in this "appraisal report" is intended to be consistent with the client's intended use, with methodology applied consistent with the property type and valuation scenario(s) developed.

Valuation scenarios developed and reported include:

1) Market Value – As Is – Fee Simple

The value opinions reported are qualified by certain definitions, limiting conditions and certifications as set forth in the attached report.

As of the effective date of value portions of the property includes tenant occupied by La Pinion Services with remaining portions being owner occupied. Included in the lease with La Pinion is an option to purchase. Given the intended use of the assignment valuation for use relative to negotiations and-or execution of the option purchase including amendments and-or addendum, the ownership interest appraised has been limited to estimates of fee simple ownership. Thus, included in the valuation is application of the hypothetical condition of fee simple ownership with no impact on value attributed to the property's current partial tenant occupancy including assignments.

The Market Value estimate is derived through development of methodologies associated with the three traditional valuation methodologies of the cost, sales comparison and income approaches to value. The analysis developed and applied is considered suitable to the clients intended use and is considered to result in credible assignment results.

Reliance upon the report and value conclusions reached is intended for use by the City of Las Cruces. Our professional fee was billed to the City of Las Cruces. The intended use of the appraisal is reported by the client to assist in negotiations relative to potential purchase of the property.

The reporting format is classified as an **"Appraisal Report"** that complies with the requirements stated under Standards Rule 2-2 (a) of USPAP.

The analysis contained in the report is intended to meet or exceed requirements stated under Standards

Rule 1-4 (a) (b) and (c) of the Uniform Standards of Professional Appraisal Practice (USPAP) relative to the collection, verification, and analysis of all information necessary for formation a credible assignment result.

The attached report is intended to comply with; **1)** the generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation; **2)** requested scope of work requirements of the City of Las Cruces; **3)** applicable regulations of the state of New Mexico; **4)** the Standards and Ethics Provisions of the Appraisal Institute of which the appraiser is a designated member.

The below signed is the sole appraiser of the valuation and is individually responsible for the value conclusion reached. I personally inspected the subject property on May 18, 2020, which is equal to the effective date of the report and estimate of value.

I have performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. Prior appraisal services of the subject of this assignment were made by the below signed in January of 2019.

As Is - Market Value – Fee Simple - 1.64-Acre Parcel and Improvements

\$1,285,000 – One Million Two Hundred Eighty-Five Dollars

Effective Date of Value of May 18, 2020

*Subject to the general limiting conditions and assumptions as outlined within the Section III of the report. Included in the valuation is the **hypothetical condition** of fee simple ownership. The applied hypothetical condition and resulting valuation conclusions assume no impact on value resulting from lease, sublease, business transfer or employment agreements. The client and intended user(s) of the report are cautioned that failure to realize hypothetical conditions can impact value.*

The exposure time for the subject property under the market value valuation premises is estimated to be 3 – 18 months or less.

This letter must remain attached to the following appraisal report, containing 103 pages including addenda, in order for the value estimates set forth to be considered valid and suitable towards reliance by the intended user.

Thank you for allowing Brooks Real Estate Services to be of your service. Please contact me should you have questions or require additional information.

Respectfully submitted,



Steve W. Brooks MAI

New Mexico General Certified Appraiser #850-G

VICINITY MAP





**2954; Council
Bill 21-021**

City Council Action and Executive Summary

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6		
1st Reading:	October 5, 2020	Adopted:	October 19, 2020
Drafter:	Catherine Duarte	Department:	Economic Development
Program:		Line of Business:	

Title: AN ORDINANCE AUTHORIZING A LEASE TO PURCHASE AGREEMENT BETWEEN CITY OF LAS CRUCES TO CHILDREN HEALING IN LAS CRUCES AND DONA ANA COUNTY, A NEW MEXICO NON-PROFIT CORPORATION (CHILD) FOR THE LEASE AND PURCHASE OF A COMMERCIAL PROPERTY LOCATED AT 850 N. MOTEL BOULEVARD IN ACCORDANCE WITH PROVISIONS OF THE LCMC 1997, SECTION 2-1312.

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

PURPOSE(S) OF ACTION:

To approve a Lease/Purchase Agreement of real property.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

This Ordinance authorizes the City of Las Cruces ("CITY") to enter into a Lease/Purchase Agreement between The City and Children Healing in Las Cruces and Dona Ana County, a New Mexico non-profit corporation ("CHILD"). The property consists of a 15,000 square foot commercial office building situated on 1.64 acres located at 850 N. Motel Boulevard.

CHILD exists as a non-profit entity to the support of and ownership of capital assets for the benefit of La Pinon Sexual Assault Recovery Services and Child Advocacy Center (or La Pinon). The City has had a professional relationship with La Pinon for over 25-years in providing support to the Las Cruces community for victims of sexual assault through various programs. As La Pinon provides support to the needy in the community and works diligently on cases with local law enforcement, a proposal was submitted by CHILD and La Pinon for the City to assist with the property acquisition, with the intent of CHILD (and thus La Pinon) to lease the property with payments being credited to the eventual purchase of the property from the City at appraised value over time. This arrangement will provide support to allow the financial feasibility of CHILD (and thus, La Pinon) to purchase the property over time, while allowing continued and uninterrupted services to the community out of their long-established location.

Subject to City Council approval, the City will purchase this property from PKL for the benefit of CHILD and La Pinon by separate Resolution. The negotiated purchase price of the property is \$1,272,000.00. As part of this draft Purchase Agreement, the City's contribution towards the purchase price shall be \$1,200,000.00. CHILD shall furnish \$72,000 of it's own funds at closing and thus, will have an established equity interest in the property upon closing.

Agenda Item #7.5.

The property was appraised by two local appraisers in May 2020. One appraiser concluded a value of \$1,275,000.00 while the other appraiser valued the property at \$1,285,000.00. Summaries of both appraisals are shown on Attachment "A".

The terms of the negotiated Lease/Purchase agreement shall be Twenty (20) years. Rent shall be paid to the City in an amount equal to \$1,200,000.00 amortized over the term at 2.5% interest with the payment amount being \$6,358.83 per month. After 5 years, the CITY, at its option, may increase the interest rate factor, up to but to not exceed 1% above the original rate.

As part of due diligence, the City commissioned the services of the Clifton/Larson/Allen LLP accounting firm(CLA) to analyze key performance indicators and benchmarks to assess CHILD'S ability to make the proposed lease payment. CLA concluded that CHILD'S and thus, La Pinon's historical data demonstrates their ability to make future lease payments as outlined in the Lease-Purchase Agreement. A copy of this report is shown as Attachment "C".

Lease payments from CHILD to CITY shall emulate the amortization schedule as made part of the lease and CHILD shall build up credit from the principal portion of each payment, to be applied towards the City's portion of the purchase price of \$1,200,000. Thus, at the end of the Lease term, CHILD shall have paid the entire principal balance and the property shall transfer to CHILD. CHILD shall have the option to purchase the property at any point during the term of the Lease, by paying the principal balance remaining at that time.

CHILD shall be responsible for all costs of occupying the building, to include, but not limited to, maintenance, insurance and utilities. CHILD shall also maintain a capital reserve account to be used for maintenance and upkeep of the building.

The Ordinance has been prepared in accordance with LCMC 1997, Section 2-1312. The commencement date for the lease purchase agreement will not occur until 45 days after the adoption of the Ordinance and would occur no later than 90 days after the adoption. This Ordinance has been published prior to the adoption and will be published at least once after its adoption.

SUPPORT INFORMATION:

[Attachment A, Summary of Property Appraisals\(Full appraisal reports available for inspection in the Land and Real Estate Service Office.\)](#)

[Attachment B, Vicinity Map](#)

[Exhibit A, Lease-Purchase Agreement](#)

[Attachment C, Financial Assessment of La Pinon](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☐ Yes

☐ No

☐ N/A

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

☐ Yes

☒ No

☐ N/A

Agenda Item #7.5.

OPTIONS / ALTERNATIVES:

1. Vote yes; this will approve the Ordinance and the Lease/Purchase Agreement between the CITY and CHILD.
2. Vote no; this will not approve the Ordinance and will reject the Lease/Purchase Agreement between CITY and CHILD.
3. Vote to amend; this will modify the terms of the Agreement based on direction from Council.
4. Vote to table; this will postpone the Ordinance and Council will need to direct staff.

REFERENCE INFORMATION:

Resolution No: 20-215

ORDINANCE 2954; COUNCIL BILL 21-021

AN ORDINANCE AUTHORIZING A LEASE TO PURCHASE AGREEMENT BETWEEN CITY OF LAS CRUCES TO CHILDREN HEALING IN LAS CRUCES AND DONA ANA COUNTY, A NEW MEXICO NON-PROFIT CORPORATION (CHILD) FOR THE LEASE AND PURCHASE OF A COMMERCIAL PROPERTY LOCATED AT 850 N. MOTEL BOULEVARD IN ACCORDANCE WITH PROVISIONS OF THE LCMC 1997, SECTION 2-1312.

The City Council is informed that:

WHEREAS, CHILD exists as a non-profit entity to the support of and ownership of capital assets for the benefit of La Pinon Sexual Assault Recovery Services and Child Advocacy Center (or Las Pinon); and

WHEREAS, CITY has had a professional relationship with La Pinon for over 25-years in providing support to the Las Cruces community for victims of sexual assault through various programs. La Pinon provided support to the needy in the community and works diligently on cases with law enforcement ; and

WHEREAS, a proposal was submitted by CHILD and La Pinon for the City to assist with the property acquisition, with the intent of CHILD (and thus La Pinon) to lease the property with payments being credited to the eventual purchase of the property from the City at appraised value over time; and

WHEREAS, this arrangement will provide support to allow the financial feasibility of CHILD (and thus La Pinon) to purchase the property over time, while allowing continued and uninterrupted services to the community out of their long established location; and

WHEREAS, subject to City Council approval, the City will purchase this property from PKL for the benefit of CHILD and La Pinon by separate Resolution. The negotiated purchase price of the property is \$1,272,000.00; and

WHEREAS, as part of this draft Purchase Agreement, the City's contribution towards the purchase price shall be \$1,200,000.00. CHILD shall furnish \$72,000 of it's own funds at closing and thus, will have an established equity interest in the property upon closing; and

WHEREAS, the property was appraised by two local appraisers in May 2020. One appraiser concluded a value of \$1,275,000.00 while the other appraiser valued the property at \$1,285,000.00; and

WHEREAS, the terms of the negotiated Lease/Purchase agreement shall be Twenty (20) years. Rent shall be paid to the City in an amount equal to \$1,200,000.00 amortized over the term at 2.5% interest with the payment amount being \$6,358.83 per month. After 5 years, the CITY, at its option, may increase the interest rate factor, up to but to not exceed 1% above the original rate ; and

WHEREAS, the City commissioned the services of the Clifton/Larson/Allen LLP accounting firm(CLA) to analyze key performance indicators and benchmarks to assess CHILD'S ability to make the proposed lease payment; and

WHEREAS, CLA concluded that CHILD'S and thus, La Pinon's historical data demonstrates their ability to make future lease payments ; and

WHEREAS, lease payments from CHILD to CITY shall emulate the amortization schedule as made part of the lease and CHILD shall build up credit from the principal portion of each payment, to be applied towards the City's contribution of the purchase price of \$1,200,000; and

Agenda Item #7.5.

WHEREAS, at the end of the Lease term, CHILD shall have paid the entire principal balance and the property shall transfer to CHILD. CHILD shall have the option to purchase the property at any point during the term of the Lease, by paying the principal balance remaining at that time ; and

WHEREAS, CHILD shall be responsible for all costs of occupying the building; and

WHEREAS, the commencement date for the lease purchase agreement will not occur until 45 days after the adoption of the Ordinance and would occur no later than 90 days after the adoption.

NOW, THEREFORE, Be It Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the Lease/Purchase Agreement between the CITY and CHILD, attached hereto as "Exhibit A", and made part of this Ordinance, is hereby approved.

(II)

THAT the City Manager, as the official representative of the CITY is hereby authorized to sign said Lease/Purchase Agreement on the CITY'S behalf.

(III)

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

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

APPRAISAL REPORT

850 Motel Blvd.
Las Cruces, New Mexico
P.O.: 20204925



Prepared for:
Bill Hamm
Real Estate Manager
Economic Development Department
City of Las Cruces
Las Cruces, New Mexico 88001

Date of Value: May 13, 2020
Date of Report: May 14, 2020

MILLER APPRAISAL GROUP
Real Estate Appraisers and Consultants

Don Miller, MAI, SRA
State Certified General - New Mexico
New Mexico Certificate #397-G
Miller.Appraisal.LC@gmail.com

PO Box 1042
Mesilla Park, New Mexico 88047
(575)640-3500

May 14, 2020

Real Estate Manager
Economic Development Department
City of Las Cruces
Las Cruces, New Mexico 88001
Attn: Bill Hamm

Re: Real Estate Appraisal
850 Motel Blvd.
Las Cruces, New Mexico
PKL Property Management LLC
P.O.: 20204925

Dear: Mr. Hamm:

At your request, I have completed an appraisal and am pleased to submit this report on the above referenced property for the purpose of estimating an "as is" Market Value for the property referenced above and identified and described in more detail within the following pages. It is understood the intended use of the appraisal report is to assist the City of Las Cruces, Economic Development Department, our client, with the valuing of the real estate which will be used in the decision making process regarding a possible purchase of the property referenced above. The effective date of this appraisal is the date of my primary inspection of the property, which was May 13, 2020.

This is an **Appraisal Report**, which is intended to comply with the reporting requirements set forth under Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser is not responsible for unauthorized use of this report. Additional Contingent, Limiting, Special, and/or Extraordinary Conditions affecting this report can be found on pages 7 - 9.

This appraisal is prepared in accordance with the standards and reporting requirements of USPAP as promulgated by the Appraisal Standards Board of the Appraisal Foundation, the Appraisal Institute, and appropriate state laws, regulations, policies, and procedures. Furthermore, in accordance with prior agreement between the client and the appraiser, this report is in compliance with the minimum **Scope of Work** as outlined in the engagement letter.

850 Motel Blvd.
Las Cruces, New Mexico

This report is made following my on-site inspection, measuring and inspection of the improvements, and an investigation into recent pertinent market information including, but not limited: to cost, rental, and sales data of properties exhibiting physical, locational, and economical characteristics judged to be similar to the subject property. The following value estimate is for the real estate only.

850 Motel Blvd.

After considering the merits of the data and information contained within our files, and the application of conventional appraisal approaches, I estimate the "as is" Market Value of the subject property, as of May 13, 2020, to be:

ONE MILLION TWO HUNDRED SEVENTY FIVE THOUSAND DOLLARS
\$1,275,000

Retained in our files are field notes, drawings, maps and work papers upon which, in part, my opinions were based. If you have any questions, or if I can be of further service, please call me. Thank you for this opportunity to be of service.

Cordially,

MILLER APPRAISAL GROUP



Donald E. Miller, MAI, SRA
Certified General Appraiser
Certificate No.: 397-G, NM

BROOKS REAL ESTATE SERVICES

REAL ESTATE
APPRAISAL & CONSULTING

300 W. UNION AVE., LAS CRUCES NM 88005

PH. 575.541.5555
SW_BROOKS@ICLOUD.COM

LETTER OF TRANSMITTAL

June 8, 2020

Mr. Bill Hamm
City of Las Cruces
Attn: Economic Development
700 N. Main St.
Las Cruces, NM 88001

RE: Two-Tenant – Professional Office Building
La Pinion Sexual Assault Recovery Services
850 N. Motel Blvd.
Las Cruces, Dona Ana County, New Mexico 88007
Purchase Order # 20204923

Dear Mr. Hamm,

This assignment has been developed in conformity with the City of Las Cruces Purchase Order # 20204923 and client / appraiser discussions. The scope of work developed and applied in this "appraisal report" is intended to be consistent with the client's intended use, with methodology applied consistent with the property type and valuation scenario(s) developed.

Valuation scenarios developed and reported include:

1) Market Value – As Is – Fee Simple

The value opinions reported are qualified by certain definitions, limiting conditions and certifications as set forth in the attached report.

As of the effective date of value portions of the property includes tenant occupied by La Pinion Services with remaining portions being owner occupied. Included in the lease with La Pinion is an option to purchase. Given the intended use of the assignment valuation for use relative to negotiations and-or execution of the option purchase including amendments and-or addendum, the ownership interest appraised has been limited to estimates of fee simple ownership. Thus, included in the valuation is application of the hypothetical condition of fee simple ownership with no impact on value attributed to the property's current partial tenant occupancy including assignments.

The Market Value estimate is derived through development of methodologies associated with the three traditional valuation methodologies of the cost, sales comparison and income approaches to value. The analysis developed and applied is considered suitable to the clients intended use and is considered to result in credible assignment results.

Reliance upon the report and value conclusions reached is intended for use by the City of Las Cruces. Our professional fee was billed to the City of Las Cruces. The intended use of the appraisal is reported by the client to assist in negotiations relative to potential purchase of the property.

The reporting format is classified as an **"Appraisal Report"** that complies with the requirements stated under Standards Rule 2-2 (a) of USPAP.

The analysis contained in the report is intended to meet or exceed requirements stated under Standards

Rule 1-4 (a) (b) and (c) of the Uniform Standards of Professional Appraisal Practice (USPAP) relative to the collection, verification, and analysis of all information necessary for formation a credible assignment result.

The attached report is intended to comply with; **1)** the generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation; **2)** requested scope of work requirements of the City of Las Cruces; **3)** applicable regulations of the state of New Mexico; **4)** the Standards and Ethics Provisions of the Appraisal Institute of which the appraiser is a designated member.

The below signed is the sole appraiser of the valuation and is individually responsible for the value conclusion reached. I personally inspected the subject property on May 18, 2020, which is equal to the effective date of the report and estimate of value.

I have performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. Prior appraisal services of the subject of this assignment were made by the below signed in January of 2019.

As Is - Market Value – Fee Simple - 1.64-Acre Parcel and Improvements

\$1,285,000 – One Million Two Hundred Eighty-Five Dollars

Effective Date of Value of May 18, 2020

*Subject to the general limiting conditions and assumptions as outlined within the Section III of the report. Included in the valuation is the **hypothetical condition** of fee simple ownership. The applied hypothetical condition and resulting valuation conclusions assume no impact on value resulting from lease, sublease, business transfer or employment agreements. The client and intended user(s) of the report are cautioned that failure to realize hypothetical conditions can impact value.*

The exposure time for the subject property under the market value valuation premises is estimated to be 3 – 18 months or less.

This letter must remain attached to the following appraisal report, containing 103 pages including addenda, in order for the value estimates set forth to be considered valid and suitable towards reliance by the intended user.

Thank you for allowing Brooks Real Estate Services to be of your service. Please contact me should you have questions or require additional information.

Respectfully submitted,



Steve W. Brooks MAI

New Mexico General Certified Appraiser #850-G

Attachment "B"

VICINITY MAP



LEASE/PURCHASE AGREEMENT

LEASE/PURCHASE AGREEMENT ("Lease") between the City of Las Cruces, a New Mexico Municipal Corporation, hereinafter designated as "CITY", and CHILDREN HEALING IN LAS CRUCES AND DONA ANA COUNTY, a New Mexico non-profit corporation, hereinafter designated as "CHILD".

1. LEASE OF PREMISES.

- a. CITY hereby leases to CHILD, with express warranty of title, the following described real estate ("Premises") in Dona Ana County, New Mexico, for the uses and purposes and subject to the terms, conditions and limitations set forth in this Lease, the real property commonly known as 850 Motel Boulevard, Las Cruces, NM and more particularly described as:

1.640 Acres Palms Center Subdivision No. 7
(A Commercial Summary Subdivision)

- b. The leasehold interest granted by this Lease shall be subject and subordinate to the right of holders of existing easements for public utilities in, under, across and upon the Premises.
- c. This Lease replaces and nullifies any and all prior Lease agreements in full force and effect upon commencement date.
- d. It is understood that CHILD is the Foundation Body for La Pinon Sexual Assault Recovery Services, which is the operating entity, and that La Pinon will be the Sublessee immediately upon execution of this lease. Any references to CHILD in this lease shall by means of the Sublease, be referring to La Pinon.

2. TERM OF LEASE.

The term ("Term") of this Lease shall be Twenty (20) years. Commencement date of the Lease shall be on a mutually agreeable date at least forty-five (45) days after the adoption of the Ordinance (the "Ordinance") authorizing the lease of the property pursuant to the terms of this Lease by the City Council (unless a referendum election is held pursuant to NMSA 1978, Section 3-54-1) and not more than ninety (90) days following the date of the Ordinance.

3. RENT.

Rent shall be paid to the CITY, or its successors, in an amount equal to \$1,200,000.00 amortized over 20 years at 2.5% interest payment amount

being \$6,358.83 per month. After 5 years, the City, at its option, may increase the interest rate factor. At no time during the term will the interest rate go over 1% above the original rate. In the event, that CHILD has not paid rent when due, CITY shall send a notice to CHILD advising that rent is past due. If rent remains past due after the 10-day notice, the non-payment shall be a material breach of this Lease. CHILD agrees to pay a late charge of 4% after the tenth day after the due date for which the rental or other lawful charges remain unpaid in full.

- a. All rent shall be paid to City of Las Cruces, at P.O. Box 20000, Las Cruces, New Mexico, 88004 or at such other place as CITY, or its successors, may designate from time to time for this purpose.
- b. CHILD agrees that it will neither encumber nor subordinate this Lease or the premises in any manner.
- c. CHILD agrees to provide the City an audited financial report from La Pinon (sublessee) to be reviewed by the City for further financial analysis as they deem necessary. CHILD must ensure that La Pinon provides timely reports (annually). Note: CHILD can have a separate sub-lease with La Pinon.

4. QUIET ENJOYMENT.

Upon the performance of all terms, conditions and covenants of this Lease which CHILD is required to perform, CHILD shall at all times during the Term peaceably and quietly enjoy the Premises without any disturbance from CITY.

5. USE OF THE PREMISES.

- a. CHILD shall only use the premises for Community Care Provider Services.
- b. CHILD acknowledges and agrees that it has examined the Premises, the zoning designation for the Premises and easements, licenses and covenants applicable to the Premises, and has determined by its own independent evaluation that the Premises is suitable and usable for the purposes, uses and activities intended by CHILD and further, CHILD acknowledges that CITY has made no representation, warranty, or guarantee, express or implied that:
 - i. the Premises, including any improvements now or hereafter placed or located on the Premises, are now, or during the Term will be suitable or usable for purposes or uses which CHILD intends to make of the Premises, or for activities which CHILD may perform on the Premises;
 - ii. the Premises, including any improvements now or hereafter placed or located on the Premises, may now, or during the

- iii. Term, be lawfully used, maintained, improved or occupied for uses which CHILD intends to make of the Premises, or for activities which CHILD may perform on the Premises, or the Premises is suitable or usable for the construction or maintenance of improvements of any type, kind, design or construction on the Premises.

6. INSURANCE.

- a. CHILD shall have La Pinon maintain insurance coverage at all times on the Leasehold Property, its operations, and the building and building contents, as follows:
 - i. General Commercial Liability Insurance in the amount of not less than, one million dollars (\$1,000,000) per occurrence, two million dollars (2,000,000) aggregate limit. Coverage must include damage to rented property in an amount equal to the full replacement cost of the leased premises. The City of Las Cruces shall be named as an additional insured. Coverage must be primary and non-contributory. Subrogation must be waived in favor of the City of Las Cruces.
 - ii. CHILD shall maintain coverage for their business personal property(contents) including coverage for Business interruption with Extra Expense.
- b. CITY shall review insurance coverage limits at periodic intervals during the Lease.
- c. If the Leasehold Property is partially or totally destroyed or damaged by fire or other casualty covered by the all-risk property insurance carried by La Pinon under the terms hereof, then the CITY and CHILD shall work jointly in a cooperative manner to repair and restore the Leasehold Property as soon as it is reasonably practicable, to substantially the same condition in which the Leasehold Property was prior to such damage. The CITY and CHILD shall negotiate at such a time as to each parties' pro rata share of financial responsibility to fund the repair and reconstruction. However, in the event the Leasehold Property may be completely destroyed or so badly damaged that repairs cannot be commenced within thirty (30) days and completed within three (3) months thereafter, then this Lease shall be terminable, as of the date of the occurrence of the damage or destruction, by CHILD hereto by serving written notice upon the CITY. In such event CHILD and the CITY shall jointly determine if the building should be rebuilt or if the proceeds to the CITY from any property insurance settlement should be used to reconstruct facilities at another location.
- d. If the Leasehold Property shall be damaged by fire or other casualty resulting from the fault or negligence of CHILD, sublessee(s), or the agents,

employees, licensees, or invitees of CHILD, the CITY may require such damage to be repaired by and at the expense of CHILD.

7. CONSTRUCTION AND OWNERSHIP OF IMPROVEMENTS.

- a. CHILD may not construct, erect or place any permanent improvements or increase in the square footage of the building on the Leasehold Property without the consent by CITY, before any improvements take place, which CITY will not unreasonably withhold such permission. CITY shall cooperate with CHILD to obtain whatever permits and approvals are necessary to effect and build such improvements and CITY shall not unreasonably withhold its cooperation or consent.
- b. The improvements which CHILD may be authorized to place on the Premises shall be constructed, repaired, maintained and operated at CHILD's sole cost, expense and risk. All improvements shall be kept and maintained by CHILD, at its sole cost, expense and risk, in good, safe and sanitary order, condition and repair.
- c. CHILD covenants and agrees that it will make no structural change or addition without CITY's prior written consent, and without first furnishing the CITY fifteen (15) days advance written notice outlining in detail the proposed change or alterations, including a set of building plans and specification.
- d. CHILD shall be permitted to expand the building(s) and facilities on the Leasehold Property based on needs as determined by CHILD, according to applicable regulations and as approved by the CITY. CHILD shall be responsible for all expenses related to building expansion, consistent with the CITY as the fiscal agent. CHILD and the CITY shall work cooperatively in all building expansion and construction projects. The CITY shall seek input from CHILD regarding the selection and supervision of all architectural and building construction firms to be employed by the CITY for CHILD's building expansion program(s) pursuant to CITY purchasing regulations. The CITY shall not seek bids nor begin construction of any improvements on the Leasehold Property unless CHILD has granted written approval of the construction drawings and insurance specifications. CHILD shall also have the right to construct detached storage buildings and other facilities on the Leasehold property pursuant to applicable regulations.
- e. Should the CITY allow expansion in certain circumstance, CHILD will assume all capital replacement and maintenance of the improvement.
- f. All improvements shall be constructed in compliance with any minimum standards and specifications that are prescribed by applicable statutes, ordinances or building codes.
- g. Prior to the actual commencement of any construction work on the Premises for the purposes of erecting, locating or placing improvements on the Premises or of repairing or replacing, in whole or in part, any improvements (collectively, "Work"), CHILD shall procure or cause to be procured:

- i. Appropriate self-insurance or other insurance for the benefit of CHILD and its invitees;
- ii. This paragraph shall not apply to minor repairs or routine maintenance required to be performed by CHILD's employees and contractors in the normal course of their duties.

8. SUBLEASE.

- a. CHILD has the responsibility of issuing, requiring and executing subleases for any other non-profit organizations providing for community care provider services, who serve residents of Las Cruces, Dona Ana County and surrounding area, subject to CITY approval, that occupy any portion of the Leasehold property. All sub-leases must insure the CHILD's responsibilities as stated herein are passed through as appropriate to all organizations signing subleases under this Lease. Any responsibilities not passed through a sublease will remain the responsibility of CHILD. A draft sublease for all sub-lessees under this lease must be approved by the CITY'S Land and Real Estate Department.
- b. All sub-leases for current occupants shall be signed by CHILD and sub-lessee within thirty (30) days of executing of this Lease, with copies provided to the Land and Real Estate Department of the CITY. It is understood that one of the current occupants in the property is not a non-profit organization. CHILD will adhere to the requirements of paragraph 8a. above. Future organizations coming onto the Lease property must sign a sub-lease with CHILD before moving on site.
- c. The making of any subleases or rental agreement shall not release CHILD from, or otherwise affect in any manner, any of CHILD'S obligations under this Lease.

9. ASSIGNMENT

- a. CHILD shall not assign or sublease the Leasehold Property granted by this Lease or the improvements on the Leasehold Property without the prior written consent of the CITY. The CITY'S consent shall be conditioned by the continued use and purpose of the Leasehold Property, as stated herein, and may require other conditions or covenants before consenting to an assignment or sublease. Such additional conditions or covenants shall not be unreasonable but shall be in accord with the property administration of the Leasehold Property and the dedicated purposes granted by this Lease. If the Lease is assigned, all clauses herein binding CHILD are also binding to any and all successors and/or assigns.
- b. Each assignment or sublease shall contain a provision, satisfactory to CITY, requiring assignee or sublessee to attorn to CITY. Accordingly, if CHILD defaults under this Lease, the sublessee qualifying under the attorn provisions of the sublease may not be ejected from the premises for a

period of six (6) months after receiving notice of the termination of the lease with CHILD.

10. REPAIRS AND MAINTENANCE.

CHILD will be required to carry a capital reserve account which can be used for building repair and maintenance as it arises. They will put \$400.00 per month into this account. CHILD agrees to make all records regarding this account available to the City for audit and inspection. CHILD will be responsible for all maintenance on the Premises. CHILD shall, at its sole cost, expense and risk, keep and maintain the Premises, and any improvements located thereon. All repairs and replacements, whether major or minor in nature shall be made promptly as and when necessary. All repairs and replacements shall be at least equal in quality of materials and workmanship to the original work.

11. LIENS

CHILD shall defend, indemnify and hold harmless CITY against any mechanic's, materialmen's or another lien arising out of the making of any alteration, addition, repair, or improvement by CHILD.

12. TAXES AND ASSESSMENTS.

CHILD shall pay all taxes and assessments that may now or during the Term be imposed on its interest in Premises, promptly as they become due and payable.

13. CITY'S RIGHT OF ENTRY.

CITY, its employees, and representatives, shall have the right to enter the Premises and any improvement on the Premises at reasonable times for the purpose of inspecting the Premises and improvements.

14. CHILD PURCHASE OPTION.

It is understood that that Lease payments from CHILD to the CITY shall emulate the amortization schedule attached to this Lease as Exhibit "B". CHILD shall build up credit, reflected as the principal portion of each payment in the amortization schedule. Thus, at the end of the Lease term, CHILD shall have paid the entire principle balance, and the property shall transfer from CITY to CHILD, by Special Warranty Deed. CHILD may also purchase the property from CITY at any time during this Lease by paying the principal balance as is reflected in the amortization schedule after that number of payments have been made according to the Lease and the amortization

schedule. CHILD may also make smaller principal prepayments to the CITY. The monthly payments would then remain the same but the amortization schedule shall be adjusted accordingly to show the change in principal payments each month. An Amendment with updated Amortization Schedule shall be executed. Should the rental rate be adjusted, per Exhibit "B" the Amortization Schedule will be re-calculated and an Amendment be executed. CITY and CHILD agree to pay usual closing costs associated with the transfer and closing of the property from CITY to CHILD.

15. TERMINATION.

- a. In addition to any other remedy provided by law or in this Lease, CITY may terminate this Lease by written notice delivered to CHILD, if CHILD is in default in the performance of the payment of rent and/or taxes and/or provision of insurance under this Lease, and if CHILD does not cure the default within thirty (30) days after CHILD'S receipt of a thirty (30) day written notice.
- b. In the event, that this Lease is terminated prior to the expiration of its term, then CHILD shall have the option to purchase the property at that time for the balance per Item 14. If CHILD elects to not purchase the property at the time of early termination, CHILD shall vacate and return the Premises to the CITY in 60 days. CHILD agrees to be liable for any unpaid rent, damages, and alterations.

16. UTILITY SERVICES.

CHILD shall provide to the Premises all utility services, including, but not limited to, air conditioning, heat, water, gas, electricity, light, sewage, and janitorial, telephone and security services, and outside landscape maintenance.

17. INSURANCE AND INDEMNITY.

- a. CHILD is solely responsible for all insurance on the Premises. CHILD shall hold CITY harmless and CHILD shall be responsible for all suits, actions or claims of any character brought because of any injury, including death, or damage, received or sustained by any person, persons or property arising out of CHILD'S or CHILD'S invitees, agents, employees, contractors, sub-tenants and sublessee's use of or activities on the Premises or any improvements on the Premises; or arising out of any condition of the Premises or improvements on the Premises; or by reason of any act or omission, neglect or misconduct of CHILD or of CHILD'S agents, contractors, employees, invitees, subtenants or sublessee's. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in the Lease.

18. CHILD'S PROPERTY.

All property and improvements of CHILD, which may be placed in or upon the Premises shall be at the sole risk, of CHILD. CITY shall not be liable for any damage to property or improvements of CHILD on the Premises arising from, or for any damage to the property caused by fire, water, flood, wind, vandalism, theft, larceny or burglary.

19. SIGNS.

CHILD may place, locate or erect any signs or billboards on the Premises without the prior written consent of CITY. All signs on Leased property must comply with all laws, regulation, rules, ordinances, and requirements applicable to CITY Sign Codes.

20. APPROPRIATIONS.

Notwithstanding any other provision in the Lease, the terms conditions, and covenants of this Lease are contingent upon the CHILD Board authorizing the funds necessary for the performance of this Lease. If, in any fiscal year of the CHILD during the term of this Lease, sufficient appropriation and authorizations are not made by the CHILD Board, this Lease may be terminated by the CHILD at the end of the CHILD'S then current fiscal year or within 120 days thereafter after 30 days written notice given by CHILD to CITY. Such event shall not constitute an event of default under this Lease. Upon termination of this Lease as provided in this paragraph, CHILD and CITY shall have no further rights, obligations or liabilities as provided in this Lease and all future payment obligations and liabilities of the CHILD and all its interest in this Lease will cease upon the date of termination. However, nothing in this paragraph shall release CHILD from any liability accrued through such date of termination. The CHILD'S decision as to whether sufficient authorization and appropriations have been made shall be accepted by CITY and shall be final. In the event of termination under this paragraph, CHILD shall vacate and return Premises to CITY.

21. WAIVER OF DEFAULT.

No failure by CITY to insist upon the strict performance of any term, condition or covenant of this Lease or to exercise any right or remedy available on the breach thereof, and no acceptance of full or partial rent during the continuance of any breach shall constitute a waiver of any breach or of any term, condition or covenant. No obligation of this Lease, which CHILD is required to perform and no breach thereof, shall be waived, altered or modified, except by written instrument executed by CITY.

22. NOTICES.

All notices or payment required by this Lease to be given any party shall be deemed to have been fully delivered, given, made or sent when made in writing and deposited in the United States mail, certified with postage prepaid thereon, and addressed the following unless either the CITY or CHILD change their respective address by giving written notice of such change to the other:

a. Notice to CHILD:

CHILD Board
850 Motel Boulevard
Las Cruces, New Mexico 88005
ATTN: _____

With a Copy to:

Acting Director
CHILD Board
850 Motel Boulevard
Las Cruces, New Mexico 88005

b. Notice to CITY:

City Manager
P.O. Box 20000
Las Cruces, New Mexico 88004

23. BINDING EFFECT AND EFFECTIVE DATE.

This Lease shall not be binding upon the parties until fully executed by CHILD Board Chair and upon signature by the CITY Manager.

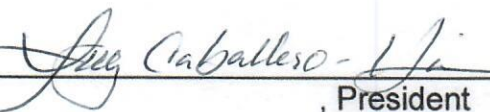
24. MODIFICATION AND GOVERNING LAW.

This Lease may be modified only in writing and is governed by the laws of the State of New Mexico.

25. ENTIRE AGREEMENT.

This Lease constitutes the full and final agreement of the parties on all subjects contained within it. All prior negotiations and agreements are merge into this Lease. No subsequent agreement may modify this Lease unless it is in writing and signed by the parties or their authorized agents.

CHILD BOARD:

By: , President

Dated: September 3,, 2020

CITY OF LAS CRUCES

By: _____
Ifo Pili, City Manager

Dated: _____, 2020

Approved as to Form:

Jocelyn Garrison, Sr. Assistant City Attorney

Exhibit 'B'

Amortization Schedule

Principal: \$1,200,000.00 Interest Rate: 2.50% Payment Interval: Monthly # of Payments: 240 Payment: \$6,358.83					
Schedule of Payments					
Please allow for slight rounding differences.					
Pmt #	Date	Payment	Principal	Interest	Balance
1	Nov 1 2019	\$6,358.83	\$3,858.83	\$2,500.00	\$1,196,141.17
2	Dec 1 2019	\$6,358.83	\$3,866.87	\$2,491.96	\$1,192,274.30
Year 1	2019 Totals	\$12,717.66	\$7,725.70	\$4,991.96	\$1,192,274.30
3	Jan 1 2020	\$6,358.83	\$3,874.93	\$2,483.90	\$1,188,399.37
4	Feb 1 2020	\$6,358.83	\$3,883.00	\$2,475.83	\$1,184,516.37
5	Mar 1 2020	\$6,358.83	\$3,891.09	\$2,467.74	\$1,180,625.28
6	Apr 1 2020	\$6,358.83	\$3,899.19	\$2,459.64	\$1,176,726.09
7	May 1 2020	\$6,358.83	\$3,907.32	\$2,451.51	\$1,172,818.77
8	Jun 1 2020	\$6,358.83	\$3,915.46	\$2,443.37	\$1,168,903.31
9	Jul 1 2020	\$6,358.83	\$3,923.61	\$2,435.22	\$1,164,979.70
10	Aug 1 2020	\$6,358.83	\$3,931.79	\$2,427.04	\$1,161,047.91
11	Sep 1 2020	\$6,358.83	\$3,939.98	\$2,418.85	\$1,157,107.93
12	Oct 1 2020	\$6,358.83	\$3,948.19	\$2,410.64	\$1,153,159.74
13	Nov 1 2020	\$6,358.83	\$3,956.41	\$2,402.42	\$1,149,203.33
14	Dec 1 2020	\$6,358.83	\$3,964.66	\$2,394.17	\$1,145,238.67
Year 2	2020 Totals	\$76,305.96	\$47,035.63	\$29,270.33	\$1,145,238.67
15	Jan 1 2021	\$6,358.83	\$3,972.92	\$2,385.91	\$1,141,265.75
16	Feb 1 2021	\$6,358.83	\$3,981.19	\$2,377.64	\$1,137,284.56
17	Mar 1 2021	\$6,358.83	\$3,989.49	\$2,369.34	\$1,133,295.07
18	Apr 1 2021	\$6,358.83	\$3,997.80	\$2,361.03	\$1,129,297.27
19	May 1 2021	\$6,358.83	\$4,006.13	\$2,352.70	\$1,125,291.14
20	Jun 1 2021	\$6,358.83	\$4,014.47	\$2,344.36	\$1,121,276.67
21	Jul 1 2021	\$6,358.83	\$4,022.84	\$2,335.99	\$1,117,253.83
22	Aug 1 2021	\$6,358.83	\$4,031.22	\$2,327.61	\$1,113,222.61
23	Sep 1 2021	\$6,358.83	\$4,039.62	\$2,319.21	\$1,109,182.99
24	Oct 1 2021	\$6,358.83	\$4,048.03	\$2,310.80	\$1,105,134.96
25	Nov 1 2021	\$6,358.83	\$4,056.47	\$2,302.36	\$1,101,078.49
26	Dec 1 2021	\$6,358.83	\$4,064.92	\$2,293.91	\$1,097,013.57

Year 3	2021 Totals	\$76,305.96	\$48,225.10	\$28,080.86	\$1,097,013.57
27	Jan 1 2022	\$6,358.83	\$4,073.39	\$2,285.44	\$1,092,940.18
28	Feb 1 2022	\$6,358.83	\$4,081.87	\$2,276.96	\$1,088,858.31
29	Mar 1 2022	\$6,358.83	\$4,090.38	\$2,268.45	\$1,084,767.93
30	Apr 1 2022	\$6,358.83	\$4,098.90	\$2,259.93	\$1,080,669.03
31	May 1 2022	\$6,358.83	\$4,107.44	\$2,251.39	\$1,076,561.59
32	Jun 1 2022	\$6,358.83	\$4,115.99	\$2,242.84	\$1,072,445.60
33	Jul 1 2022	\$6,358.83	\$4,124.57	\$2,234.26	\$1,068,321.03
34	Aug 1 2022	\$6,358.83	\$4,133.16	\$2,225.67	\$1,064,187.87
35	Sep 1 2022	\$6,358.83	\$4,141.77	\$2,217.06	\$1,060,046.10
36	Oct 1 2022	\$6,358.83	\$4,150.40	\$2,208.43	\$1,055,895.70
37	Nov 1 2022	\$6,358.83	\$4,159.05	\$2,199.78	\$1,051,736.65
38	Dec 1 2022	\$6,358.83	\$4,167.71	\$2,191.12	\$1,047,568.94
Year 4	2022 Totals	\$76,305.96	\$49,444.63	\$26,861.33	\$1,047,568.94
39	Jan 1 2023	\$6,358.83	\$4,176.39	\$2,182.44	\$1,043,392.55
40	Feb 1 2023	\$6,358.83	\$4,185.10	\$2,173.73	\$1,039,207.45
41	Mar 1 2023	\$6,358.83	\$4,193.81	\$2,165.02	\$1,035,013.64
42	Apr 1 2023	\$6,358.83	\$4,202.55	\$2,156.28	\$1,030,811.09
43	May 1 2023	\$6,358.83	\$4,211.31	\$2,147.52	\$1,026,599.78
44	Jun 1 2023	\$6,358.83	\$4,220.08	\$2,138.75	\$1,022,379.70
45	Jul 1 2023	\$6,358.83	\$4,228.87	\$2,129.96	\$1,018,150.83
46	Aug 1 2023	\$6,358.83	\$4,237.68	\$2,121.15	\$1,013,913.15
47	Sep 1 2023	\$6,358.83	\$4,246.51	\$2,112.32	\$1,009,666.64
48	Oct 1 2023	\$6,358.83	\$4,255.36	\$2,103.47	\$1,005,411.28
49	Nov 1 2023	\$6,358.83	\$4,264.22	\$2,094.61	\$1,001,147.06
50	Dec 1 2023	\$6,358.83	\$4,273.11	\$2,085.72	\$996,873.95
Year 5	2023 Totals	\$76,305.96	\$50,694.99	\$25,610.97	\$996,873.95
51	Jan 1 2024	\$6,358.83	\$4,282.01	\$2,076.82	\$992,591.94
52	Feb 1 2024	\$6,358.83	\$4,290.93	\$2,067.90	\$988,301.01
53	Mar 1 2024	\$6,358.83	\$4,299.87	\$2,058.96	\$984,001.14
54	Apr 1 2024	\$6,358.83	\$4,308.83	\$2,050.00	\$979,692.31
55	May 1 2024	\$6,358.83	\$4,317.80	\$2,041.03	\$975,374.51
56	Jun 1 2024	\$6,358.83	\$4,326.80	\$2,032.03	\$971,047.71
57	Jul 1 2024	\$6,358.83	\$4,335.81	\$2,023.02	\$966,711.90
58	Aug 1 2024	\$6,358.83	\$4,344.85	\$2,013.98	\$962,367.05
59	Sep 1 2024	\$6,358.83	\$4,353.90	\$2,004.93	\$958,013.15
60	Oct 1 2024	\$6,358.83	\$4,362.97	\$1,995.86	\$953,650.18
61	Nov 1 2024	\$6,358.83	\$4,372.06	\$1,986.77	\$949,278.12

62	Dec 1 2024	\$6,358.83	\$4,381.17	\$1,977.66	\$944,896.95
Year 6	2024 Totals	\$76,305.96	\$51,977.00	\$24,328.96	\$944,896.95
63	Jan 1 2025	\$6,358.83	\$4,390.29	\$1,968.54	\$940,506.66
64	Feb 1 2025	\$6,358.83	\$4,399.44	\$1,959.39	\$936,107.22
65	Mar 1 2025	\$6,358.83	\$4,408.61	\$1,950.22	\$931,698.61
66	Apr 1 2025	\$6,358.83	\$4,417.79	\$1,941.04	\$927,280.82
67	May 1 2025	\$6,358.83	\$4,426.99	\$1,931.84	\$922,853.83
68	Jun 1 2025	\$6,358.83	\$4,436.22	\$1,922.61	\$918,417.61
69	Jul 1 2025	\$6,358.83	\$4,445.46	\$1,913.37	\$913,972.15
70	Aug 1 2025	\$6,358.83	\$4,454.72	\$1,904.11	\$909,517.43
71	Sep 1 2025	\$6,358.83	\$4,464.00	\$1,894.83	\$905,053.43
72	Oct 1 2025	\$6,358.83	\$4,473.30	\$1,885.53	\$900,580.13
73	Nov 1 2025	\$6,358.83	\$4,482.62	\$1,876.21	\$896,097.51
74	Dec 1 2025	\$6,358.83	\$4,491.96	\$1,866.87	\$891,605.55
Year 7	2025 Totals	\$76,305.96	\$53,291.40	\$23,014.56	\$891,605.55
75	Jan 1 2026	\$6,358.83	\$4,501.32	\$1,857.51	\$887,104.23
76	Feb 1 2026	\$6,358.83	\$4,510.70	\$1,848.13	\$882,593.53
77	Mar 1 2026	\$6,358.83	\$4,520.09	\$1,838.74	\$878,073.44
78	Apr 1 2026	\$6,358.83	\$4,529.51	\$1,829.32	\$873,543.93
79	May 1 2026	\$6,358.83	\$4,538.95	\$1,819.88	\$869,004.98
80	Jun 1 2026	\$6,358.83	\$4,548.40	\$1,810.43	\$864,456.58
81	Jul 1 2026	\$6,358.83	\$4,557.88	\$1,800.95	\$859,898.70
82	Aug 1 2026	\$6,358.83	\$4,567.37	\$1,791.46	\$855,331.33
83	Sep 1 2026	\$6,358.83	\$4,576.89	\$1,781.94	\$850,754.44
84	Oct 1 2026	\$6,358.83	\$4,586.42	\$1,772.41	\$846,168.02
85	Nov 1 2026	\$6,358.83	\$4,595.98	\$1,762.85	\$841,572.04
86	Dec 1 2026	\$6,358.83	\$4,605.55	\$1,753.28	\$836,966.49
Year 8	2026 Totals	\$76,305.96	\$54,639.06	\$21,666.90	\$836,966.49
87	Jan 1 2027	\$6,358.83	\$4,615.15	\$1,743.68	\$832,351.34
88	Feb 1 2027	\$6,358.83	\$4,624.76	\$1,734.07	\$827,726.58
89	Mar 1 2027	\$6,358.83	\$4,634.40	\$1,724.43	\$823,092.18
90	Apr 1 2027	\$6,358.83	\$4,644.05	\$1,714.78	\$818,448.13
91	May 1 2027	\$6,358.83	\$4,653.73	\$1,705.10	\$813,794.40
92	Jun 1 2027	\$6,358.83	\$4,663.42	\$1,695.41	\$809,130.98
93	Jul 1 2027	\$6,358.83	\$4,673.14	\$1,685.69	\$804,457.84
94	Aug 1 2027	\$6,358.83	\$4,682.88	\$1,675.95	\$799,774.96
95	Sep 1 2027	\$6,358.83	\$4,692.63	\$1,666.20	\$795,082.33
96	Oct 1 2027	\$6,358.83	\$4,702.41	\$1,656.42	\$790,379.92

97	Nov 1 2027	\$6,358.83	\$4,712.21	\$1,646.62	\$785,667.71
98	Dec 1 2027	\$6,358.83	\$4,722.02	\$1,636.81	\$780,945.69
Year 9	2027 Totals	\$76,305.96	\$56,020.80	\$20,285.16	\$780,945.69
99	Jan 1 2028	\$6,358.83	\$4,731.86	\$1,626.97	\$776,213.83
100	Feb 1 2028	\$6,358.83	\$4,741.72	\$1,617.11	\$771,472.11
101	Mar 1 2028	\$6,358.83	\$4,751.60	\$1,607.23	\$766,720.51
102	Apr 1 2028	\$6,358.83	\$4,761.50	\$1,597.33	\$761,959.01
103	May 1 2028	\$6,358.83	\$4,771.42	\$1,587.41	\$757,187.59
104	Jun 1 2028	\$6,358.83	\$4,781.36	\$1,577.47	\$752,406.23
105	Jul 1 2028	\$6,358.83	\$4,791.32	\$1,567.51	\$747,614.91
106	Aug 1 2028	\$6,358.83	\$4,801.30	\$1,557.53	\$742,813.61
107	Sep 1 2028	\$6,358.83	\$4,811.30	\$1,547.53	\$738,002.31
108	Oct 1 2028	\$6,358.83	\$4,821.33	\$1,537.50	\$733,180.98
109	Nov 1 2028	\$6,358.83	\$4,831.37	\$1,527.46	\$728,349.61
110	Dec 1 2028	\$6,358.83	\$4,841.43	\$1,517.40	\$723,508.18
Year 10	2028 Totals	\$76,305.96	\$57,437.51	\$18,868.45	\$723,508.18
111	Jan 1 2029	\$6,358.83	\$4,851.52	\$1,507.31	\$718,656.66
112	Feb 1 2029	\$6,358.83	\$4,861.63	\$1,497.20	\$713,795.03
113	Mar 1 2029	\$6,358.83	\$4,871.76	\$1,487.07	\$708,923.27
114	Apr 1 2029	\$6,358.83	\$4,881.91	\$1,476.92	\$704,041.36
115	May 1 2029	\$6,358.83	\$4,892.08	\$1,466.75	\$699,149.28
116	Jun 1 2029	\$6,358.83	\$4,902.27	\$1,456.56	\$694,247.01
117	Jul 1 2029	\$6,358.83	\$4,912.48	\$1,446.35	\$689,334.53
118	Aug 1 2029	\$6,358.83	\$4,922.72	\$1,436.11	\$684,411.81
119	Sep 1 2029	\$6,358.83	\$4,932.97	\$1,425.86	\$679,478.84
120	Oct 1 2029	\$6,358.83	\$4,943.25	\$1,415.58	\$674,535.59
121	Nov 1 2029	\$6,358.83	\$4,953.55	\$1,405.28	\$669,582.04
122	Dec 1 2029	\$6,358.83	\$4,963.87	\$1,394.96	\$664,618.17
Year 11	2029 Totals	\$76,305.96	\$58,890.01	\$17,415.95	\$664,618.17
123	Jan 1 2030	\$6,358.83	\$4,974.21	\$1,384.62	\$659,643.96
124	Feb 1 2030	\$6,358.83	\$4,984.57	\$1,374.26	\$654,659.39
125	Mar 1 2030	\$6,358.83	\$4,994.96	\$1,363.87	\$649,664.43
126	Apr 1 2030	\$6,358.83	\$5,005.36	\$1,353.47	\$644,659.07
127	May 1 2030	\$6,358.83	\$5,015.79	\$1,343.04	\$639,643.28
128	Jun 1 2030	\$6,358.83	\$5,026.24	\$1,332.59	\$634,617.04
129	Jul 1 2030	\$6,358.83	\$5,036.71	\$1,322.12	\$629,580.33
130	Aug 1 2030	\$6,358.83	\$5,047.20	\$1,311.63	\$624,533.13
131	Sep 1 2030	\$6,358.83	\$5,057.72	\$1,301.11	\$619,475.41

132	Oct 1 2030	\$6,358.83	\$5,068.26	\$1,290.57	\$614,407.15
133	Nov 1 2030	\$6,358.83	\$5,078.82	\$1,280.01	\$609,328.33
134	Dec 1 2030	\$6,358.83	\$5,089.40	\$1,269.43	\$604,238.93
Year 12	2030 Totals	\$76,305.96	\$60,379.24	\$15,926.72	\$604,238.93
135	Jan 1 2031	\$6,358.83	\$5,100.00	\$1,258.83	\$599,138.93
136	Feb 1 2031	\$6,358.83	\$5,110.62	\$1,248.21	\$594,028.31
137	Mar 1 2031	\$6,358.83	\$5,121.27	\$1,237.56	\$588,907.04
138	Apr 1 2031	\$6,358.83	\$5,131.94	\$1,226.89	\$583,775.10
139	May 1 2031	\$6,358.83	\$5,142.63	\$1,216.20	\$578,632.47
140	Jun 1 2031	\$6,358.83	\$5,153.35	\$1,205.48	\$573,479.12
141	Jul 1 2031	\$6,358.83	\$5,164.08	\$1,194.75	\$568,315.04
142	Aug 1 2031	\$6,358.83	\$5,174.84	\$1,183.99	\$563,140.20
143	Sep 1 2031	\$6,358.83	\$5,185.62	\$1,173.21	\$557,954.58
144	Oct 1 2031	\$6,358.83	\$5,196.42	\$1,162.41	\$552,758.16
145	Nov 1 2031	\$6,358.83	\$5,207.25	\$1,151.58	\$547,550.91
146	Dec 1 2031	\$6,358.83	\$5,218.10	\$1,140.73	\$542,332.81
Year 13	2031 Totals	\$76,305.96	\$61,906.12	\$14,399.84	\$542,332.81
147	Jan 1 2032	\$6,358.83	\$5,228.97	\$1,129.86	\$537,103.84
148	Feb 1 2032	\$6,358.83	\$5,239.86	\$1,118.97	\$531,863.98
149	Mar 1 2032	\$6,358.83	\$5,250.78	\$1,108.05	\$526,613.20
150	Apr 1 2032	\$6,358.83	\$5,261.72	\$1,097.11	\$521,351.48
151	May 1 2032	\$6,358.83	\$5,272.68	\$1,086.15	\$516,078.80
152	Jun 1 2032	\$6,358.83	\$5,283.67	\$1,075.16	\$510,795.13
153	Jul 1 2032	\$6,358.83	\$5,294.67	\$1,064.16	\$505,500.46
154	Aug 1 2032	\$6,358.83	\$5,305.70	\$1,053.13	\$500,194.76
155	Sep 1 2032	\$6,358.83	\$5,316.76	\$1,042.07	\$494,878.00
156	Oct 1 2032	\$6,358.83	\$5,327.83	\$1,031.00	\$489,550.17
157	Nov 1 2032	\$6,358.83	\$5,338.93	\$1,019.90	\$484,211.24
158	Dec 1 2032	\$6,358.83	\$5,350.06	\$1,008.77	\$478,861.18
Year 14	2032 Totals	\$76,305.96	\$63,471.63	\$12,834.33	\$478,861.18
159	Jan 1 2033	\$6,358.83	\$5,361.20	\$997.63	\$473,499.98
160	Feb 1 2033	\$6,358.83	\$5,372.37	\$986.46	\$468,127.61
161	Mar 1 2033	\$6,358.83	\$5,383.56	\$975.27	\$462,744.05
162	Apr 1 2033	\$6,358.83	\$5,394.78	\$964.05	\$457,349.27
163	May 1 2033	\$6,358.83	\$5,406.02	\$952.81	\$451,943.25
164	Jun 1 2033	\$6,358.83	\$5,417.28	\$941.55	\$446,525.97
165	Jul 1 2033	\$6,358.83	\$5,428.57	\$930.26	\$441,097.40
166	Aug 1 2033	\$6,358.83	\$5,439.88	\$918.95	\$435,657.52

167	Sep 1 2033	\$6,358.83	\$5,451.21	\$907.62	\$430,206.31
168	Oct 1 2033	\$6,358.83	\$5,462.57	\$896.26	\$424,743.74
169	Nov 1 2033	\$6,358.83	\$5,473.95	\$884.88	\$419,269.79
170	Dec 1 2033	\$6,358.83	\$5,485.35	\$873.48	\$413,784.44
Year 15	2033 Totals	\$76,305.96	\$65,076.74	\$11,229.22	\$413,784.44
171	Jan 1 2034	\$6,358.83	\$5,496.78	\$862.05	\$408,287.66
172	Feb 1 2034	\$6,358.83	\$5,508.23	\$850.60	\$402,779.43
173	Mar 1 2034	\$6,358.83	\$5,519.71	\$839.12	\$397,259.72
174	Apr 1 2034	\$6,358.83	\$5,531.21	\$827.62	\$391,728.51
175	May 1 2034	\$6,358.83	\$5,542.73	\$816.10	\$386,185.78
176	Jun 1 2034	\$6,358.83	\$5,554.28	\$804.55	\$380,631.50
177	Jul 1 2034	\$6,358.83	\$5,565.85	\$792.98	\$375,065.65
178	Aug 1 2034	\$6,358.83	\$5,577.44	\$781.39	\$369,488.21
179	Sep 1 2034	\$6,358.83	\$5,589.06	\$769.77	\$363,899.15
180	Oct 1 2034	\$6,358.83	\$5,600.71	\$758.12	\$358,298.44
181	Nov 1 2034	\$6,358.83	\$5,612.37	\$746.46	\$352,686.07
182	Dec 1 2034	\$6,358.83	\$5,624.07	\$734.76	\$347,062.00
Year 16	2034 Totals	\$76,305.96	\$66,722.44	\$9,583.52	\$347,062.00
183	Jan 1 2035	\$6,358.83	\$5,635.78	\$723.05	\$341,426.22
184	Feb 1 2035	\$6,358.83	\$5,647.53	\$711.30	\$335,778.69
185	Mar 1 2035	\$6,358.83	\$5,659.29	\$699.54	\$330,119.40
186	Apr 1 2035	\$6,358.83	\$5,671.08	\$687.75	\$324,448.32
187	May 1 2035	\$6,358.83	\$5,682.90	\$675.93	\$318,765.42
188	Jun 1 2035	\$6,358.83	\$5,694.74	\$664.09	\$313,070.68
189	Jul 1 2035	\$6,358.83	\$5,706.60	\$652.23	\$307,364.08
190	Aug 1 2035	\$6,358.83	\$5,718.49	\$640.34	\$301,645.59
191	Sep 1 2035	\$6,358.83	\$5,730.40	\$628.43	\$295,915.19
192	Oct 1 2035	\$6,358.83	\$5,742.34	\$616.49	\$290,172.85
193	Nov 1 2035	\$6,358.83	\$5,754.30	\$604.53	\$284,418.55
194	Dec 1 2035	\$6,358.83	\$5,766.29	\$592.54	\$278,652.26
Year 17	2035 Totals	\$76,305.96	\$68,409.74	\$7,896.22	\$278,652.26
195	Jan 1 2036	\$6,358.83	\$5,778.30	\$580.53	\$272,873.96
196	Feb 1 2036	\$6,358.83	\$5,790.34	\$568.49	\$267,083.62
197	Mar 1 2036	\$6,358.83	\$5,802.41	\$556.42	\$261,281.21
198	Apr 1 2036	\$6,358.83	\$5,814.49	\$544.34	\$255,466.72
199	May 1 2036	\$6,358.83	\$5,826.61	\$532.22	\$249,640.11
200	Jun 1 2036	\$6,358.83	\$5,838.75	\$520.08	\$243,801.36
201	Jul 1 2036	\$6,358.83	\$5,850.91	\$507.92	\$237,950.45

202	Aug 1 2036	\$6,358.83	\$5,863.10	\$495.73	\$232,087.35
203	Sep 1 2036	\$6,358.83	\$5,875.31	\$483.52	\$226,212.04
204	Oct 1 2036	\$6,358.83	\$5,887.55	\$471.28	\$220,324.49
205	Nov 1 2036	\$6,358.83	\$5,899.82	\$459.01	\$214,424.67
206	Dec 1 2036	\$6,358.83	\$5,912.11	\$446.72	\$208,512.56
Year 18	2036 Totals	\$76,305.96	\$70,139.70	\$6,166.26	\$208,512.56
207	Jan 1 2037	\$6,358.83	\$5,924.43	\$434.40	\$202,588.13
208	Feb 1 2037	\$6,358.83	\$5,936.77	\$422.06	\$196,651.36
209	Mar 1 2037	\$6,358.83	\$5,949.14	\$409.69	\$190,702.22
210	Apr 1 2037	\$6,358.83	\$5,961.53	\$397.30	\$184,740.69
211	May 1 2037	\$6,358.83	\$5,973.95	\$384.88	\$178,766.74
212	Jun 1 2037	\$6,358.83	\$5,986.40	\$372.43	\$172,780.34
213	Jul 1 2037	\$6,358.83	\$5,998.87	\$359.96	\$166,781.47
214	Aug 1 2037	\$6,358.83	\$6,011.37	\$347.46	\$160,770.10
215	Sep 1 2037	\$6,358.83	\$6,023.89	\$334.94	\$154,746.21
216	Oct 1 2037	\$6,358.83	\$6,036.44	\$322.39	\$148,709.77
217	Nov 1 2037	\$6,358.83	\$6,049.02	\$309.81	\$142,660.75
218	Dec 1 2037	\$6,358.83	\$6,061.62	\$297.21	\$136,599.13
Year 19	2037 Totals	\$76,305.96	\$71,913.43	\$4,392.53	\$136,599.13
219	Jan 1 2038	\$6,358.83	\$6,074.25	\$284.58	\$130,524.88
220	Feb 1 2038	\$6,358.83	\$6,086.90	\$271.93	\$124,437.98
221	Mar 1 2038	\$6,358.83	\$6,099.58	\$259.25	\$118,338.40
222	Apr 1 2038	\$6,358.83	\$6,112.29	\$246.54	\$112,226.11
223	May 1 2038	\$6,358.83	\$6,125.03	\$233.80	\$106,101.08
224	Jun 1 2038	\$6,358.83	\$6,137.79	\$221.04	\$99,963.29
225	Jul 1 2038	\$6,358.83	\$6,150.57	\$208.26	\$93,812.72
226	Aug 1 2038	\$6,358.83	\$6,163.39	\$195.44	\$87,649.33
227	Sep 1 2038	\$6,358.83	\$6,176.23	\$182.60	\$81,473.10
228	Oct 1 2038	\$6,358.83	\$6,189.09	\$169.74	\$75,284.01
229	Nov 1 2038	\$6,358.83	\$6,201.99	\$156.84	\$69,082.02
230	Dec 1 2038	\$6,358.83	\$6,214.91	\$143.92	\$62,867.11
Year 20	2038 Totals	\$76,305.96	\$73,732.02	\$2,573.94	\$62,867.11
231	Jan 1 2039	\$6,358.83	\$6,227.86	\$130.97	\$56,639.25
232	Feb 1 2039	\$6,358.83	\$6,240.83	\$118.00	\$50,398.42
233	Mar 1 2039	\$6,358.83	\$6,253.83	\$105.00	\$44,144.59
234	Apr 1 2039	\$6,358.83	\$6,266.86	\$91.97	\$37,877.73
235	May 1 2039	\$6,358.83	\$6,279.92	\$78.91	\$31,597.81
236	Jun 1 2039	\$6,358.83	\$6,293.00	\$65.83	\$25,304.81

237	Jul 1 2039	\$6,358.83	\$6,306.11	\$52.72	\$18,998.70
238	Aug 1 2039	\$6,358.83	\$6,319.25	\$39.58	\$12,679.45
239	Sep 1 2039	\$6,358.83	\$6,332.41	\$26.42	\$6,347.04
240	Oct 1 2039	\$6,360.26	\$6,347.04	\$13.22	\$0.00
Year 21	2039 Totals	\$63,589.73	\$62,867.11	\$722.62	\$0.00
Grand Total			\$1,200,000.00	\$326,120.63	



CLA (CliftonLarsonAllen LLP)
CLAconnect.com

Date: March 26, 2020
To: Karin Byrum, Treasurer, City of Las Cruces
From: Raul Anaya, Milo Lish, and Roger Lilly, CliftonLarsonAllen LLP (CLA)
Re: Financial Assessment– La Pinon Sexual Assault Recovery Services of Southern New Mexico (La Pinon)

Objectives

CLA was engaged to provide the City of Las Cruces (City) external financial analysis of La Pinon, which has been identified as the potential tenant of a lease-purchase agreement between the Children Healing in Las Cruces and Dona Ana County (CHILD) Board and the City. The objective of CLA's assessment was to evaluate and analyze key performance indicators and related benchmarks to provide an analysis of La Pinon's ability to make the proposed lease payments outlined in the draft lease-purchase agreement.

Assessment Methodology

To complete this assessment, CLA reviewed La Pinon's proposal to the City, the City's draft lease-purchase agreement, La Pinon's audited financial statements for fiscal years ending June 30, 2016 through 2019, and La Pinon's Federal Form 990 for fiscal years ended June 30, 2014 through 2019. Based on the information reviewed, CLA developed and assessed the following key performance indicators (KPI):

- Net income and cash flows
- Occupancy as a percentage of total expenses
- Occupancy as a percentage of total revenues
- Debt as a percentage of unrestricted net assets
- Current ratio and days cash on hand

In addition, CLA developed benchmarks to assess, analyze, and interpret the preceding KPIs. The comparability data was extracted using CausalQ. CausalQ collects, cleans, and analyzes data from over a dozen sources allowing CLA to filter data by multiple dimensions including State, City, and size. In order to refine results CLA utilized the National Taxonomy of Exempt Entities (NTEE) to organize the data. This taxonomy is used by the Internal Revenue Services (IRS) and National Center for Statistics (NCCS) to classify nonprofit organizations.

CLA's search focused on NTEE code F40: *Hot Line Crisis Intervention Services* for organizations located in New Mexico with occupancy expenses greater than fifteen thousand. This search yielded four comparable organizations including La Pinon, which became the foundation of the comparability data.

Observations

Based on the analysis described above, the following section describes CLA's observations regarding La Pinon's ability to make the proposed lease payments outlined in the draft lease-purchase agreement.

Agenda Item #7.5.

March 20, 2020
Financial Assessment – La Pinon
Page 2

La Pinon – Standalone

- The proposed annual lease payments of \$76,306 is less than the current lease payments of \$90,000, which La Pinon has paid on-time and in-full since the lease was executed during the year ended June 30, 2016 (FY 16).
- Prior to FY 16, La Pinon was operating from multiple locations. Upon consolidating operations and relocating to a central location, La Pinon has posted positive net income and cash flows through June 30, 2019 (FY 19) as shown in Appendix A.
- La Pinon had no long-term debt or other long-term commitments at the end of FY 19.

Benchmarking – Comparable Organizations

As described above, CLA determined industry best practices, identified comparable organizations, assessed and calculated the KPIs for these organizations and compared the results to La Pinon. The results of this analysis are shown in Table 1 below.

Table 1: La Pinon Comparison to Peer Organizations and Industry Best Practices

2018 ¹ :	Industry Best Practices	La Pinon	Average - Peer Group ² :
Occupancy Expense	N/A	\$ 90,000	\$ 90,793
Total Expenses	N/A	\$ 1,465,348	\$ 1,040,831
Percentage of Occupancy to Total Expenses	2.00% - 20.00%	6.14%	8.72%
Total Revenue	N/A	\$ 1,555,468	\$ 996,127
Percentage of Occupancy to Total Revenues	2.00% - 20.00%	5.79%	9.11%
Total Liabilities	N/A	\$ 28,920	\$ 90,107
Unrestricted Net Assets	N/A	601,730	239,596
Debt to Unrestricted Net Assets	<= 50%	4.81%	37.61%
Current Assets	N/A	\$ 514,530	\$ 324,025
Current Liabilities	N/A	28,920	51,967
Working Capital	N/A	\$ 485,610	\$ 272,058
Current Ratio	>= 2.0	17.8	6.2
Days Cash on Hand	>= 60	79	39
Heat Index of Industry Best Practices:	Exceeds	Aligns	Below
Notes:			
¹ : Please note totals were extracted from the 2018 Federal Form 990 which can have varying year-ends.			
² : Please see Appendix B for detailed calculation of the Average - Peer Group			

March 20, 2020
Financial Assessment – La Pinon
Page 3

Benchmarking – Comparable Organizations (cont.)

CLA's assessment and analysis presented in Table 1 above, highlights the KPIs for industry best practices, La Pinon, and the peer group. La Pinon exceeds industry best practices for all KPIs. In addition, La Pinon's KPIs are more favorable than the peer group. La Pinon maintains working capital (current assets less current liabilities) which exceeds the peer group by approximately \$214,000 and La Pinon's cash on hand exceeds the peer group by 40 days.

Liquidity Analysis

Liquidity refers to the availability of cash or cash equivalents to meet short-term operating needs. The current ratio and day's cash on hand are widely used metrics that evaluate the liquidity of an organization.

Days cash on hand is a ratio evaluating how long an organization can operate (in days) without the need for additional cash inflows to sustain operations. Based on our experience with nonprofit organization in New Mexico, and industry best practices, organizations strive to maintain 60 to 90 days of operating cash at all times.

Graph 1: La Pinon's Days Cash on Hand



As shown in Graph 1 above, La Pinon's days cash on hand is consistent with industry best practices for the past three fiscal years. In addition, La Pinon has routinely maintained cash reserves, especially when considering their current monthly lease payment of \$7,500 exceeds the proposed lease payments of \$6,359.

Liquidity Analysis (cont.)

The current ratio measures an organizations ability to pay short-term obligations, or those due within one year. Based on our experience with nonprofits in New Mexico, and industry best practices, organizations strive to maintain a current ratio of at least 2.0.

Graph 2: La Pinon's Current Ration



As shown in Graph 2 above, La Pinon's current ratio is well above industry best practices and is synonymous with an organization's ability to pay short term obligations as they come due.

Conclusion

As of June 30, 2019, La Pinon held approximately \$330,000 of cash, has generated positive net income and cash flows in the past several years of operations, and currently has no long term liabilities recorded. Based on our analysis of historical information, which is not a guarantee of future results, La Pinon's historical data demonstrates and is indicative of their ability to make future lease payments as outlined in the draft lease-purchase agreement.

Agenda Item #7.5.

March 20, 2020
Financial Assessment – La Pinon
Page 5

Appendix A: La Pinon's Summarized Financial Information (Audited Financial Statements and Federal Form 990)

Year	2014	2015	2016	2017	2018	2019
Occupancy Expense	\$ -	\$ -	\$ 41,166	\$ 84,252	\$ 90,000	\$ 90,000
Total Expenses	\$ 671,743	\$ 708,992	\$ 1,087,746	\$ 1,459,873	\$ 1,465,348	\$ 1,642,977
Occupancy as a Percentage of Total Expenses	0.00%	0.00%	3.78%	5.77%	6.14%	5.48%
Total Revenues	\$ 646,661	\$ 752,353	\$ 1,196,284	\$ 1,577,803	\$ 1,555,468	\$ 1,774,595
Occupancy as a Percentage of Total Revenues	0.00%	0.00%	3.44%	5.34%	5.79%	5.07%
Net Income	\$ (25,082)	\$ 43,361	\$ 108,538	\$ 117,930	\$ 90,120	\$ 131,618
Operating Cash Flows	N/A	N/A	62,754	194,295	67,152	63,214
Net Cash Flows	N/A	N/A	22,696	148,915	34,838	17,838
Total Liabilities	21,493	18,937	66,849	44,843	28,920	34,975
Unrestricted Net Assets	\$ 243,274	\$ 285,347	\$ 393,685	\$ 511,610	\$ 601,730	\$ 727,199
Liabilities as a Percentage of Unrestricted Net Assets	8.83%	6.64%	16.98%	8.77%	4.81%	4.81%
Current Assets	\$ 214,604	\$ 249,730	\$ 341,054	\$ 436,008	\$ 514,530	\$ 630,444
Working Capital	\$ 193,111	\$ 230,793	\$ 274,205	\$ 391,165	\$ 485,610	\$ 595,469
Current Ratio	10.0	13.2	5.1	9.7	17.8	18.0
Cash on Hand	\$ 142,617	\$ 105,838	\$ 128,534	\$ 277,449	\$ 312,287	\$ 330,122
Total Expenses (excluding in-kind and depreciation)	\$ 667,101	\$ 699,757	\$ 1,069,783	\$ 1,436,997	\$ 1,438,174	\$ 1,609,347
Average Cash Expense per Day	\$ 1,828	\$ 1,917	\$ 2,931	\$ 3,937	\$ 3,940	\$ 4,409
Days Cash on Hand	78	55	44	70	79	75

Agenda Item #7.5.

March 20, 2020
Financial Assessment – La Pinon
Page 6

Appendix B: Peer Group's Summarized Financial Information (Federal Form 990)

	2018 ¹	La Pinon	Sexual Assault Services of NWNM	Desert View	Rape Crisis Center of CNM
Occupancy		\$ 90,000	\$ 73,630	\$ 63,205	\$ 135,543
Total Expenses		\$ 1,465,348	\$ 886,753	\$ 1,008,714	\$ 1,227,026
Percentage of Occupancy to Total Expenses		6.14%	8.30%	6.27%	11.05%
Total Revenue		\$ 1,555,468	\$ 963,803	\$ 911,105	\$ 1,113,473
Percentage of Occupancy to Total Revenues		5.79%	7.64%	6.94%	12.17%
Total Liabilities		\$ 28,920	\$ 22,930	\$ 194,047	\$ 53,344
Unrestricted Net Assets		601,730	554,737	(166,214)	330,264
Debt to Unrestricted Net Assets		4.81%	4.13%	-116.75%	16.15%
Current Assets		\$ 514,530	\$ 559,954	\$ 35,863	\$ 376,258
Current Liabilities		28,920	22,930	79,627	53,344
Working Capital		\$ 485,610	\$ 537,024	\$ (43,764)	\$ 322,914
Current Ratio		17.8	24.4	0.5	7.1
Days Cash on Hand		79	93	1	22

¹: Please note totals were extracted from the 2018 Federal Form 990 which can have varying year-ends.



**2955; Council
Bill 21-022**

City Council Action and Executive Summary

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6				
1st Reading:	October 19, 2020	Adopted:	November 2, 2020		
Drafter:	Elizabeth Teeters	Department:	Economic Development		
Program:	Business Development	Line of Business:	Development		

Title:	AN ORDINANCE SUPPORTING INVESTMENT OF \$400,000 IN AN ECONOMIC DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN, AUTHORIZING AN ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY AND LASEN, INC, AND ENTERING INTO AN AGREEMENT TO SERVE AS FISCAL AGENT FOR THE STATE OF NEW MEXICO'S PARTICIPATION NOT TO EXCEED \$750,000 IN THE PROJECT.
---------------	---

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

PURPOSE(S) OF ACTION:

To approve a LEDA project for LaSen with allocations from City of Las Cruces and State of New Mexico.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

LaSen, Inc. specializes in aerial inspection and mapping services, with a particular niche in the oil and gas industry and is planning a major expansion in New Mexico. The State has committed up to \$750,000.00 in LEDA funding and the City has proposed to provide LEDA funding of \$400,000.00. This funding will be used for land, building, and infrastructure costs. In exchange, the Company will employ 79 full-time persons by December 31, 2026, with a total payroll of over \$4,855,000.00 per year at full employment.

If approved by this proposed Ordinance, the City will enter into a Project Participation Agreement with the Company, subject to the LEDA requirements and the adopted LEDA Plan of the City, for its investment in the project. Further, the City will also enter into an intergovernmental agreement with the State to serve as fiscal agent for the administration of the up to \$750,000 State investment in the project. An economic impact analysis performed by the State indicated a positive return on investment on the LEDA incentive in the first year.

A separate resolution will be brought to City Council for a budget adjustment for both City and State when the State funding is received.

SUPPORT INFORMATION:

[Exhibit "A", Project Participation Agreement](#)

[Exhibit "B", Inter Governmental Agreement](#)

[Attachment "A", LEDA Application.](#)

[Attachment "B", Executive Summary.](#)

PLAN(S):

Comprehensive Plan, Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

None

ANNUAL BUDGET APPROVAL:

☐ Yes

☐ No

☐ N/A

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

☐ Yes

☐ No

☐ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes", this will approve the Ordinance and authorize the City to provide local LEDA funding and to act as fiscal agent for State LEDA Project funds for LaSen, Inc.
2. Vote "No", this will not approve the Ordinance nor authorize the City to provide local LEDA funding and to act as fiscal agent for State LEDA Project funds for LaSen, Inc.
3. Vote to "Amend", this could delay the Ordinance and would require City Council to provide direction to staff.
4. Vote to "Table", this would delay the Ordinance and require City Council to provide direction to staff.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

ORDINANCE 2955; COUNCIL BILL 21-022

AN ORDINANCE SUPPORTING INVESTMENT OF \$400,000 IN AN ECONOMIC DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN, AUTHORIZING AN ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY AND LASEN, INC, AND ENTERING INTO AN AGREEMENT TO SERVE AS FISCAL AGENT FOR THE STATE OF NEW MEXICO'S PARTICIPATION NOT TO EXCEED \$750,000 IN THE PROJECT.

The City Council is informed that:

WHEREAS, the City of Las Cruces adopted an updated LEDA Plan in 2018 to encourage economic development; and

WHEREAS, LaSen, Inc, (the "Company") has applied for LEDA assistance from the City and the State of New Mexico; and

WHEREAS, the State of New Mexico has committed up to \$750,000 in LEDA funding and the City has proposed to provide LEDA funding of \$400,000; and

WHEREAS, in exchange, the Company will employ 79 full-time persons by December 31, 2026, with an annual payroll of over \$4,855,000; and

WHEREAS, the State of New Mexico conducted an economic impact analysis establishing the benefit of this LEDA project to the community.

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

(I)

THAT the City hereby enters into and approves a Project Participation Agreement, as shown in Exhibit "A" attached hereto and made part of this Ordinance, with LaSen, Inc, subject to the requirements of LEDA and the adopted LEDA Plan of the City, for its \$400,000 in investment in the project.

(II)

THAT the City hereby enters into and approves an Intergovernmental Agreement with the State of New Mexico to serve as fiscal agent for the administration of up to \$750,000 the State will invest in the project, as shown in Exhibit "B" attached hereto and made part of this Ordinance.

(III)

THAT the City Manager is hereby authorized to sign the Agreements as referenced in this Ordinance on the City's behalf.

(IV)

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

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

PROJECT PARTICIPATION AGREEMENT

This Project Participation Agreement ("Agreement") is entered into on _____, 2020 by and between **CITY OF LAS CRUCES**, a New Mexico Municipal Corporation (the "City"), and **LASEN, INC.** (the "Company").

Recitals.

- A. Article 9, Section 14 of the New Mexico Constitution provides municipalities the ability to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses, provided that adequate safeguards are employed to protect public monies and resources. Pursuant to the Local Economic Development Act, Sections 5-10-1 through 5-10-13 NMSA 1978 (the "Act"), public support for economic development may be provided if the governmental entity has adopted by ordinance an economic development plan and has approved by a second ordinance an application for a project in keeping with such plan.
- B. Pursuant to the Local Economic Development Act, NMSA 1978, Sections 5-10-1 through 5-10-13 ("LEDA"), the City adopted Ordinance No. 2873 (the "Las Cruces Local Economic Development Plan") authorizing the City to consider applications for economic development assistance;
- C. As provided in the Economic Development Plan Ordinance, the City considered an application from the Company, which proposed that the City serve as local government conduit for an appropriation of up to \$750,000.00 from the Legislature of the State of New Mexico (the "State Contribution") and also provide up to \$400,000.00 from City funds (the "City Contribution") to go toward the Company's development of production and headquarter facility at as per Exhibit A (Parcel does not have an address at present. Exhibit A should be used until an address is created) in the City of Las Cruces (the "Project"). The company will construct a new facility on the site and will employ at least 79 full-time persons by December 31, 2026.
- D. The City has adopted Ordinance No. _____ ("Project LEDA Ordinance") finding that the Company is a "qualifying entity" and the Project is an "economic development project" as those terms are defined by the Act, and approving this Agreement as meeting the requirements of the Act.

1. **Goals and Objectives.** The objective of this Agreement is to create and support an economic development project that fosters, promotes and enhances local economic development efforts. The goal is that the Project will provide jobs and career opportunities that will benefit the community and contribute to its

long-term economic growth and sustainability.

2. **Substantive Contribution from the Company.**

- a. **Facility.** The Company will establish business operations at per Exhibit A (Parcel does not have an address at present. Exhibit A should be used until an address is created) in the City of Las Cruces, New Mexico (the "Facility").
- b. **Investment.** The Company will make capital investments in the Project and costs associated therewith (including, for the acquisition of land, building, equipment, tangible personal property and services associated with the acquisition, construction and equipping of the Project) in the amount of approximately \$8,500,000 by December 31, 2022, provided, however, failure to meet this level of Project Contribution will not constitute a breach of this Agreement.
- c. **Job Creation.** The Company will directly employ a target of 79 full-time employees by December 31, 2026 (the "Job Target"). "Job" means a permanent, full-time employment position (at least 32 hours per week) offering the employee the full range of benefits offered to other full-time employees of the Company and included in quarterly filing of the New Mexico Department of Workforce Solutions; ("DWS") Employment and Wage Detail Reporting as submitted to DWS by or on behalf of the Company.

Full-time employees do not include agency, sub-contracted, temporary employees or independent contractors. Employees hired by the Company through a Professional Employer Organization (PEO) may be counted toward the Job Target provided the PEO agrees to comply with all job reporting requirements of this Agreement.

- d. **Schedule.** A preliminary Project schedule is as follows, but failure to meet these milestones will not constitute a breach of this Agreement.

Winter 2021	Initiate facility construction
Spring 2022	Occupy facility

- e. **Sustainability.** Although the Company intends to have a long-term presence in the City, for purpose of the contractual obligations of this Agreement, the Company covenants to continue to operate the Project until December 31, 2026.

3. **The City Contribution.**

- a. The City Contribution is composed of up to \$400,000.00. The City Contribution will be disbursed to the Company in accordance with the provisions of this Agreement for such purposes as set forth in Section 5-10-3D NMSA 1978.

- b. In addition, the City will account for receipts and disbursements of the State Contribution and will provide financial documentation to the State pertaining to the State Contribution. The City will comply with the Local Economic Development Act ("LEDA") with respect to the acceptance and disbursement of the State Contribution. As required by the LEDA Ordinance and the Act, the City will deposit the State Contribution into a clearly identified separate account. The State Contribution will be disbursed to the Company through the City for reimbursement of LEDA Eligible Expenditures.

4. The State Contribution

- a. The City anticipates that the State Contribution will be delivered by the State to the City for disbursement to the Company upon enactment of the Project LEDA Ordinance, and execution of this document and the intergovernmental agreement between the State and the City, after which time the City will request transfer of the State Contribution. Upon receipt, the City will place the State Contribution into a separate account established in connection with the Project, as required by law. The City will disburse the State Contribution, if and when it is received, only in the manner described in this Agreement and the Intergovernmental Agreement executed between the City and the State. The City will disburse the State Contribution to the Company as reimbursement for LEDA Eligible Expenditures subject to the Company's satisfaction of the conditions set forth herein. Disbursements shall be paid on a reimbursement basis and the Company shall first incur the LEDA Eligible Expenditures and then submit requests for reimbursement to the City. For purposes of this Agreement, LEDA Eligible Expenditures shall mean: expenditures including, but not limited to, land, building and infrastructure, including permanently installed and situated physical assets and the design, labor and permitting required to put them in place. Examples include: foundation, drainage improvements, electrical wiring, architecture fees, insulation, landscaping and equipment rentals.
- b. The State Contribution is composed of up to \$750,000.00. The State Contribution will be disbursed to the Company in accordance with the provisions of this Agreement for such purposes as set forth in Section 5-10-3D NMSA 1978.

5. Disbursement of City and State Contributions

- a. State and City contributions shall be combined into a single account and disbursed through the City
- b. **Conditions to Disbursement; Performance Milestones.** The Contributions will be disbursed in three (3) separate allotments. Each disbursement will be conditioned on (i) the Company's having incurred LEDA Eligible Expenditures prior to the disbursement; (ii) the Company meeting minimum employment targets and being in compliance with job reporting requirements; and (iii) the Company's satisfaction of the performance milestones set forth below (the

"Disbursement Performance Milestones") for each allotment prior to the disbursement:

Amount of State Contribution Available for Disbursement	Disbursement Performance Milestone
\$650,000.00	Receive a Certificate of Occupancy for business operations on the Project Site, employ at least 25 people and incur LEDA Eligible Expenses.
\$250,000.00	Maintain a minimum employment level of 50 or more (per quarterly Wage and Employment report submitted to State of NM) for six (6) consecutive months and incur LEDA eligible expenses.
\$250,000.00	Maintain a minimum employment level of 80 or more (per quarterly Wage and Employment report submitted to State of NM) for six (6) consecutive months and incur LEDA eligible expenses.

"LEDA Eligible Expenditures" means an expenditure for land acquisition and/or permanent infrastructure and construction improvements. Includes materials and services, but does not include lease payments or equipment purchases.

6. **Disbursement Requests.** From time to time, after the Company has satisfied the conditions for disbursement set forth herein, the Company may submit to the City a written request for disbursement of the City or State Contribution (the "Disbursement Request"). All Disbursement Requests shall be accompanied by (i) documentation substantiating LEDA Eligible Expenses, and (ii) documentation of current employment level in New Mexico. The Company will not submit a Disbursement Request for less than \$50,000, but may, upon completion of all performance milestones, submit a Disbursement Request for up to the full amount of the State Contribution then available to the Company at any time. The City may, in good faith, object to or require additional information regarding a Disbursement Request to verify compliance with this Agreement.
7. **No Offset of City costs.** The City may not offset any internal costs or overhead charges for review or processing of the Disbursement Requests against the Disbursement Request or the State Contribution.
8. **Security.** As security for the faithful performance and payment of Company's obligations under this Agreement, prior to the Company's receipt of any part of the State or City Contribution, Company shall furnish the City with a Claim of Lien against aircraft owned by the Company or some alternative form of security in a form

mutually acceptable to the parties (the "Security"). If a claim of lien against aircraft is provided, the lien shall be filed with the FAA Aircraft Registration Branch and the Company shall provide continuous proof of insurance, naming the City as additional insured, until such time as the City releases the security per this Agreement. The maximum obligation secured by the Security (the "Maximum Obligation") will be \$1,150,000.00. The Company shall be permitted to obtain incremental increases in the Security in the amount of each Disbursement Request and shall not be required to secure the Maximum Obligation before a disbursement will be made. The Security shall be delivered to the City no less than 15 days before request for Disbursement.

- a. The City may draw on the Security in order to satisfy any unpaid Clawback Penalty which shall become due and payable, but only thirty (30) days following written demand for payment to the Company. Such draw may be initiated without filing a proceeding in any court of competent jurisdiction.
- b. Provided that the Company has not been required to pay any Clawback, the Security will terminate on January 31, 2027, unless earlier released in accordance with this Agreement.
- c. If the State or City reduces the amount of LEDA Funds that are made available for the Project and/or if the Company does not draw the entire amount of the LEDA Funds available, the Maximum Obligation will be reduced proportionately to reflect the amount of LEDA Funds actually received by the Company.

9. Clawbacks.

Notwithstanding any other provision of this Agreement, the Company shall be required to pay the Clawback Penalties set forth in this Section (together with forfeiture of the security instrument provided to secure the Company's Clawback obligations), if the Company does not satisfy the conditions set forth herein.

- a. **Facility Closure Clawback.** If the Company ceases operations in the City on or before December 31, 2026 the Company will repay to the City all LEDA Funds that the Company actually received as of that date (the "Facility Closure Clawback") and the City shall have the right to execute reimbursement from the Security, but only after thirty (30) days following written demand for payment to the Company. For purposes of this Agreement, a failure to produce product for a period of 90 days or more or failure to occupy the Facility shall be considered a cessation of operations; provided however cessations for reasonable periods for the repair or replacement of facilities damaged or destroyed, cessations resulting from labor disputes, strikes, riots or acts of God, shortages of materials or supplies or for any other reason beyond the reasonable control of the Company, or under similar circumstances will not constitute a failure by the Company to comply with this Section 9a. If the Company ceases operations for any of the causes set forth in this Section 9a, the Company shall submit a plan for resolving such cessation of operations within 30 days. In the event of a cessation of operations, the Company shall provide written notice thereof and a reason therefore to the City within 10 days.

- b. **Performance Clawback.** It is the Company's intent to create, hire and maintain the number of jobs set forth in the table below under the column captioned "Cumulative Fulltime Target Job Number" on the Job Measurement Dates set forth below. If the Company does not meet or exceed the job numbers set forth under the column captioned "Minimum Job Number" in the table below on each of the specified Job Measurement Dates (and after expiration of the Cure Periods), then the Company shall be required to pay a Clawback Penalty (as defined below) to the City which will be applied in the percentage set forth in the table below:

Job Measurement Date	Cumulative Fulltime Target Job Number	Minimum Job Number	Clawback Due if Minimum Job Number not met
December 31, 2021	40	36	100% of Clawback Penalty
December 31, 2022	60	54	100% of Clawback Penalty
December 31, 2023	75	68	100% of Clawback Penalty
December 31, 2024	90	81	75% of Clawback Penalty
December 31, 2025	100	90	50% of Clawback Penalty
December 31, 2026	100	90	25% of Clawback Penalty

For the purposes of this Section:

The "Clawback Penalty" is a penalty that the Company will be required to pay the City upon the Company's failure to meet the Minimum Job Target on the applicable Job Determination Date, if such Minimum Job Target is not otherwise reached by the Company during the Cure Period. The Clawback Penalty shall be equal to the product of the Percentage Hiring Shortfall (as defined herein), multiplied by the total State and City Contribution paid to the Company as of that time. For purposes of this subsection, the "Percentage Hiring Shortfall" shall be the quotient of (i) the Minimum Job Number for applicable Job Determination Date, minus the actual number of jobs the Company maintains at the Facility at that time, divided by (ii) the Minimum Job Number for applicable Job Determination Date.

"Cure Period" is the period of 180 days after each Job Determination Date during which the Company shall have the opportunity to cure any shortfall in meeting the Minimum Job Number. For the avoidance of doubt, if the Company meets the Minimum Job Number at any time during the Cure Period as validated by the job reporting requirements set forth herein, the Company shall have no obligation to pay a Clawback Penalty corresponding to the applicable Job Determination Date. If the Company fails to reach the Minimum Job Number during the Cure Period, the

Company shall pay the City a Clawback Penalty determined in accordance with the table set forth above. See Attachment 1 hereto for examples of Clawback Calculations

The parties hereto recognize certain economic factors generally described as "Business Climate Changes" are beyond the control of any of the parties and may affect the ability of the Company to strictly adhere to the job creation numbers and schedule set forth herein. "Business Climate Changes" means substantial changes, beyond the control of the Company within the industry in which the Company operates, that causes a significant decrease in the Company's ability to perform pursuant to the requirements of this agreement with the City. The Company may request specific modifications to the job creation schedule in writing within thirty days of learning of the existence of the "Business Climate Change." Such notification shall include the details of the business climate change, the effect thereon on the Company, and the modification of this agreement the Company requests. If the City and EDD agree that Business Climate Changes have affected the Company's ability to perform, the Performance Clawback may be modified.

- c. **Job Reporting.** The Company shall submit quarterly employment reports documenting its quarterly filing of the Department of Workforce Solutions' ("DWS") Employment and Wage Detail Reporting as submitted to DWS in the form and manner required by EDD beginning with the quarter following execution of this Agreement and continuing each until the conclusion of the PPA. The State will provide copies of all such reports to the City. The City or the State may request a copy of the Company's quarterly employment reports at any time while this Agreement is in effect and the Company agrees to provide such documents. The Company acknowledges this quarterly reporting will be relied upon by the City and the State to ascertain if the Company is in compliance with the job creation provisions of this Agreement and all subsequent and ancillary agreements. The Company will receive no disbursements of State Contribution as stipulated in this Agreement without up to date quarterly job reporting as set forth herein.
- d. If the Company has been required to pay the Facility Closure Clawback, the Company will not be required to pay any Performance Clawback that may come due after the date of such payment.

10. Fees. Each party shall bear its own costs and expenses in connection with the negotiation, execution and delivery of this Agreement or any amendment or enforcement of this Agreement.

11. Annual Performance Review. To ensure the prudent use of the taxpayer's funds and as required by the LEDA statute and Ordinance, the Project will be subject to an annual performance review conducted by City or EDD staff beginning on June

30, 2021 and every year thereafter until this Agreement terminates. The review will evaluate whether the Project is meeting the requirements set forth in this Agreement and any subsequent agreements or amendments and shall be made available to the State. At this time, the Company may report any difficulties it has experienced under the terms of this Agreement or the LEDA program and may request any assistance it deems necessary. The City or State may request the Company provide data and information to assess the broader economic impact of the Project, but the Company shall not be required to divulge information or documents it considers confidential or proprietary.

If the requirements are not being met, the City may terminate this assistance to the Project by passage of an ordinance which terminates this Agreement and specifies the disposition of all obligations of the Project. In addition, in accordance with LEDA, the City may enact an ordinance revoking the LEDA Ordinance and terminating any further payments for any or all Projects thereunder. In the event the City terminates the LEDA Ordinance or this Agreement while the Company is in compliance with the terms and requirements of this Agreement, the City will not have a right to clawback any of the payments already made to the Company.

12. Termination. This Agreement shall terminate at the close of business on December 31, 2026 or when otherwise terminated by ordinance.

13. Request for early release of security. If the Company achieves and then sustains the Minimum Job Number of 100 employees for six (6) consecutive months prior to December 31, 2026, the Company may request that the Security be released and this agreement be terminated and considered complete. Said request shall be made to the City in writing and accompanied by documentation comprising its quarterly job reports demonstrating such employment. A request for release of the Security may not be submitted prior to December 31, 2023. Upon receipt of such a request the New Mexico Economic Development Department will work with the Company to gather sufficient documentation of the economic activity directly created by the Company during the period of this agreement and complete an economic impact analysis report. If said report verifies that the State of New Mexico and the City of Las Cruces has received direct tax revenues from the activity of the company said request shall be granted.

14. Liability. No party shall be responsible for liability incurred as a result of the other party's acts or omissions. Nothing herein shall operate or be deemed to alter or expand any liabilities or obligations under the applicable provisions of the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1, et seq.), or to waive any immunities, limitations or required procedures thereunder. Nothing in this Agreement constitutes a waiver of any party's right to seek judicial relief.

15. Amendments. This Agreement shall not be altered, changed or amended, except by instrument in writing executed by all of the Parties hereto and EDD. Any amendments may be subject to the approval of the governing body of the City of Las Cruces.

16. Governing Law. This Agreement shall be governed by the laws of the State of New Mexico.

17. Miscellaneous. This Agreement binds and inures to the benefit of the City and the Company and their respective successors and permitted assigns. This Agreement may not be assigned without the written consent of the non-assigning party and the EDD; provided, however, that with notice to the City and the EDD, the Company may assign this Agreement to any affiliate or other member of the Company that agrees in writing to assume and perform all of the Company’s obligations under this Agreement. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument.

18. Notice. All notices or other written communications, including requests for disbursement, that are required or permitted to be given pursuant to this Agreement must be in writing and delivered personally, by a recognized courier service, by a recognized overnight delivery service, by fax, by electronic mail, or by registered or certified mail, postage prepaid, to the parties at the addresses shown below. If notice is mailed, it will be deemed received on the earlier of actual receipt or on the third business day following the date of mailing. If a notice is hand-delivered or sent by overnight delivery service, it will be deemed received upon actual delivery. If any written notice is sent by facsimile or electronic mail, it will be deemed received upon printed or written confirmation of the transmission. A party may change its notice address by written notice to the other party to this Agreement.

The initial notice addresses for the parties are as follows:

If to the City:	If to the Company:
City of Las Cruces	LaSen, Inc
Attention: Economic Development	Attention: XXX
PO Box 20000	XXX
Las Cruces, New Mexico 88004	XXX

Effective Date: _____

Attachment:

- 1. Example of Clawback Calculations

SIGNATURE PAGE TO PROJECT PARTICIPATION AGREEMENT

City of Las Cruces

By _____

Name _____

Title _____

LaSen, Inc

By _____

Name: _____

Title: _____

Attachment 1 Example of Clawback Calculations

Clawback Calculations

Clawback Formula = (Job Creation % Shortfall) * (Cumulative LEDA Dollars Distributed)

Job Creation % Shortfall = $(1 - (\text{actual jobs} / \text{cumulative hiring target})) * 100\%$

Example - 1 100%

End of year 1, inclusive of cure period

Actual Employees	(a)	41
Cumulative Hiring Target	(b)	42
Job Creation % Shortfall =	(c) = $1 - (a/b)$	2.38%

LEDA Dollars Distributed	(d)	\$ 150,000.00
Clawback %	(e)	100%
Penalty	(f) = $c * d * e$	\$ 3,571.43

Example - 2 100%

End of year 2, inclusive of cure period

Actual Employees	(a)	57
Cum Hiring Target	(b)	58
Job Creation % Shortfall =	(c) = $1 - (a/b)$	1.72%
LEDA Dollars Distributed	(d)	\$ 200,000.00
Clawback %	(e)	100%
Penalty	(f) = $c * d * e$	\$ 3,448.28

Example - 3 75%

End of year 3, inclusive of cure period

Actual Employees	(a)	57
Cum Hiring Target	(b)	58
Job Creation % Shortfall =	(c) = $1 - (a/b)$	1.72%
LEDA Dollars Distributed	(d)	\$ 200,000.00
Clawback %	(e)	75%
Penalty	(f) = $c * d * e$	\$ 2,586.21

Exhibit A:



**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
AND THE CITY OF LAS CRUCES, NEW MEXICO**

This Intergovernmental Agreement (“Agreement”) is entered into as of the date of the last signature affixed below by and between the New Mexico Economic Development Department (“EDD”) and the City of Las Cruces, New Mexico (the “City”), and collectively referred to as “the Parties” with reference to the following facts.

RECITALS:

WHEREAS, the legislature of the State of New Mexico appropriated funds to the Economic Development Department for economic development projects statewide pursuant to the Local Economic Development Act (the “Appropriation”); and

WHEREAS, the purpose of the Local Economic Development Act, NMSA 1978 §5-10-1 through §5-10-13 (2007) (“LEDA”), is to provide “public support for economic development to foster, promote and enhance local economic development efforts”; and

WHEREAS, the City has adopted LEDA by Ordinance No. 2873, which established the City of Las Cruces Economic Development Plan that promotes economic development within the City; and

WHEREAS, LaSen, Inc (hereinafter “Qualifying Entity”) has entered into a Local Economic Development Project Participation Agreement (hereinafter “PPA”) with the City. A copy of the PPA are attached hereto and incorporated herein; and

WHEREAS, pursuant to the terms of that PPA, the Qualifying Entity will establish a production facility as per Exhibit A (Parcel does not have an address at present. Exhibit A should be used until an address is created) in the City of Las Cruces (the “Project”) and is expected to employ 79 full-time persons by December 31, 2025; and

WHEREAS, EDD and the City desire to enter into this Agreement as necessary to facilitate disbursement of funds for the Project.

NOW THEREFORE, the Parties do hereby agree to the following terms and conditions to accomplish the Project.

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to define the responsibilities of the City and EDD for the oversight and administration of up to \$750,000 of the Appropriation for the Project. It is the intent of the parties that the City will receive an amount up to seven hundred and fifty thousand dollars (\$750,000) to implement the Project. The Parties agree that any and all State funds received will be accounted for by the City as the fiscal agent for EDD in accordance with the procedures the City will use to account for its own funds and property used to implement the project, or any properties acquired or developed by the City as a result of implementation of the Project will be used by the City for economic development purposes only.

SECTION 2. SCOPE OF WORK

The City will act as fiscal agent for up to \$750,000 of the Appropriations for the Project. Pursuant to the LEDA statutes, EDD will transfer up to \$750,000 to the City for costs and expenses associated with the Project. In exchange for the contribution, the Qualifying Entity certifies it expects to employ 79 full-time employees at the facility by December 31, 2025.

All the terms, conditions, and requirements set forth under the PPA are incorporated into this Agreement. EDD and the City agree that failure of the Qualifying Entity to create the number of new full-time jobs described in the PPA or otherwise meet its obligations set forth under the PPA will result in a violation of the terms and conditions of these Agreements. Such violation, after any cure period granted to the Qualifying Entity, will require the qualifying entity to repay any committed funds as provided for by the PPA. Any monies recovered by the City as a result of payment made by the Qualifying Entity from the application of the applicable Clawbacks shall be returned to EDD within 30 days. Any foreclosure of the security interest shall be returned to EDD. The Qualifying Entity will deliver to the City contemporaneously with the execution of the PPA a form of security acceptable to all parties, which will be incorporated into this Agreement (the “Security”).

SECTION 3. CITY RESPONSIBILITIES

The City shall:

- A. Pay the costs and expenses incurred for the Project from the Appropriation;
- B. Provide to EDD supporting documentation in a format acceptable to EDD for activities associated with the Project. Any funds recaptured by the City as the result of enforcing the provisions of the PPA shall be returned to EDD;
- C. The City shall notify EDD in writing of any default by the Qualifying Entity within 15 business days of learning of the event of default;

- D. Serve as Fiscal Agent for the funds transferred to it under this Agreement;
- E. Distribute the funds transferred to the City by EDD to the Project; account for receipts and disbursements of said monies; and provide EDD with the required financial documentation pertaining to this disbursement;
- F. Submit all required and reasonably requested documentation to EDD including the endorsed LEDA Ordinance approved by the City Council accepting the Project as qualifying entity for LEDA, with the accompanying endorsed Project Application and PPA entered into by the City and the Qualifying Entity, a fully executed copy of the Security, and copies of invoices and other documentation as required by EDD within the time required;
- G. Not impose any obligations on EDD with respect to the administration of this Project, other than the transfer of funds as described herein; and
- H. Initiate and prosecute litigation as necessary to enforce the terms of the PPA, at EDD’s cost, if necessary.

SECTION 4. CITY CERTIFICATIONS

As Fiscal Agent, the City hereby assures and certifies that:

- A. It will comply with all applicable State laws, regulations, policies, guidelines and requirements with respect to the acceptance and use of the Appropriation;
- B. It has the legal authority to receive and expend the Appropriation;
- C. It will enforce the provisions of Ordinance No. _____ and the City’s Economic Development Plan;
- D. It has exercised due diligence in certifying that the Project is a viable economic development initiative with potential long term economic development benefits based on information provided by EDD;
- E. It will provide to EDD upon request all documentation and references to expertise it has relied upon in approving this Project upon receipt thereof or reliance thereupon and also with copies of all reports and documentation City receives from the Qualifying Entity;
- F. It has entered into a PPA with the Qualifying Entity and has obtained all financial documentation necessary to protect the City’s and State’s investments in the Project;

- G. It shall not at any time during the life of this Agreement convert any property acquired or developed pursuant to this Agreement to uses other than those within the Project description as defined herein;
- H. It will notify EDD of any default on the part of the Qualifying Entity within 15 business days of learning of any default and shall provide the Qualifying Entity an opportunity to cure any default by in accordance with the PPA prior to termination thereof;
- I. No member, officer or employee of the City or its designees or agents, no member of the governing body of the locality of which the Project is situated, and no other public official that exercises any functions or responsibilities with respect to the Project during his/her tenure, or for one (1) year thereafter, shall have any interests, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the Project that is the subject of this Agreement. The City shall incorporate in all contracts or subcontracts a provision prohibiting such interest pursuant to this certification; and
- J. It has complied with Article IX, Section 14, of the New Mexico Constitution known as the “anti-donation clause.”

SECTION 5. EDD RESPONSIBILITIES

EDD shall:

- A. Transfer to the City for costs and expenses incurred for the Project an amount not to exceed seven hundred and fifty thousand dollars (\$750,000). The funds shall be used only for the purpose stated in this Agreement;
- B. At its discretion, review and audit the Project if it is deemed to be necessary or desirable; and
- C. Reimburse the City for any costs associated with litigation to enforce the terms of the Security.
- D. Monitor job creation by the Qualified Entity and report the number of jobs created quarterly to City throughout the term of the PPA. Job reports shall detail the number of employees reported by the Qualified Entity to EDD and on file with the New Mexico Department of Workforce Solutions.

SECTION 6. TERM OF AGREEMENT

This Agreement shall become effective on the date it is fully executed and shall terminate on December 31, 2026 or when all of the obligations of the PPA have been fulfilled.

SECTION 7. LIABILITY

No Party shall be responsible for liability incurred as a result of the other Party's acts or omissions. Any liability incurred in connection with this Agreement is subject to the New Mexico Tort Claims Act. The City and EDD may agree to reimburse one another under these liability provisions, subject to sufficient appropriation by the New Mexico Legislature or sufficient funds being available to the party, as determined by the Party responsible for payment.

SECTION 8. DISPOSITION OF PROPERTY; RECORDS; RETURN OF SURPLUS FUNDS

- A. Property purchased under this Agreement for the Project shall remain with the purchasing party unless otherwise agreed upon.
- B. The City shall keep such records as will fully disclose the amount and disposition of the total funds from all sources budgeted for the Project, the purposes for which such funds were used and such other records as EDD may require.
- C. If, upon the expiration of the Project or the termination date of this Agreement, any surplus funds are possessed by City, City shall return said funds to EDD for disposition in accordance with law.

SECTION 9. STRICT ACCOUNTABILITY

The City shall be strictly accountable for receipts and disbursements relating hereto and shall make all relevant financial records available to EDD and the New Mexico State Auditor quarterly or upon request, and shall maintain all such records for a period of six (6) years following completion of all the records and any audits.

SECTION 10. REPORTS

The Qualifying Entity shall submit quarterly reports regarding employment to EDD during the life of this Agreement and EDD shall share those reports and any other information obtained respecting job retention and creation attributable to the State appropriation with the City. The City shall coordinate with EDD to conduct an annual performance review of the Project.

SECTION 11. NOTICES; REPRESENTATIVES OF THE PARTIES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. Mail, either first class or certified, return receipt requested, postage prepaid, as follows. The parties hereby designate the individuals named below as their representative responsible for overall administration of this Agreement.

To EDD:

Finance Development Team Leader
Joseph Montoya Building
1100 St. Francis Drive
PO Box 20003
Santa Fe, New Mexico 87504

To the City:

City Manager
City of Las Cruces
700 S Main St
PO Box 20000
Las Cruces, New Mexico 88004

SECTION 12. AMENDMENTS

This Agreement shall not be altered, changed or amended, except by instrument in writing executed by all of the Parties hereto.

SECTION 13. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New Mexico.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the last date of signature below,

CITY OF LAS CRUCES, NEW MEXICO

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM

By: _____

Attorney

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

By: _____

Alicia J Keyes
Cabinet Secretary

Date: _____

APPROVED AS TO FORM

By: _____

General Counsel

Exhibit A:



Agenda Item #9.1.

LEDA Application

Applicant	Tim Goolsby
Applicant ID	APP-013569
Company Name	LaSen, Inc
Phone	5755225110
Email	tim@lasen.com
Status	Submitted
LEDA Starting Job Count	19
LEDA PPA Job Count Target	67

Contact Information

Question: Legal Company Name

LaSen, Inc

Question: Trade Name (dba)

Not Answered

Question: Project Name

Lasen Corporate Office

Question: Company Street Address

300 N. Telshor Blvd, Suite 400

Question: Company City

Las Cruces

Question: Company State

NM

Question: Company Zip

88011

Agenda Item #9.1.

Question: Phone

(575) 522-5110

Question: Fax

Not Answered

Question: Primary Contact Person First Name

Tim

Question: Primary Contact Person Last Name

Goolsby

Question: Federal Tax ID #

74-2510061

Question: NM State Tax and Revenue (CRS) #

02126468006

Question: City/County Business License #

3861-19

Question: NAICS Code(s)

334413

Question: DUNS #

883065443

Question: This Business is organized as a:

- ☒ C-Corporation
- ☐ S-Corporation
- ☐ LLC
- ☐ Partnership
- ☐ Sole Proprietorship

Question: Incorporation Papers

[SKM_C36819022717291.pdf](#) (8/4/2020 4:55 PM)

Agenda Item #9.1.

Question: Resumes of all principals (owners, partners, directors or officers; required for businesses 1 years or younger)

No Attachments

Project Information

Please include detailed information such as:

- Executive Summary; Business description and history
- Infrastructure Development/Needs
- Market analysis and strategy
- Summary of competition
- Tax Reporting Status
- Effect on Existing Industry and Commerce during and after Construction
- Land Acquisition
- Local Purchasing
- Water Conservation
- Relocation of Individuals or Businesses
- Construction Schedule
 - Target Close Date
 - General Contract Signed
 - Construction Start
 - Construction End
 - New Facility Operational Date
- Operations plan; Organizational chart
- Any document or record that the local governing body, in its sole discretion, deems necessary.

Question: Description of the Proposed Development, its product and its timeline.

Lasen is building a new corporate office location to replace the existing leased location on Telshor. Lasen has been at this location since 1989, which is in a stripmall type building co-located with a storage company. In 1989 Lasen had one suite and over the years has expanded to 4 suites to accomodate growth. In addiiton to the fact that these suites are not laid

Agenda Item #9.1.

out in a way to makes sense for Lasen, we are completley out of room to add more people. Lasen has a unique space requirement, in addition to office space we need garage bays to service our fleet, fabrication shop to house the machines we use to build the LiDAR units, and a clean lab to build the laser units.

The new location will be designed to accomodate all of Lasen's needs in addition to giving us room to expand our corporate office workforce. We are undertaking a project to build the second generation of our system which will require adding several engineering poistions to accomplish.

The job expansion is based around the expected growth of the helicopter operation due to joining the electrical powerline inspection market and expected growth of the exidsting pipeline inspection business. We have added one helicopter each year for the last 2 years, and expect that same growth over the next 4 years. Each helicopter costs approximatley \$650k, plus a van and a maintenance vehicle to service it. Each helicopter also require the hiring of 2 pilots and 2 techinicians to support the operation. Lasen partnered with a company in India, GSLGeo, to offer full-service powerline inspections, additionally the UAV business will also be used for powerline inspections. The plan for the helicopter operation is to add one helicopter each year for 4 years.

The second part of the job growth is related to our enrty into the UAV business. The UAV industry is going to grow ecponentially overt the next several years, entry into this market will be smoothed due to asen's industry clients and reputation. The UAV also allows Lasen to diversify its offering outside the oil and gas industry, to include mapping, and vegetation surveys. The UAVs service a part of the oil and gas market that we currently do not operate in, roght now all Lasen inspects is gas pipelines. With the addition of the UAV we can inspect upstream assests like compressor stations, well pads , and storage tanks, Our current plan is to add 4 UAV per year for the next 5 years, though we anticipate that this timeline will be accelerated due the interest we have seen in the UAVs already.

The third part of the ezpansion is centered around international expansion, we recently received out FAA STC for out LiDAR unit, so now it can be placed on any Bell 206 helicopter, instead of just being allowed to be flown on Lasen's helicopters. We are already doing work in Canada and have bid on a project in Australia Our STC is being recognized by EASA (European Union's FAA), once this approved we have several companies that wan to use our system. We are currently manufacturing 3 more LiDAR units to support this expansion.

The building construction timeline is approximatley 8 months from the start of construction, the land has already been purchased. Lasen's current lease expires in October 2021. No relocation of employees will be required.

Target Close Date: 11/2020
General Contract Signed: 09/01/2020
Construction Start: 12/2020
Construction End: 9/2020
New Facility Operational Date: 10/2020

Question: Provide a detailed scope of work that is specific to the funding request/award and what the funds will be used for.

The funds will primarily be allocated to the construction of the new building. Any initial funds collected will be immediately applied to the mortgage of the new building. Our goal is to get the

Agenda Item #9.1.

mortgage payment as close as possible to the existing lease payment, aka rent replacement. Future funds will be used to buy either UAVs or sensors for the UAVs.

Question: Business Plan (required for businesses 1 years or younger)

Helicopter Plan - Lasen is already the largest provider of gas line inspections in the world. Lasen currently has 4 "pillar" accounts with clients that fly more than 10,000 miles per year. Our marketing team is working on establishing 4 additional pillar accounts to strengthen our overall market standing. 2 of 4 of these deals are in the final stages. We will add 2 more helicopters over the next 3 years to accommodate the additional work. The LiDAR sensor is also in the final stages of being upgraded to include additional technologies to satisfy requests from our clients.

UAV Plan - Our initial marketing plan for the UAVs is already underway, our business development team is reaching out to all existing clients to offer no-cost demonstrations of the technology. The UAV service fills a gap that the helicopters currently do not serve, to inspect gas facilities, so this segment is a new market for Lasen, but with existing customers so the sales process is significantly shortened. The current plan is to add 4 UAVs each year for the next 4 years, though this is a very conservative timeline and will likely happen much sooner. The UAVs also will allow Lasen to "diversify" its offerings from strictly gas line inspection to include: powerline inspection, LiDAR mapping data collection, Photogrammetry, Vegetation Indexes, to name a few.

Electric Powerline Inspection - Lasen currently has no presence in the powerline inspection market. The service is very similar to the service we provide for gas companies, just using different sensors. Lasen has partnered with GSLGeo, an Indian firm, that currently inspects powerlines in India. Lasen will first offer the service to existing clients that have both gas and power assets, one of our major clients (PG&E in California) has committed to using the service once it is operational.

International Expansion - Up until the beginning of 2020 our LiDAR sensors could only be deployed on our 5 helicopters via an FAA 337. Lasen now has a Standard Type Certificate which allows the sensors to be deployed on any Bell 206 helicopter, which is the most commonly used helicopter in the utility industry. The STC has already been recognized by Canada and Australia, and is in the final phase of approval for the European Union. Lasen has been actively working in Canada since 2017 and just bid on our first job in Australia. This line of business is critical to the long-term plans for Lasen due to the fact that it is highly profitable. With the current Lasen Model we deploy a helicopter, van and 2 employees for each job, helicopters are extremely cost prohibitive, in excess of \$1,200 per hour to operate. With the STC model the helicopter and employee expense will be the responsibility of the leasee, so Lasen's cost is literally zero since we will only be processing the data, which we already have the staff to handle.

Question: Supporting Documentation

[LaSen_OMAC_OrgChart.pdf](#) (9/10/2020 8:39 AM)

Financial Information

Agenda Item #9.1.

*Upload sources and uses chart; enter N/A and zero for questions that do not apply to your business

Question: Provide detailed assumptions for your project including three years of projected cash flow income statements. If the applicant has been in business less than one year, you may be requested to provide additional financial information after review .

[3YearCashFlow.pdf](#) (8/27/2020 10:50 AM) **CONFIDENTIAL**

Question: Provide financial statements (balance sheet, profit and loss and cash flow) or tax returns for the past three years. Also provide interim statements within 90 days of application date.

[PL+Cash+Balance.pdf](#) (8/27/2020 10:58 AM) **CONFIDENTIAL**

Question: Necessary City/County business license number/proof or statement that registration will be pursued or secured.

☒ Yes

☐ No

Question: What is the collateral/security to be pledged to the funds awarded?

- ☐ Corporate Guaranty
- ☐ Letter of Credit
- ☐ Mortgage Security
- ☐ Security Agreement/Escrow
- ☐ Security Agreement/Lien
- ☐ Security Interest/Equipment
- ☒ Security Interest/Lien
- ☐ TBD

Question: What is the method of appraisal for stated security?

Appraisal by aviation related appraiser

Question: What is the equity investment from the applicant?

\$5,540,000.00

Question: External Equity Investment Sources

Agenda Item #9.1.

N/A

Question: External Equity Investment Amount

\$0.00

Question: City/County Funding Source

MVEDA

Question: City Funding Amount

\$400,000.00

Question: Bank Loan Source (financial institution names), type (commercial, USDA, SBA 504, etc.), and stage (applied or approved)

Century Bank

Question: Bank Loans Amount Total

\$1,400,000.00

Question: Other Loans Source

N/A

Question: Other Loans Amount

\$0.00

Question: Other Sources

N/A

Question: Other Sources Amount

\$0.00

Question: Total Project Amount (Sum of above)

\$7,594,000.00

Question: Supporting financial documentation

[Lasen 06302020 Financial Statements.pdf](#) (9/10/2020 9:18 AM)

CONFIDENTIAL

Company History and Background

Agenda Item #9.1.

Question: How long has the company been in operation, as of the date of application?

31 years

Question: At the time of this application, how many full-time employees do you currently employ? Please provide the most recent Department of Workforce Solutions report below. If no employees, disregard report. Enter 0.

39.00

Question: List owners with more than 20% ownership stake in the company. Additionally, please list principal directors and/or officers.

Rusty Jennett - CEO - 51%
Ralph Motto - CTO
Tim Goolsby - President

Question: Are owners and/or officers current with financial obligations/payments to the State of New Mexico or any other Federal or State entity? If no, please explain.

No

Question: Does the applicant have any loans or other financial obligations on which payments are not current?

No

Question: Please identify any financially affiliated/associated companies in which any of the applicant's owners have a 20% stake.

N/A

Community Aspects

Question: At the community level, what are the infrastructure needs, not yet in place or in process that will affect this project's application?

Everything is in place for successful project completion.

Question: What specific incentives are being REQUESTED from the COMMUNITY? Please explain where the applicant is in this process and provide an idea of a timeline for incentives' deployment.

MVEDA has offered 400,000 for new job growth, Lasen has accepted the offer and expects disbursement in line with the LEDA disbursements.

Question: What specific incentives will be PROVIDED from the COMMUNITY?(e.g. parcel of land, building lease, waiver of fees, utility access/extension)?

N/A

Job Creation / Performance

Please download the job creation worksheet to work up the required information for this section.

- [Job Creation Worksheet](#)

Question: Outline the number and types of jobs to be created.

See Job Table

Question: Outline the proposed pay scale and payroll proposed by the entity.

See Job Table

Question: Outline the benefits offered to the employees, including but not limited to health care and retirement.

Lasen pays 70% of Health, Vision and Dental
Company Paid Life Insurance
Company Paid Disability
Lasen matches 3% towards IRA
Cellphone Allowance
Clothing Allowance
Fringe benefits: Airline, hotel and rental car point collection
Yearly Bonuses

Question: Outline any efforts being made or proposed by the applicant to employment opportunities to people within the local employment pool.

Lasen works with the NM Workforce Commission and the local job fairs to recruit candidates. We also work closely with Veterana Affairs group to recruit veterans. All of our last 6 hires came from these sources.

Question: Attach job creation worksheet

[LaSen Job Table.docx](#) (8/3/2020 3:29 PM)

Question: Total number of Jobs to be created Beginning Year 2 (from worksheet above)

18.00

Question: Total new payroll for Beginning Year 2 (from worksheet above)

\$1,020,000.00

Question: Total number of Jobs to be created Beginning Year 3 (from worksheet above)

33.00

Question: Total new payroll for Beginning Year 3 (from worksheet above)

\$1,980,000.00

Economic Impact Analysis

Please download the economic impact datasheet to work up the required information for this section.

- [Economic Impact Datasheet](#)

Send data sheet and questions regarding the Economic Impact Analysis to Ryan Eustice, NM EDD Economist, (505) 827-2191, ryant.eustice@state.nm.us

Question: NMEDD will preform an Economic Impact Analysis to address the impact to the local tax base, the school system, etc. (Please upload the completed Economic Impact Datasheet from above)

[NM EDD Project Data Sky Survey.xlsx](#) (8/3/2020 3:32 PM)

Question: Outline any impacts to the environment, positively or negatively.

Project located with existing subdivisions. No anticipated environmental impacts.

Question: Status of permitting/regulatory matters needed for project.

Will pursue building permits through City of Las Cruces.

Attachments

Please download the authorization for examination and release of information template and the example employer quarterly wage and contribution report.

- [Authorization for examination and release of information form](#)
- [Employer quarterly wage and contribution report example](#)

If you are a new business, please apply for the Department of Workforce Solutions:

<http://www.tax.newmexico.gov/Businesses/wage-withholding-tax.aspx>

Please download the LEDA Application Affirmation Template here:

[LEDA Application Affirmation Template](#)

Agenda Item #9.1.

[Click here](#) to view a filled out sample.

Question: New Mexico Economic Development Department authorization for examination and release of information.

[LEDALetter.pdf](#) (8/27/2020 11:28 AM)

Question: Latest New Mexico employer's quarterly wage and contribution report submitted to the Department of Workforce Solutions.

[SUTA 1st-2nd Quarter 2020 \(1\).pdf](#) (8/27/2020 11:48 AM)

Question: Other supporting documents

[SKM_C36820082711490.pdf](#) (8/27/2020 11:48 AM)

AUG 23 1989

CORPORATION DEPT.

ARTICLES OF INCORPORATION
OF
LaSen, Inc.

ARTICLE I

The name of the Corporation is LaSen, Inc..

ARTICLE II

The Corporation is formed for the purpose of:

(a) Design, production, manufacture and sale of
Laser Sensor Technology, and any and all activities incident
thereto.

(b) Any and all other and additional purposes in
which a corporation formed under the New Mexico Business
Corporation Act may lawfully engage.

ARTICLE III

The term of existence of the Corporation shall be
perpetual.

ARTICLE IV

The authorized capital stock of the Corporation
shall consist of 50,000 shares of common stock with a par
value of \$1.00 per share. The Stock of the Corporation shall
be issued for such consideration as may be determined by the
Board of Directors but not less than par value.

No shares of capital stock shall be issued until
fully paid for and thereafter shall be non-assessable.

Shareholders may enter into agreements with the Corporation and/or each other to control or restrict the transfer of stock and such agreements may take the form of options, rights of first refusal, buy and sell agreements or any other lawful form of agreements.

ARTICLE V

(a) Preemptive Rights. The holders of the Corporation's capital stock shall have no preemptive rights to purchase shares of the corporation.

(b) Cumulative Voting. The voting rights of the holders of shares in the Corporation shall be non-cumulative.

ARTICLE VI

The name of the initial registered agent of the Corporation is RUSSELL R. JENNETT. The street address of the initial registered office of the Corporation in the State of New Mexico is Russell R. Jennett, 300 North Telshor, Suite 600, Las Cruces, New Mexico 88001. The Board of Directors may from time to time change the registered agent or change the registered office to any other address in the State of New Mexico.

ARTICLE VII

The business of the Corporation shall be managed by a Board of Directors consisting of not fewer than two (2)

persons, the exact number to be determined from time to time in accordance with the By-Laws. The Directors shall have the power to adopt, amend and rescind the By-Laws of the Corporation which shall govern the regulation of the internal affairs of the Corporation.

The names and street addresses of the members of the initial Board of Directors of the Corporation, who shall hold office until the first annual meeting of the shareholders, and thereafter until their successors are elected and qualified are as follows:

Russell R. Jennett
300 North Telshor, Suite 600
Las Cruces, New Mexico 88001

Allen R. Geiger
300 North Telshor, Suite 600
Las Cruces, New Mexico 88001

ARTICLE VIII

The Corporation shall have a President, and a Secretary/Treasurer and may have such additional and assistant officers as determined by the Board of Directors including, without limitation thereto, more than one Vice-President, Assistant Secretary and Assistant Treasurer. A person may hold more than one office except as prohibited by law.

ARTICLE IX

(a) No contract or other transaction between the Corporation and one or more of its Directors or officers, or between the Corporation and any other corporation, firm, or entity in which one or more of the Corporation's Directors or officers are Directors or officers, or have a financial interest, shall be void or voidable because of such relationship or interest, or because such Director or Directors or officer or officers are present at or participate in the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction, or because his or their votes are counted for such purpose, if:

(1) The fact of such relationship or interest is disclosed or known to the Board of Directors or the committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested Director or Directors; or

(2) The fact of such relationship or interest is disclosed or known to the shareholders entitled to vote thereon, and they authorize, approve, or ratify such contract or transaction by vote or written consent; or

(3) The contract or transaction is fair and reasonable as to the Corporation at the time it is authorized by the Board of Directors, a committee thereof, or the shareholders.

(b) Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee thereof which authorizes, approves, or ratifies such contract or transaction.

ARTICLE X

The Corporation shall indemnify its Directors and officers to the fullest extent permitted by New Mexico law.

ARTICLE XI

The private property of the shareholders, directors, and officers of the corporation shall be forever exempt from the debts and obligations of the Corporation.

ARTICLE XII

These Articles of Incorporation may be amended in any manner now or hereafter provided for by law and all rights conferred upon shareholders hereunder are granted subject to this reservation.

ARTICLE XIII

The name and address of the incorporator is Russell R. Jennett, 300 North Telshor, Suite 600, Las Cruces, New

Mexico 88001.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 21st day of August, 1989.

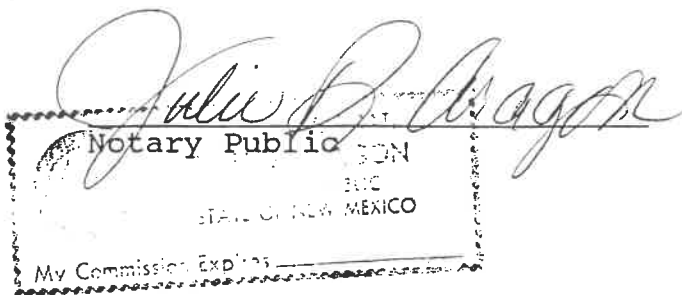


RUSSELL R. JENNETT

STATE OF NEW MEXICO :
: SS.
COUNTY OF BERNALILLO :

The foregoing instrument was acknowledged before me
this 21st day of August, 1989, by Russell R. Jennett.

My Commission Expires:
10-16-90



a:art24las.#25

AUG 22 1989

CORPORATION DEPT.

AFFIDAVIT OF ACCEPTANCE OF APPOINTMENT
BY DESIGNATED INITIAL REGISTERED AGENT

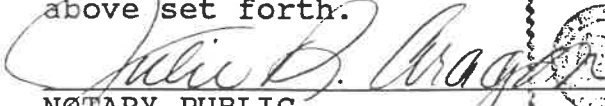
TO: The State Corporation Commission
State of New Mexico

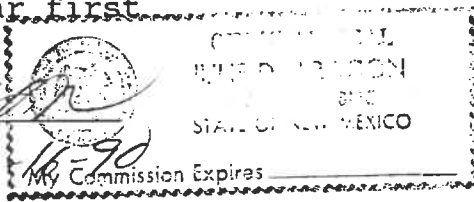
STATE OF NEW MEXICO :
: SS.
COUNTY OF BERNALILLO :

On this 21st day of August, 1989, before me, a Notary Public in and for the State and County aforesaid, personally appeared RUSSELL R. JENNETT, 300 North Telshor, Suite 600, Las Cruces, New Mexico 88001 who is to me known to be the person, and who, being duly sworn, acknowledged to me that he does hereby accept appointment as the Initial Registered Agent of LaSen, Inc. the corporation which is named in the annexed Articles of Incorporation and which is applying for a Certificate of Incorporation pursuant to the provisions of the Business Corporation Act of the State of New Mexico.

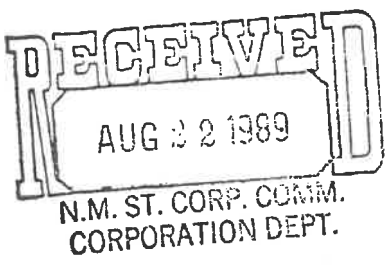

RUSSELL R. JENNETT
Initial Registered Agent

SUBSCRIBED AND SWORN TO before me
on the day, month and year first
above set forth.


NOTARY PUBLIC
My Commission Expires: 10-16-90

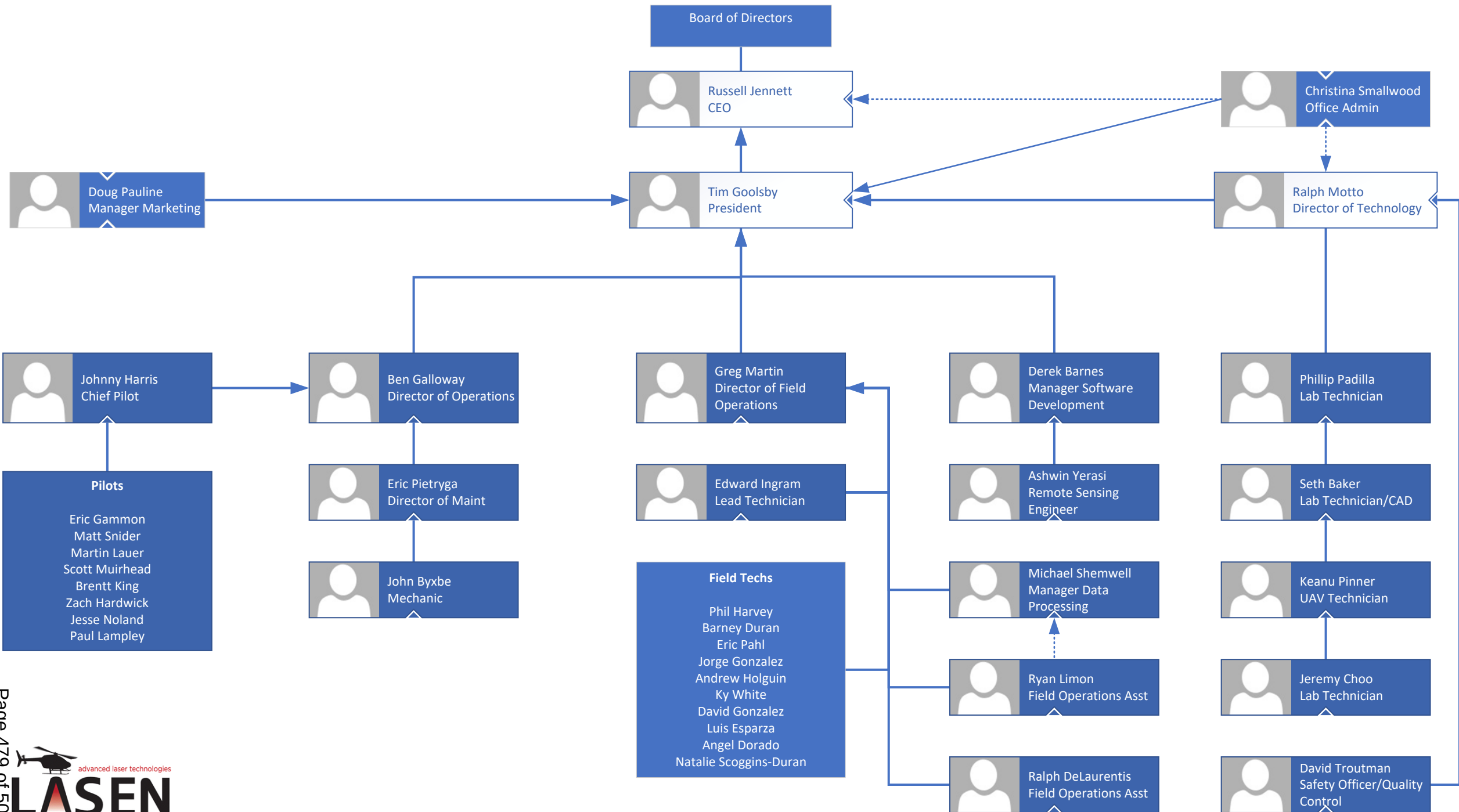


a:aff24las.#25



LaSen Organizational Structure

Agenda Item #9.1.



Agenda Item #9.1.

Capital Investment			
USES	Year 1	Year 2	Total
I. Acquisition Costs			
Land Acquisition	\$435,000		\$435,000
II. Developmental Costs			
Land			
Building (new construction)	\$1,286,000		\$1,286,000
Infrastructure			
III. Working Capital			\$1,721,000
IV. Other			
Design, Permitting			
Equipment	\$875,000		\$875,000
Rolling Stock (aerial)	\$3,000,000	\$2,950,000	\$5,950,000
TOTAL Private Investment			\$8,546,000
SOURCES	Y1	Y2-Y3	Total
I. Debt			
Commercial Loan :			\$5,718,250
II. Equity			
Cash:			\$2,827,750
Other:			
TOTAL			\$8,546,000

Agenda Item #9.1.

Position	Salary	2021	2022	2023	2024	2025	Total	Payroll at Year 5
Lab Technician x 2	\$ 45,000		1		1		2	\$ 90,000.00
Technicians	\$ 55,000	11	11	11	9	9	51	\$ 2,805,000.00
Safety Officer x 1	\$ 65,000	1					1	\$ 65,000.00
Aircraft Mechanic x 4	\$ 70,000	1	1	1	1		4	\$ 280,000.00
Chief UAV Pilot x 1	\$ 75,000		1				1	\$ 75,000.00
Engineers	\$ 85,000	3	2	1			6	\$ 510,000.00
Administration	\$ 90,000		1		1		2	\$ 180,000.00
		16	17	13	12	9	67	\$ 4,005,000.00
							Average	\$ 59,776.12
Fixed-wing Pilot x 4	\$ 65,000		1	1	1	1	4	\$ 260,000.00
Helicopter Pilot x 8	\$ 75,000	2	2	2	1	1	8	\$ 600,000.00
								\$ 4,865,000.00
							Average	\$ 71,666.67



Michelle Lujan Grisham • Governor
Alicia J. Keyes • Cabinet Secretary

Exhibit A – LEDA Application

Affirmation of officer of Company

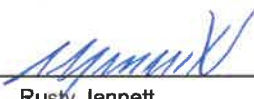
Declaration of LaSen Inc _____ Officer

I, Rusty Jennett, declare as follows:

I am CEO for Lasen Inc and I have been employed in this capacity since 9/1/1989. Except where otherwise noted, I have personal knowledge of the facts set forth in this declaration.

Date: 08/27/2020

I declare under penalty of perjury that the foregoing is true and correct.



Name Rusty Jennett
Job Title CEO
Name of Company Lasen Inc

EXECUTIVE SUMMARY

A REPORT OF THE ECONOMIC IMPACT OF SKY SURVEY IN LAS CRUCES, NM

July 30, 2020

Prepared by:

Ryan Eustice

New Mexico Economic Development Department

Joseph Montoya Building

1100 S. St. Francis Drive

Santa Fe, New Mexico 87505



Prepared using Total Impact



PURPOSE &
LIMITATIONS

This report presents the results of an analysis undertaken by the New Mexico Economic Development Department using Total Impact, an economic and fiscal impact analysis tool developed and supported by the Austin, TX based economic consulting firm, Impact DataSource.

The Total Impact model is a customized software program licensed to the New Mexico Economic Development Department. The model includes estimates, assumptions, and other information developed by Impact DataSource from its independent research effort detailed in New Mexico Economic Development Department's Total Impact User Guide.

The analysis relies on prospective estimates of business activity that may not be realized. New Mexico Economic Development Department made reasonable efforts to ensure that the project-specific data entered into the Total Impact model reflects realistic estimates of future activity.

No warranty or representation is made by New Mexico Economic Development Department or Impact DataSource that any of the estimates or results contained in this study will actually be achieved.



CONTENTS

Economic Impact

Introduction..... 4

Description of the Project..... 4

Existing & Expanded Operations..... 4

Economic Impact Overview..... 5

Temporary Construction Impact..... 7

Fiscal Impact

Fiscal Impact Overview..... 8

State of New Mexico..... 9

Las Cruces..... 10

Dona Ana County..... 11

Las Cruces Public Schools..... 11

Other Taxing Districts..... 12

Public Support

City Non-Tax Incentives..... 13

Methodology

Overview of Methodology 17

About Impact DataSource..... 19

Introduction

This report presents the results of an economic impact analysis performed using Total Impact, a model developed by Impact DataSource. The report estimates the impact that a potential project in the Las Cruces may have on the state and local economy and estimates the costs and benefits for the state and local taxing districts over a 10-year period.

Description of the Project

Project will relocate from leased facility to custom built facility. Expand from 25 to 104 jobs and increase operations.

Existing & Expanded Operations

The Project under analysis represents the expansion of an existing company in the Las Cruces. The existing operations currently support 25.0 direct jobs in the community and 32.3 indirect and induced jobs. The direct workers earn \$60,000 per year and the company supports \$0.7 million per year in taxable sales and spending in the community. Additionally, the company supports taxable property valued at \$4.0 million annually. The table below illustrates the company's economic impact over the next 10 years - including both the existing and expanded operations.

Table 1. Economic Impact of Existing and Expanded Operations Over the Next 10 Years			
	Existing Operations	Expansion	Existing & Expanded Ops
Economic Output:			
Direct	\$126,987,538	\$336,172,239	\$463,159,777
Indirect & Induced	\$45,474,237	\$120,383,279	\$165,857,516
Total	\$172,461,776	\$456,555,518	\$629,017,294
Jobs			
Direct	25.0	79.0	104.0
Indirect & Induced	32.3	102.1	134.4
Total	57.3	181.1	238.4
Salaries			
Direct	\$16,424,582	\$40,151,464	\$56,576,046
Indirect & Induced	\$8,238,570	\$20,139,975	\$28,378,545
Total	\$24,663,152	\$60,291,439	\$84,954,591
Taxable Sales			
Direct	\$4,866,009	\$18,114,348	\$22,980,357
Indirect & Induced	\$1,891,552	\$4,624,080	\$6,515,631
Total	\$6,757,561	\$22,738,427	\$29,495,988

The table below illustrates the company's fiscal impact - the net benefits for local taxing districts - over the next 10 years - including both the existing and expanded operations.

	Table 2. Fiscal Impact of Existing and Expanded Operations Over the Next 10 Years		
	Net Benefits		
	Existing Operations	Expansion	Existing & Expanded Ops
State of New Mexico	\$2,311,248	\$3,792,805	\$6,104,053
Las Cruces	\$281,230	\$818,141	\$1,099,371
Dona Ana County	\$167,926	\$493,502	\$661,429
Las Cruces Public Schools	\$75,451	\$664,199	\$739,650
Special Taxing Districts	\$14,933	\$55,149	\$70,082
Total	\$2,850,788	\$5,823,796	\$8,674,585

The remainder of this report will reference the combined economic and fiscal impact of the existing and expanded operations.

Economic Impact Overview

The Project's operations will support employment and other economic impacts in the state. The 104.0 workers directly employed by the Project will earn approximately \$61,000 per year initially. This direct activity will support 134.4 indirect and induced workers in the state earning \$24,000 on average. The total additional payroll or workers' earnings associated with the Project is estimated to be approximately \$85.0 million over the next 10 years.

Accounting for various taxable sales and purchases, including activity associated with the Project, worker spending, and visitors' spending in the state, the Project is estimated to support approximately \$29.5 million in taxable sales over the next 10 years.

	Table 3. Economic Impact Over the Next 10 Years Statewide		
	Direct	Indirect & Induced	Total
Economic output generated by direct, indirect, and induced activity	\$463,159,777	\$165,857,516	\$629,017,294
Number of permanent direct, indirect, and induced jobs to be created	104.0	134.4	238.4
Salaries to be paid to direct, indirect, and induced workers	\$56,576,046	\$28,378,545	\$84,954,591
Taxable sales and purchases	\$22,980,357	\$6,515,631	\$29,495,988

The project is not expected to result in a consequential increase in the state's population. A majority of newly hired employees would likely be current New Mexico residents. However, it is estimated that approximately 38.0% of the new direct workers may be new residents to Dona Ana County. The local population impacts may result in new residential properties constructed in the county and increase the enrollment of local public schools.

Table 4. Population Impacts Over the Next 10 Years for the County

	Direct	Indirect & Induced	Total
Number of direct, indirect, and induced workers who will move to the County	30.0	0.0	30.0
Number of new residents in the County	78.0	0.1	78.1
Number of new residential properties to be built in the County	20.2	0.0	20.2
Number of new students expected to attend local school district	15.1	0.0	15.1

The Project is estimated to support an average of approximately \$2.6 million in new non-residential taxable property each year over the next 10 years. The taxable value of property supported by the Project over the 10-year period is shown in the following table.

Table 5. Value of Taxable Property Supported by the Project Over the Next 10 Years

Year	New Residential Property	The Project's Property				Total Residential & Nonresidential Property
		Land	Buildings & Other Real Prop. Improvements	Furniture, Fixtures, & Equipment	Subtotal Nonresidential Property	
1	\$217,273	\$145,000	\$428,667	\$2,625,000	\$3,198,667	\$3,415,940
2	\$467,327	\$147,900	\$437,240	\$3,345,833	\$3,930,973	\$4,398,300
3	\$678,154	\$150,858	\$445,985	\$2,985,000	\$3,581,843	\$4,259,996
4	\$872,164	\$153,875	\$454,904	\$2,624,167	\$3,232,946	\$4,105,111
5	\$1,032,763	\$156,953	\$464,003	\$2,263,333	\$2,884,289	\$3,917,052
6	\$1,053,418	\$160,092	\$473,283	\$1,902,500	\$2,535,874	\$3,589,293
7	\$1,074,487	\$163,294	\$482,748	\$1,541,667	\$2,187,709	\$3,262,195
8	\$1,095,976	\$166,559	\$492,403	\$1,180,833	\$1,839,796	\$2,935,772
9	\$1,117,896	\$169,891	\$502,251	\$820,000	\$1,492,142	\$2,610,038
10	\$1,140,254	\$173,288	\$512,296	\$721,667	\$1,407,251	\$2,547,505

The taxable value of residential property represents the value of properties that may be constructed as a result of new workers moving to the community.

This analysis assumes the residential real property appreciation rate to be 2.0% per year. The Project's real property is assumed to appreciate at a rate of 2.0% per year. The analysis assumes the Project's furniture, fixtures, and equipment will depreciate over time according to the depreciation schedule shown in Appendix A.

Temporary Construction Impact

The Project will include an initial period of construction lasting 1 year(s) where \$1.3 million will be spent to construct new buildings and other real property improvements. It is assumed that 50.0% of the construction expenditure will be spent on materials and 50.0% on labor. The temporary construction activity will support temporary economic impacts in the community in the form of temporary construction employment and sales for local construction firms.

Table 5. Spending and Estimated Direct Employment Impact of Project-Related Construction Activity

	Amount	
Total construction expenditure		\$1,286,000
	Materials	\$643,000
	Labor	\$643,000
Temporary Construction Workers Supported (Average Earnings = \$54,900)		11.7

The following table presents the temporary economic impacts resulting from the construction.

Table 6. Temporary Economic Impact of Project-Related Construction Activity

	Direct	Indirect & Induced	Total
Number of temporary direct, indirect, and induced job years to be supported*	11.7	8.0	19.7
Salaries to be paid to direct, indirect, and induced workers	\$643,000	\$315,392	\$958,392
Revenues or sales for businesses related to construction	\$1,286,000	\$1,069,180	\$2,355,180

* A job year is defined as full employment for one person for 2080 hours in a 12-month span.

Gross receipt tax calculations related to construction activity are presented in the following table. The gross receipts tax revenue generated from construction-period taxable spending is included in the fiscal impact for affected districts.

Table 7. Construction-Related Taxable Spending

	Estimate
Expenditure for Materials	\$643,000
Percent of Materials subject to local gross receipts tax	75.0%
Subtotal Taxable Materials	\$482,250
Expenditure for Labor / Paid to construction workers	\$643,000
Percent of gross earnings spent on taxable goods and services	24.0%
Percent of taxable spending done locally	25.0%
Subtotal Taxable Construction Worker Spending	\$38,580
Expenditure for Furniture, Fixtures, & Equipment (FF&E)	\$3,875,000
Percent of FF&E subject to local gross receipts tax	25.0%
Subtotal Taxable FF&E Purchases	\$968,750
Total Construction-Related Taxable Spending	\$1,489,580

The above construction analysis focuses on the impact resulting from the Project's initial construction investments over the first 1 year(s).

Fiscal Impact Overview

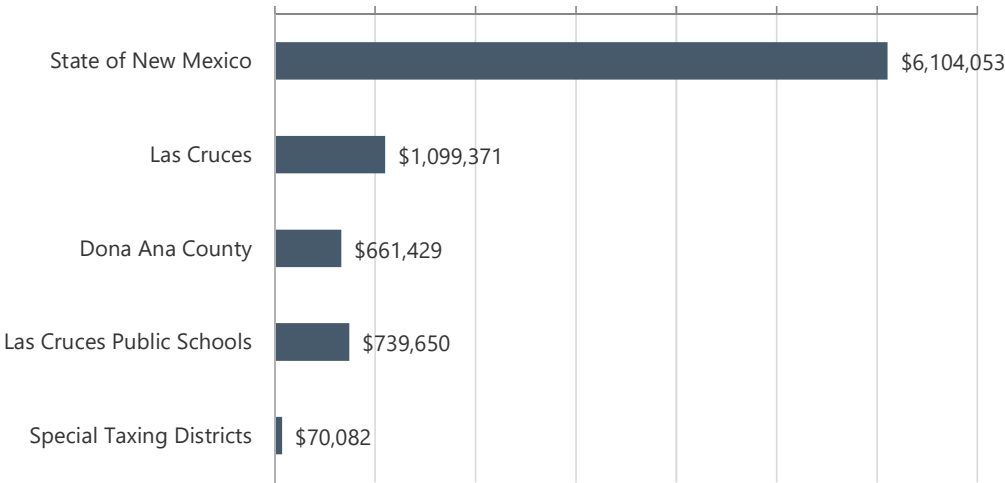
The Project will generate additional benefits and costs for local taxing districts, a summary of which is provided below. The source of specific benefits and costs are provided in greater detail for each taxing district on subsequent pages. Overall, the City will receive approximately \$1,099,400 in net benefits over the 10-year period and the Project will generate \$8,674,600 in total for all local taxing districts.

Table 8. Fiscal Net Benefits Over the Next 10 Years for the State and Local Taxing Districts

	Benefits	Costs	Net Benefits	Present Value of Net Benefits*
State of New Mexico	\$10,468,724	(\$4,364,672)	\$6,104,053	\$4,666,240
Las Cruces	\$2,295,291	(\$1,195,920)	\$1,099,371	\$869,151
Dona Ana County	\$802,393	(\$140,964)	\$661,429	\$520,289
Las Cruces Public Schools	\$1,334,530	(\$594,880)	\$739,650	\$554,948
Special Taxing Districts	\$70,082	\$0	\$70,082	\$42,884
Total	\$14,971,020	(\$6,296,435)	\$8,674,585	\$6,665,826

* The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 5% to make the dollars comparable.

Figure 1. Net Benefits Over the Next 10 Years for the State and Local Taxing Districts



State of New Mexico

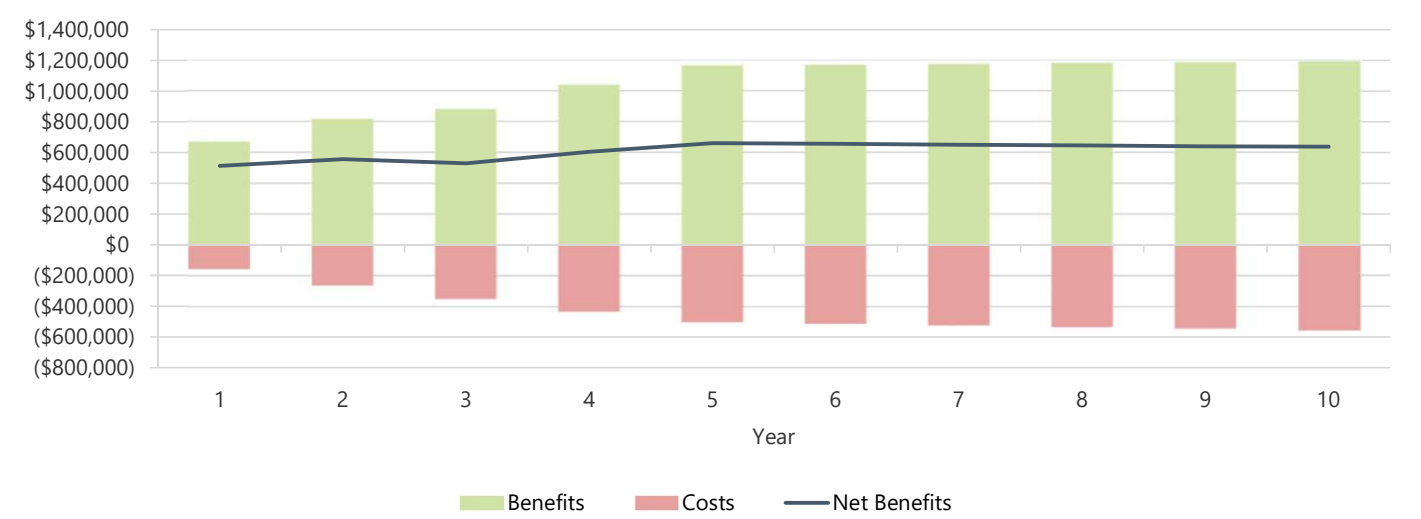
The table below displays the estimated additional benefits to be received by the State of New Mexico over the first 10 years. The project is expected to have a small effect on the statewide population and therefore some additional statewide costs to provide additional services were estimated for the state. Appendix C contains the year-by-year calculations.

Table 9. State of New Mexico: Benefits, Costs, and Net Benefits Over the Next 10 Years

	Amount
Gross Receipts Taxes	\$1,150,344
Real Property Taxes - Project	\$8,543
FF&E Property Taxes - Project	\$0
Property Taxes - New Residential	\$11,900
Personal Income Taxes	\$3,687,029
Corporate Income Taxes	\$183,184
Miscellaneous Taxes & User Fees	\$5,400,511
<u>Subtotal Benefits</u>	<u>\$10,468,724</u>
Cost of Providing State Services	(\$4,364,672)
<u>Subtotal Costs</u>	<u>(\$4,364,672)</u>
Net Benefits	\$6,104,053
<i>Present Value (5% discount rate)</i>	<i>\$4,666,240</i>

Gross receipts taxes are estimated on new taxable gross receipts resulting from the project. Property taxes are estimated on the firm's property and new residential property constructed. Personal income taxes are estimated based on an effective income tax rate and the earnings of new direct and indirect workers. Corporate income taxes on the direct activity is based on the net taxable income projected by the company. Corporate income taxes on the indirect activity is estimated on a per indirect worker basis and the observed statewide corporate income tax collections per worker. To the extent that the project will result in an increase in new households in the state, additional miscellaneous taxes and user fees have been estimated for the state. Additionally, the costs to provide state services to these new households were also estimated based on recent state expenditure data as detailed in the Appendix.

Figure 2. Annual Fiscal Net Benefits for the State of New Mexico



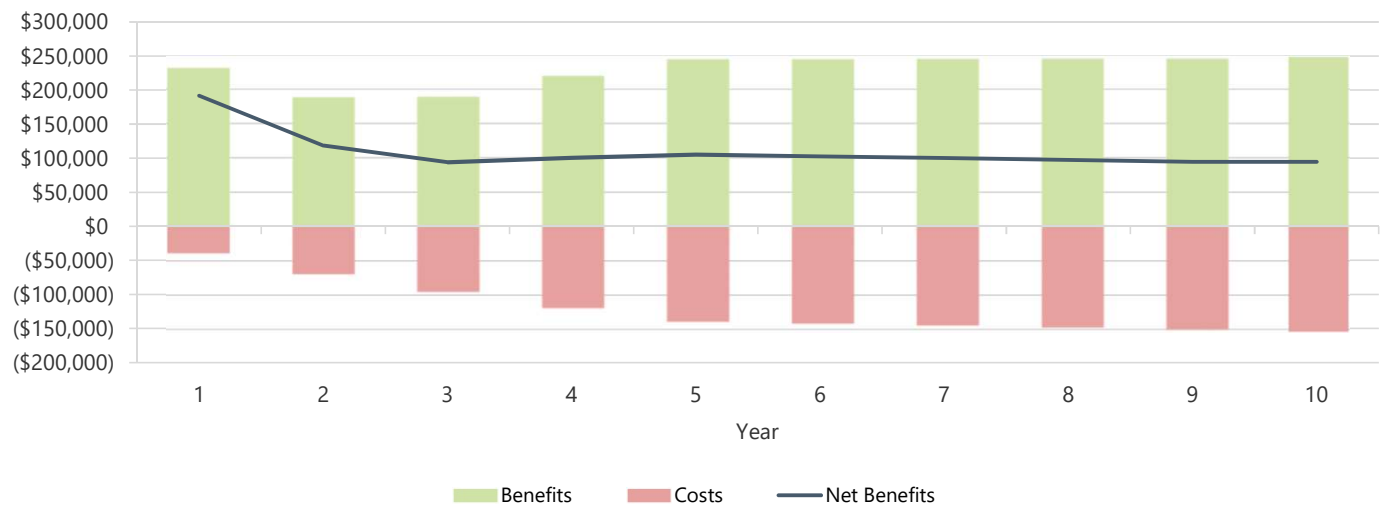
Las Cruces

The table below displays the estimated additional benefits, costs, and net benefits to be received by the City over the next 10 years of the Project. Appendix C contains the year-by-year calculations.

Table 10. Las Cruces: Benefits, Costs, and Net Benefits Over the Next 10 Years

	Amount
Gross Receipts Taxes	\$772,594
Real Property Taxes - Project	\$57,331
FF&E Property Taxes - Project	\$182,631
Property Taxes - New Residential	\$77,417
Utility Revenue	\$824,723
Utility Franchise Fees	\$63,016
Building Permits and Fees	\$51,500
Lodgers Taxes	\$1,949
Miscellaneous Taxes & User Fees	\$264,130
<u>Subtotal Benefits</u>	<u>\$2,295,291</u>
Cost of Providing Municipal Services	(\$305,219)
Cost of Providing Utility Services	(\$890,700)
<u>Subtotal Costs</u>	<u>(\$1,195,920)</u>
Net Benefits	\$1,099,371
<i>Present Value (5% discount rate)</i>	<i>\$869,151</i>

Figure 3. Annual Fiscal Net Benefits for the Las Cruces



Dona Ana County

The table below displays the estimated additional benefits, costs, and net benefits to be received by the County over the next 10 years of the Project. Appendix C contains the year-by-year calculations.

Table 11. Dona Ana County: Benefits, Costs, and Net Benefits Over the Next 10 Years

	Amount
Gross Receipts Taxes	\$205,810
Real Property Taxes - Project	\$75,051
FF&E Property Taxes - Project	\$149,868
Property Taxes - New Residential	\$81,819
Building Permits and Fees	\$0
Miscellaneous Taxes & User Fees	\$121,919
<u>Subtotal Benefits</u>	<u>\$634,466</u>
Cost of Providing County Services	(\$140,964)
<u>Subtotal Costs</u>	<u>(\$140,964)</u>
Net Benefits	\$493,502
<i>Present Value (5% discount rate)</i>	<i>\$386,423</i>

Las Cruces Public Schools

The table below displays the estimated additional benefits, costs, and net benefits to be received by the school district over the next 10 years of the Project. Appendix C contains the year-by-year calculations.

Table 12. Las Cruces Public Schools: Benefits, Costs, and Net Benefits Over the Next 10 Years

	Amount
Real Property Taxes - Project	\$63,474
FF&E Property Taxes - Project	\$126,750
Property Taxes - New Residential	\$87,051
State Equalization Guarantee	\$981,804
<u>Subtotal Benefits</u>	<u>\$1,259,079</u>
Cost of Educating New Students	(\$594,880)
<u>Subtotal Costs</u>	<u>(\$594,880)</u>
Net Benefits	\$664,199
<i>Present Value (5% discount rate)</i>	<i>\$492,729</i>

Benefits for Other Taxing Districts

The table below displays the estimated additional property taxes to be received by other property taxing districts over the next 10 years of the Project. Appendix C contains the year-by-year calculations.

Table 13. Other Taxing Districts: Benefits Over the Next 10 Years	
	Amount
Real Property Taxes - Project	\$12,563
FF&E Property Taxes - Project	\$25,087
Property Taxes - New Residential	\$17,499
Benefits	\$55,149
<i>Present Value (5% discount rate)</i>	<i>\$42,884</i>

City Non-Tax Incentives

The City is considering the following non-tax incentives for the Project.

Table 17. City Incentives Under Consideration

Year	LEDA JTIP
1	\$500,000
2	\$0
3	\$0
4	\$0
5	\$0
6	\$0
7	\$0
8	\$0
9	\$0
10	\$0
Total	\$500,000

These financial incentives may be considered an investment in the Project made by the city. Four calculations analyzing possible investments were made:

- 1. Net Benefits - detailed above
- 2. Present Value of Net Benefits - detailed above
- 3. Rate of Return on Investment - discussed and detailed below
- 4. Payback Period - discussed and detailed below

The rate of return on investment calculates the average annual rate of return to the city, treating the incentives as the initial investment and the net benefits to the city as the return on investment. The payback period is the number of years that it will take the city to recover the cost of incentives from the additional revenues that it will receive as a result of the Project.

The table below shows an analysis of these incentives, including a calculation of incentives per job, rate of return, and payback period.

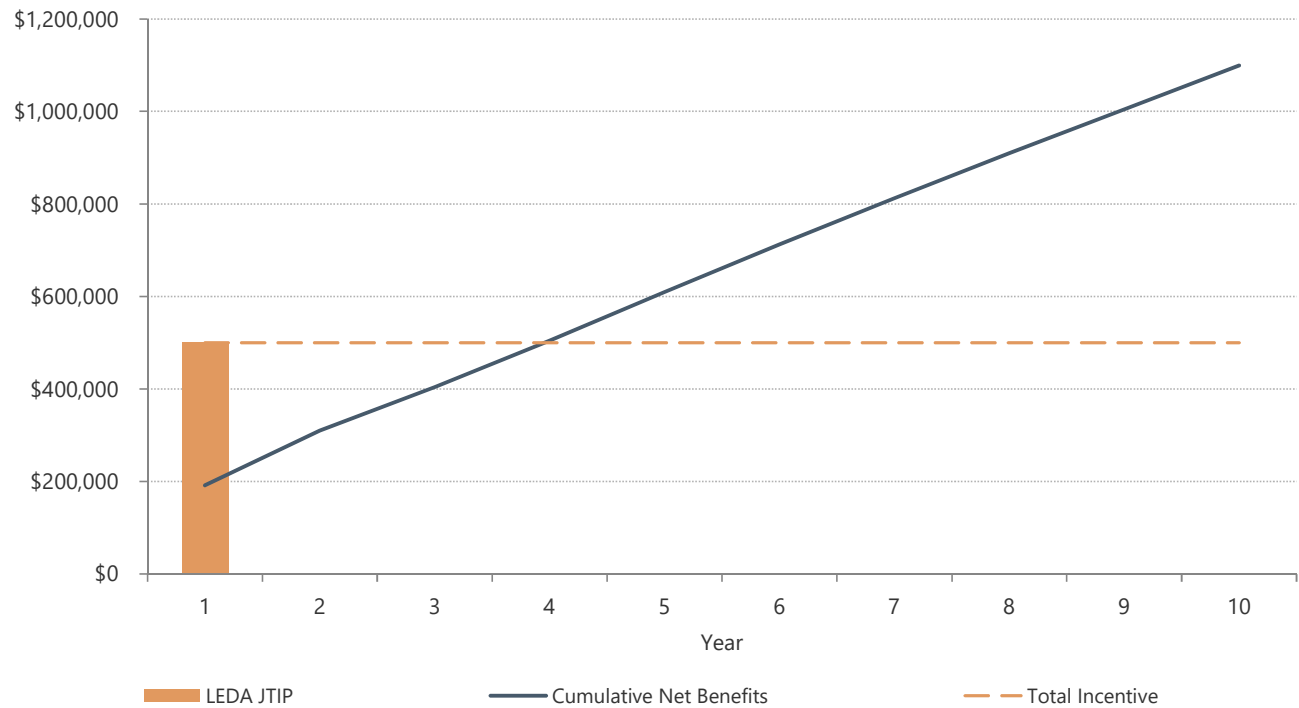
Table 18. Analysis of City Incentives

Total Non-Tax Incentive	\$500,000
Incentive Per Job	\$6,329
Rate of Return	22.0%
Payback period (years)	4.0

Note: The Rate of Return and Payback Period are calculated based on the sum of annual incentives, not the present value of the incentives.

The graph below depicts the total incentives currently under consideration versus the cumulative net benefits to the City. The intersection indicates the length of time until the incentives are paid back.

Figure 4. City Incentives Under Consideration



State Incentives

The state is considering the following incentives for the Project.

Table 21. State Incentives Under Consideration	
Year	LEDA, JTIP, HWJTC
1	\$1,735,000
2	\$0
3	\$0
4	\$0
5	\$0
6	\$0
7	\$0
8	\$0
9	\$0
10	\$0
Total	\$1,735,000

These financial incentives may be considered an investment in the Project made by the state. Four calculations analyzing possible investments were made:

1. Net Benefits - detailed above
2. Present Value of Net Benefits - detailed above
3. Rate of Return on Investment - discussed and detailed below
4. Payback Period - discussed and detailed below

The rate of return on investment calculates the average annual rate of return to the state, treating the incentives as the initial investment and the net benefits to the state as the return on investment. The payback period is the number of years that it will take the state to recover the cost of incentives from the additional revenues that it will receive as a result of the Project.

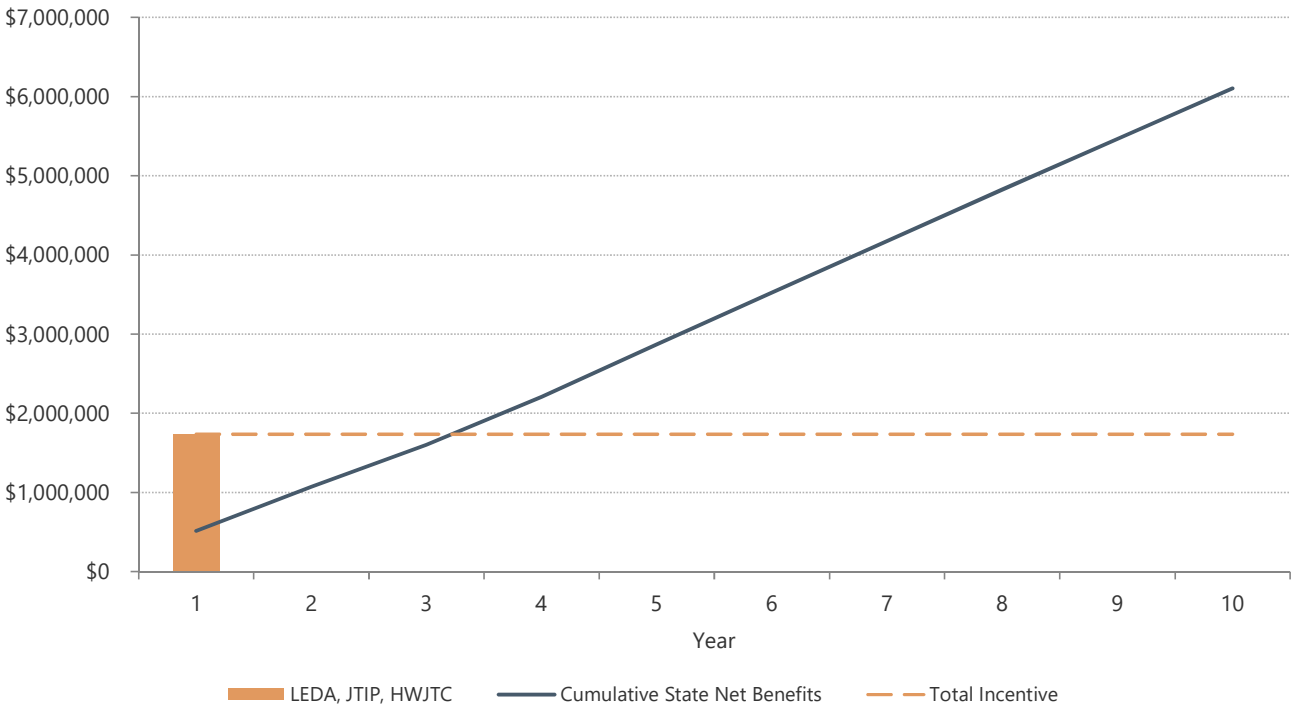
The table below shows an analysis of these incentives, including a calculation of incentives per job, rate of return, and payback period.

Table 22. Analysis of State Incentives	
Total State Incentives	\$1,735,000
Incentives Per Job	\$21,962
Rate of Return	35.2%
Payback period (years)	3.2

Note: The Rate of Return and Payback Period are calculated based on the sum of annual incentives, not the present value of the incentives.

The graph below depicts the total incentives currently under consideration versus the cumulative net benefits to the State. The intersection indicates the length of time until the incentives are paid back.

Figure 6. State Incentives Under Consideration



State LEDA @ \$750,000, JTIP @ \$735,000, HWJTC @ \$250,000 for a total state incentive of \$1,735,000. City LEDA @ \$400,000, City JTIP @ \$100,000

Overview of Methodology

This report presents the results of an analysis undertaken by the New Mexico Economic Development Department using Total Impact, an economic and fiscal impact analysis tool developed and supported by the Austin, TX based economic consulting firm, Impact DataSource.

The Total Impact model combines project-specific attributes with community data, tax rates, and assumptions to estimate the economic impact of the Project and the fiscal impact for local taxing districts over a 10-year period.

The economic impact as calculated in this report can be categorized into two main types of impacts. First, the direct economic impacts are the jobs and payroll directly created by the Project. Second, this economic impact analysis calculates the indirect and induced impacts that result from the Project. Indirect jobs and salaries are created in new or existing area firms, such as maintenance companies and service firms, that may supply goods and services for the Project. In addition, induced jobs and salaries are created in new or existing local businesses, such as retail stores, gas stations, banks, restaurants, and service companies that may supply goods and services to new workers and their families.

The economic impact estimates in this report are based on the Regional Input-Output Modeling System (RIMS II), a widely used regional input-output model developed by the U. S. Department of Commerce, Bureau of Economic Analysis. The RIMS II model is a standard tool used to estimate regional economic impacts. The economic impacts estimated using the RIMS II model are generally recognized as reasonable and plausible assuming the data input into the model is accurate or based on reasonable assumptions. Impact DataSource utilizes county-level multipliers to estimate the impact occurring at the sub-county level.

Two types of regional economic multipliers were used in this analysis: an employment multiplier and an earnings multiplier. An employment multiplier was used to estimate the number of indirect and induced jobs created or supported in the area. An earnings multiplier was used to estimate the amount of salaries to be paid to workers in these new indirect and induced jobs. The employment multiplier shows the estimated number of total jobs created for each direct job. The earnings multiplier shows the estimated amount of total salaries paid to these workers for every dollar paid to a direct worker. The multipliers used in this analysis are listed below:

Multiplier		City	County	State
Employment Multiplier	(Type II Direct Effect)	1.5350	1.7133	2.2921
Earnings Multiplier	(Type II Direct Effect)	1.2077	1.2769	1.5016

Calculation of Fiscal Impact

Calculation of Revenues for the State

The state's revenues from gross receipts taxes, property taxes, personal and corporate income taxes were estimated directly using data entered about the project and state tax rates and assumptions about workers moving to the area and possibly building new property.

Impact DataSource estimated the miscellaneous taxes and user fees as a function of statewide personal income. The data used to estimate these factors were obtained from the US Census of Governments and the Bureau of Economic Analysis. Next, these percentages were applied to the total increase in workers' earnings from the economic impact calculations to determine the annual miscellaneous taxes and user fees to be collected by the state related to the permanent increase in economic activity supported by the project.

The fiscal costs associated with the project result from the portion of new worker households that relocate to New Mexico to take a job and the resulting costs to provide state services to these new residents. Impact DataSource estimated the cost of providing state services to new worker households moving to the state by applying the average per household cost of state expenditures to the estimated number of new workers new to the state.

Impact DataSource determined the marginal cost to provide state government services on per household in the state by using approximately 40% of the average cost. The data used to estimate these costs were obtained from the US Census of Governments and US Census. On average, the state incurs \$5,000 in costs to provide these services to households.

Calculation of Revenues for the City

The city's revenues from gross receipts taxes, property taxes, city-owned utilities, utility franchise fees, lodging taxes, and building permits and fees were estimated directly using data entered about the project and local tax rates and assumptions about workers moving to the area and possibly building new property.

The new firm was not asked for nor could reasonably provide some data for calculating some other revenues for the city. For example, while the city will likely receive revenues from fines paid on speeding tickets given to new workers at the firm, the firm may not reasonably know the propensity of its workers to speed. Therefore, some other city revenues were calculated using an average revenue approach. This approach uses two assumptions:

- 1 - The city has two general revenue sources -- revenues from residents and revenues from businesses.
- 2 - The city will collect (a) about the same amount of other revenues from each household of new workers that may move to the city as it currently collects from an average household of existing residents, and (b) about the same amount of other revenues from the new firm (on a per worker basis) will be collected as the city collects from other businesses in the city.

Using this average revenue approach, revenues likely to be received by the city were calculated from the households of new workers who may move to the city and from the new firm using average city revenues per household and per worker calculations. These revenues are labeled as miscellaneous taxes and user fees.

The total annual city revenues used to make average revenue calculations in this analysis were obtained from the city's latest annual budget and the per household and per worker and calculations are detailed in Appendix A.

Calculation of Costs for the City

This analysis sought to answer the question, what additional monies will the city have to spend to provide services to households of new workers who may move to the city and to the firm. A marginal cost approach was used to calculate additional city costs from the new firm and its workers.

This approach uses two assumptions:

- 1 - The city spends money on services for two general groups -- residents and businesses.
- 2 - The city will spend (a) about the same amount for variable or marginal cost for each household of new workers that may move to the city as it currently spends for an average household of existing residents, and (b) about the same amount for variable or marginal costs for the new firm (on a per worker basis) as it spends for other businesses in the city.

Calculation of Net Benefits for the City

Net benefits calculated in this analysis are the difference between additional city revenues over a ten-year period and additional city costs to provide services to the new firm and its workers and indirect workers who may move to the city.

Calculation of Revenues, Costs and Net Benefits for the County

The model estimates additional revenues, costs and net benefits for the county using the same methodology described for the city relying on county budget data.

Calculation of Revenues for Public Schools

The school district's revenues from property taxes were calculated on the new residential property for some new direct and indirect workers who may move to the county and on the firm's property that will be added to local tax rolls.

However, school district revenues from state and federal funds and other local funding were calculated using an average revenue approach. This approach used the assumption that the school district will collect about the same amount of these revenues for each new student in the household of a new worker who may move to the county as it currently collects for each existing student.

Calculation of Costs for Public Schools

A marginal cost approach was used to calculate additional school district costs from the new firm and its workers. This approach uses the assumption that the school district will spend about the same amount for variable or marginal cost for each new student as it spends for each existing student.

Calculation of Net Benefits for Public Schools

Net benefits calculated in this analysis are the difference between additional school district revenues over a ten-year period and marginal costs for the school district to provide services to students in the households of new workers who may move to the county.

The school district's total annual revenues and expenses to make average revenue and marginal costs calculations in this analysis were obtained from the school district's latest annual budget.

Calculation of Property Taxes to be Collected by Countywide Special Taxing Districts

Revenues for countywide special taxing districts from property taxes were calculated on the new residential property for some new direct and indirect workers who may move to the county and on the firm's property that will be added to local tax rolls.

While each of these special taxing districts may incur additional costs from new residents and from the new firm, these additional costs were not calculated in this analysis.

About Impact DataSource

Impact DataSource is an Austin economic consulting, research, and analysis firm founded in 1993. The firm has conducted over 2,500 economic impact analyses of firms, projects, and activities in most industry groups in New Mexico and more than 30 other states.

In addition, Impact DataSource has prepared and customized more than 50 economic impact models for its clients to perform their own analyses of economic development projects. These clients include the Frisco EDC in Texas and the Metro Orlando (Florida) Economic Development Commission.