

Commission Meeting Agenda



Mayor

Samuel D. Cobb

City Commission

Marshall R. Newman

Jonathan Sena

Patricia A. Taylor

Joseph D. Calderón

Garry A. Buie

Don R. Gerth

City Manager

J. J. Murphy

November 21, 2016



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

Monday, November 21, 2016 - 6:00 p.m.

Sam D. Cobb, Mayor

Marshall R. Newman
Commissioner - District 1

Jonathan Sena
Commissioner - District 2

Patricia A. Taylor
Commissioner - District 3

Joseph D. Calderón
Commissioner - District 4

Garry A. Buie
Commissioner - District 5

Don R. Gerth
Commissioner - District 6

A G E N D A

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

CALL TO ORDER AND ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes of the November 7, 2016, Regular Commission Meeting

PROCLAMATIONS AND AWARDS OF MERIT

PUBLIC COMMENTS *(For non-agenda items.)*

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

None

DISCUSSION

ACTION ITEMS (Ordinances, Resolutions, Public Hearings)

2. Resolution No. 6498 - Authorizing an Agreement with the State of New Mexico Environment Department for 2016 Special Appropriation Project No. 16-A2265-STB in the Amount of \$100,000.00 for the Hobbs Aerobic Digestion Basins (*J. J. Murphy*)
3. Resolution No. 6499 - Authorizing an Agreement with the State of New Mexico Environment Department for 2016 Special Appropriation Project No. 16-A2266-STB in the Amount of \$100,000.00 for Improvements to the Hobbs Effluent Reuse System (*J. J. Murphy*)
4. Resolution No. 6500 - Authorizing an Agreement with the State of New Mexico Environment Department for 2016 Special Appropriation Project No. 16-A2267-STB in the Amount of \$431,000.00 for Improvements to Hobbs Sewer Lines/Manholes (*J. J. Murphy*)
5. Resolution No. 6501 - Authorizing an Agreement with the State of New Mexico Environment Department for 2016 Special Appropriation Project No. 16-A2268-STB in the Amount of \$100,000.00 for Improvements to the Hobbs Wastewater Reclamation Facility (*J. J. Murphy*)
6. Consideration of a Grant Award Through the Office of Community Oriented Policing Services (COPS) for the 2016 Hiring Program (CHP) (*Police Chief Chris McCall*)
7. Consideration of Approval of a CES Contract with Accent Landscaping for Tree Replacements on the SR 18 Beautification and Trail Project and Tree Additions and Replacements Along Turner Street in the Total Amount of \$157,461.97 Including GRT (*Doug McDaniel*)
8. Consideration of Approval of a CES Contract with Pettigrew & Associates to Provide Special Inspection and Material Testing Services at the CORE in an Estimated Amount of \$200,000.00 Excluding GRT (*Ronny Choate*)

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

9. Next Meeting Date:
 - ▶ Regular Meeting - **Monday, December 5, 2016**, at 6:00 p.m.

ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the above meeting, please contact the City Clerk's Office at (575) 397-9207 at least 72 hours prior to the meeting or as soon as possible.



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: November 16, 2016
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The following minutes are submitted for approval:

- ▶ Regular Commission Meeting of November 7, 2016

Fiscal Impact:

Reviewed By: _____
Finance Department

N/A

Attachments:

Minutes as referenced under "Summary".

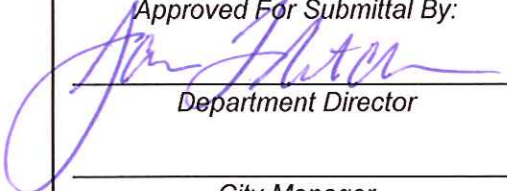
Legal Review:

Approved As To Form: _____
City Attorney

Recommendation:

Motion to approve the minutes as presented.

Approved For Submittal By:



Department Director

City Manager

**CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN**

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

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

Minutes of the regular meeting of the Hobbs City Commission held on Monday, November 7, 2016, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico.

Call to Order and Roll Call

Mayor Cobb called the meeting to order at 6:00 p.m. and welcomed everyone in attendance to the meeting. Mayor Cobb recognized Mr. Mike Gallagher, Lea County Manager, in the audience tonight. The City Clerk called the roll and the following answered present:

Mayor Sam D. Cobb
Commissioner Marshall R. Newman
Commissioner Jonathan Sena
Commissioner Patricia A. Taylor
Commissioner Joseph D. Calderón
Commissioner Garry A. Buie
Commissioner Don Gerth

Also present:

J. J. Murphy, City Manager
Mike Stone, City Attorney
Chris McCall, Police Chief
Clipper Miller, Police Lieutenant
Barry Young, Deputy Fire Chief
Shawn Williams, Fire Marshal
Todd Randall, City Engineer
Kevin Robinson, Development Coordinator
Ronny Choate, General Services Director
Raymond Bonilla, Community Services Director
Manny Marquez, Building Official
Karen Nevarez, Assistant Human Resources Director
Ron Roberts, Information Technology Director
Matt Hughes, Golf Course Superintendent
Sandy Farrell, Library Director
Meghan Mooney, Director of Communications
Britt Lusk, Teen Center Supervisor
Toby Spears, Finance Director
Ann Betzen, Executive Assistant/Risk Manager
Mollie Maldonado, Deputy City Clerk
Jan Fletcher, City Clerk
22 citizens

Invocation and Pledge of Allegiance

Commissioner Sena delivered the invocation and Commissioner Calderón led the Pledge of Allegiance.

Approval of Minutes

Commissioner Calderón moved that the minutes of the regular meeting held on October 17, 2016, be approved as presented. Commissioner Sena seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried.

Proclamations and Awards of Merit

There were no proclamations or awards of merit presented.

Public Comments

Mr. Tim Santa of 115 Jefferson Place addressed several concerns to the Commission regarding the Playa Escondida Apartments being constructed at the intersection of Jefferson and Yeso Streets, which was partially funded by the City as an affordable housing project. Among Mr. Santa's comments were issues regarding the undesirable color of the apartments, the eight-foot fence which has not been constructed as agreed and the value of his property. Mayor Cobb requested an opportunity to meet with Mr. Santa and obtain some answers from the developer.

Commissioner Buie agreed that the property already looks 10 - 15 years old.

Mayor Cobb stated the Mortgage Finance Authority controls the design of the project, not the City. He stated the City will talk with the developer and then he will meet with Mr. Santa.

Mr. Robert Lujan requested an update on the dates and locations of community meetings with the Hobbs Police Department. Mayor Cobb stated Police Chief Chris McCall is scheduled to discuss community engagement later in the meeting.

Mr. Lujan stated since Veterans will be honored this week, he stated it is also important to recognize the hard work of Police Officers, Firefighters and EMT employees. Mr. Lujan congratulated Mr. J. J. Murphy, City Manager, on his service to the country.

Mr. Tim Bartlett, also a neighbor in the Jefferson and Yeso area, addressed a safety concern with an open drainage area on Jefferson Street.

Consent Agenda

Mayor Cobb explained the Consent Agenda and the process for removing an item from the Consent Agenda and placing it under Action Items.

Commissioner Sena moved for approval of the following Consent Agenda Item(s):

Resolution No. 6490 - Authorizing a Grant Application with the New Mexico Department of Health EMS Fund Act Local System Improvement Project for the Hobbs Fire Department FY 2018.

Resolution No. 6491 - Approving the Submission of the Assistance to Firefighters Grant (AFG).

Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolutions and supporting documentation are attached and made a part of these minutes.

Discussion

Convention and Visitor Bureau.

Mayor Sam Cobb discussed the concept of a Convention and Visitors Bureau for Hobbs. He inquired if the Commission would like to schedule a separate work session to fully discuss the topic. He stated Lea County is interested in increasing the events at the Lea County Event Center and will soon be awarding the bid for construction of the new Equine Center. He stated the City has previously met with members of the hospitality industry who are definitely interested in increasing their occupancy rates. Mayor Cobb suggested that a better concerted effort between public and private entities would be of benefit to everyone.

Following a brief discussion, Mayor Cobb stated a work session would be scheduled to continue the conversation on the topic.

Mr. Murphy stated staff will look at sample models of Convention Bureaus and report back to the Commission in mid-December or the early part of January.

Action Items

Resolution No. 6492 - Approving the FY 2017 First Quarter Financial Report for the New Mexico Department of Finance and Administration (DFA).

Mr. Toby Spears, Finance Director, submitted the FY 2017 first quarter DFA Financial Report for consideration by the Commission. He stated the ending cash balance as of September 30, 2016, is \$113,128,500 for all funds (restricted and unrestricted). The City of Hobbs year-to-date actual revenue activity for the period of July 1, 2016, through

September 30, 2016, is \$22,626,848. During the same period, expenditures were \$24,674,837. In answer to Mayor Cobb's question regarding the gap between revenue and expenditures, Mr. Spears stated the City has billed the Higher Education Department related to construction of the CORE and is awaiting reimbursement of \$2,700,000.

There being no further discussion, Commissioner Calderón moved that Resolution No. 6492 be adopted as presented. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documents are attached and made a part of these minutes.

Resolution No. 6493 - Approving the FY 2017 First Quarter Financial Report for the New Mexico Department of Finance and Administration for Lodgers' Tax.

Mr. Spears submitted the FY 2017 first quarter DFA Financial Report for the Lodgers' Tax Fund for consideration by the Commission. Mr. Spears stated the cash balance for the Lodgers' Tax Fund is \$329,271. The current annual budget for the fund is set at \$800,000 with the original budget having been set at \$950,000. He stated the budget adjustment as previously approved by the Commission is still awaiting DFA approval.

There being no discussion, Commissioner Sena moved that Resolution No. 6493 be adopted as presented. Commissioner Gerth seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documents are attached and made a part of these minutes.

Resolution No.- 6494 Relating to Disposition of Obsolete, Worn-Out and Unusable Personal Property.

Mr. Spears stated the City desires to delete from its public inventory and dispose of items of personal property on the City's inventory list. He stated a list of property is attached to the proposed resolution and the resolution includes a specific finding that: (1) all of the property is obsolete and of no value; and (2) is worn-out, unusable or obsolete to the extent that the item is no longer economical or safe for continued use by the City; and (3) that all such items should be deleted from the City's public inventory and sold at a public auction; and (4) that an accounting of transfers of assets between departments, including those between proprietary and governmental funds, are included on the list. The public auction has been scheduled on December 10, 2016. Mr. Spears also stated the City's I. T. Department has certified that the hard disk drives and any floppy diskettes or backup tapes have been removed from the computers and these data storage devices will be erased or destroyed at a later date.

Commissioner Calderón moved that Resolution No. 6494 be adopted as presented. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution, property list and I. T. Certification are attached and made a part of these minutes.

Consideration of the Continuation of a Retail Consultant and Trade Show Expenses as Special Projects for the Economic Development Corporation of Lea County (EDC).

Mr. Mike Stone, City Attorney, stated the EDC provides professional services to the City under a current professional services agreement. He stated the agreement allows the EDC to provide special projects on a reimbursement basis up to \$50,000, as specifically approved by the Commission. Over the past several years, the EDC has engaged the services of a Retail Consultant and attended trade shows as special projects. The EDC would like approval from the City Commission to continue these projects pursuant to the terms of the FY 16-17 agreement.

Mr. Steve Vierck, President and CEO of the EDC, and Mr. Barry Ricks, Director of Marketing & Business Development, addressed comments to the Commission about the activities of the EDC and expressed appreciation for support by the City Commission. Mr. Vierck emphasized the importance of attracting retail development in Hobbs which grows jobs and grows GRT. He stated the national and regional conferences he has attended in Las Vegas and Dallas have been very productive.

There being no further discussion, Commissioner Buie moved that the special projects for the EDC be approved for continuation of the use of a retail consultant and trade show expenses. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the agreement is attached and made a part of these minutes.

Resolution No. 6495 - Approving the Dedication Plat of a Portion of North Grimes in Section 15, Township 18 South, Range 38 East as Requested by High Five Capitol LP.

Mr. Kevin Robinson, Development Coordinator, stated the dedication plat for right-of-way of North Grimes dedication parcel will contain +/- .19 acres. He stated the Planning Board reviewed this issue on October 18, 2016, and voted 5 - 0 to recommend approval.

There being no discussion, Commissioner Buie moved that Resolution No. 6495 be adopted as presented. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documents are attached and made a part of these minutes.

Consideration of a Grant Award Through the Office of Community Oriented Policing Services (COPS) for the 2016 Hiring Program (CHP).

Police Chief Chris McCall stated the Hobbs Police Department applied for a grant through the COPS Office of the U. S. Department of Justice to fund police officer positions. Chief McCall credited Capt. Michael Walker for his efforts in preparing the grant application. He stated the grant allows for certified police officers to be hired with the task of developing community relations within the City of Hobbs. Chief McCall stated the Department is committed to the community and, through the grant, will dedicate five personnel to community engagement efforts in order to build trust with diverse members of the community. The grant period is 36 months with \$625,000 being paid by the U. S. Department of Justice and \$751,165 being the match by the City of Hobbs. Chief McCall stated the City will be required to maintain the officer positions for a minimum of 12 months following the 36-month federal funding period.

In response to Commissioner Newman's question regarding a possible downturn in the economy, Chief McCall stated the City is locked in for four years. Chief McCall stated veteran officers will fill the positions and new officers will be hired for those vacancies. He stated HPD currently has 95 filled positions but is budgeted for a total of 103.

Mr. Murphy clarified that the Department will not be able to reduce its number of positions below 108.

Commissioner Sena stated it is critical to continue engagement with the community and building relationships.

Mr. Murphy stated the total amount of funding on a reimbursement basis is \$625,000 to hire five officers over the three-year period.

In response to Commissioner Buie's inquiry regarding possible layoffs in other City Departments, Mr. Murphy stated HPD will have to maintain that level for four years.

Commissioner Taylor stated it seems like a quagmire for the City.

Commissioner Buie agreed.

Commissioner Sena inquired if the grant has a deadline as it appears the City became eligible on September 1, 2016.

Commissioner Newman stated although he is very pro-police, he is having a hard time on this issue.

Following some further brief discussion, Commissioner Newman moved to table the COPS Grant item until the next Commission meeting on November 21, 2016. Mr. Murphy stated if the City learns of a grant deadline, he will request the item be brought back to a special meeting. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried.

Resolution No. 6496 - Approving the Suerte Subdivision No. 4 Located in Section 17, Township 18 South, Range 38 East in Hobbs, Lea County, New Mexico.

Mr. Murphy presented the Suerte Land Division No. 4 including the dedications of Synergy Park Boulevard and Suerte Drive to the Commission. He stated the City infrastructure is not in place but is covered under a development agreement requiring the City to install the infrastructure. Mr. Murphy stated the Developer's property is located southwest of the corner of Millen Drive and Lovington Highway and is comprised of three tracts consisting of +/- 245.95 acres. He stated adjacent to the roadway dedications is the tract to be used for the C.O.R.E. Site, tracts for public drainage area and a flood water conveyance area. He stated the entirety of the improvements is estimated to cost +/- \$4 million, with +/- \$2 million designated for roadway and utility improvements of which 60% will benefit the Developer's remaining parcel. He stated the development agreement is crafted whereby the Developer will participate up to \$1 million providing the installed infrastructure improvements to meet the \$4 million estimate and a reduction in the actual costs will also reduce the Developer's participation. Mr. Murphy stated the Developer's participation will be collected at the time the remaining parcels under Developer's control are developed and be based on a front footage ratio.

Commissioner Sena moved that Resolution No. 6496 be adopted as presented. Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documents are attached and made a part of these minutes.

Resolution No. 6497 - Authorizing an Amendment to the FY 16-17 Professional Services Agreement for Teen Court for an Additional Amount of \$12,000.00.

Mr. Murphy stated additional funding of \$12,000 is proposed for Teen Court of Lea County for the FY 16-17 budget year. The City funding for Teen Court is currently set at \$20,000 and an amendment of the agreement would increase the funding to a total of \$32,000.00. He read a letter of support by Capt. Cunningham of the Hobbs Police Department.

Commissioner Sena stated the program is very successful and "an ounce of prevention is worth a pound of cure".

Commissioner Newman stated he has visited Teen Court and was very impressed with the teens and the roles they play during the Court sessions.

In response to Commissioner Buie's question, Mr. Murphy stated that funding for Teen Court has been cut by the State.

Commissioner Buie moved that Resolution No. 6497 be adopted as presented. Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documents are attached and made a part of these minutes.

Commissioner Taylor left the meeting at approximately 7:10 p.m.

Comments by City Commissioners, City Manager

Mr. Murphy stated City staff and County staff will be attending the Top Hat Award Ceremonies in Albuquerque, New Mexico, where both the City and County have been nominated to receive awards for best venue in the State.

Mr. Murphy apologized for the snafu that has occurred with the Livestream recording of the meeting ending 30 seconds before the actual meeting adjourned. He stated recording of the event will be delayed to cover the end of the meeting.

Mr. Murphy expressed appreciation to everyone for the support he received while on military leave.

Mr. Murphy displayed photos of the final community cleanup which was held on Saturday, November 5, 2016. He stated he worked during the event and it is an incredible program.

Mr. Murphy stated USSSA hosted a softball tournament during the past weekend with 58 teams registered for the event, 54 of which were from out of town. He stated the turf fields were very beneficial in keeping none of the games from being rained out.

Mr. Murphy expressed appreciation to the staff at Hobbs Express and announced that a new program has been established for Veterans to ride free with appropriate identification. He stated he was not aware the program was being developed and it is modeled after other communities in the State.

Commissioner Gerth thanked everyone for attending the meeting and reminded everyone to vote on Tuesday, November 8, 2016.

Commissioner Sena introduced his brother and best friend, Mr. Matthew Sena, who is present in the audience tonight.

Commissioner Buie expressed appreciation to Chief McCall for recognizing others in the Police Department who work very hard. He stated he observed Parks and Recreation employees mowing and working at 5:36 a.m. on a recent morning. He encouraged Department Heads to praise and lift their employees up.

Commissioner Newman thanked everyone for the calls and condolences he received when his mother recently passed away.

Mayor Cobb requested that two letters be included as part of the minutes, copies of which are attached hereto. The first letter was written to the editor in Sunday's Hobbs News-Sun from former Hobbs residents, Scott and Shanna Bird, now of Farmington, New Mexico, who were recently in Hobbs. They expressed compliments to the City on the growth, development, beautification and pride that emanates in Hobbs. The second letter was written to the Mayor's Office by Col. James M. Quick (Retired USAF). He recently competed in the Sun Country Golf Association's final competition for 2016 at Rockwind Community Links. Col. Quick expressed appreciation to the City for its hospitality during the tournament. He stated the City made a very good decision in the development of the Rockwind Community Links Golf Course which will anchor and grow the game of golf in the community. He commented that the City is demonstrating to the rest of the golf industry the way to grow golf for the future and bring the community together behind a great sport.

Adjournment

There being no further discussion or business, Commissioner Calderón moved that the meeting adjourn. Commissioner Sena seconded the motion. The vote was recorded as follows: Newman yes, Sena yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 7:20 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



ACTION ITEMS



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: 2016 Appropriation; 16-A2265-STB Hobbs Aerobic Digestion Basins
DEPT. OF ORIGIN: Engineering
DATE SUBMITTED: November 14, 2016
SUBMITTED BY: Todd Randall, City Engineer

Summary:

A State of New Mexico 2016 Legislative special appropriation in the amount of \$100,000 has been awarded for the City of Hobbs Wastewater Treatment Facility Digester Improvements. This grant is for professional engineering services to design additional aerobic digestion basins to address current deficiencies in the existing basins, and allow for additional treatment capacity including community growth.

A resolution of the City of Hobbs City Commission is required which authorizes the Mayor to sign the grant agreement, and designation of an official representative, including an alternate, who will be point of contact and authorized signatory(s) for reimbursement requests and other documents required by the New Mexico Environmental Department.

Fiscal Impact:

Reviewed By: _____

[Signature]
Finance Department

After execution of grant agreement, City will be eligible to submit for reimbursement of actual costs for professional engineering design services, up to the appropriation amount of \$100,000.00. The reversion date for this appropriation is June 30, 2020.

Attachments:

- A Resolution authorizing the Mayor to sign grant agreement 16-A2265-STB, and designating both the Finance Director and City Clerk as official representatives authorized to sign official grant documents.
- Grant agreement 16-A2265-STB; State of New Mexico, Department of Environment

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

Approve a Resolution authorizing the Mayor of the City of Hobbs to sign grant agreement 16-A2265-STB in the amount of \$100,000.00 for the City of Hobbs Wastewater Treatment Facility Digester Improvements and designate the City of Hobbs Finance Director and City Clerk as official signatory representatives for this agreement.

Approved For Submittal By:

[Signature]
Department Director
[Signature]
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6498

A RESOLUTION AUTHORIZING THE MAYOR
TO APPROVE THE 2016 LEGISLATIVE APPROPRIATION
PROJECT 16-A2265-STB HOBBS AEROBIC DIGESTION BASINS

WHEREAS, the City of Hobbs shall enter into a Grant Agreement with the State of New Mexico Environment Department; and

WHEREAS, the Grant Agreement is identified as Legislative Appropriation 16-A2265-STB; and

WHEREAS, the Finance Director and City Clerk, or their successor, will be designated as a point of contact an authorized signatory for reimbursement requests and other documents that may be required;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that the Mayor be and hereby is, authorized and directed to execute, on behalf of the City of Hobbs, Legislative Appropriation Project 16-A2265-STB.

PASSED, ADOPTED AND APPROVEDF this 21st day of November, 2016.

SAM D. COBB, Mayor

JAN FLETCHER, City Clerk

<input type="text"/>	Amendment
No.	<input type="text"/>
Date	<input type="text"/>

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2265-STB

The GRANTEE agrees to accomplish the project as described below:

Project consists of the design and construction of new aerobic digester basins and associated equipment at the Hobbs Wastewater Reclamation Facility. Construction of the new basins will address deficiencies of the existing system and allow for additional growth with the community of Hobbs within Lea County.

X **X**
Official Representative **NMED Project Manager Approval**

Construction Programs Bureau Signature Page

Project Name:	City of Hobbs
Project Number:	16-A2265-STB
Official Representative:	
Name	Toby Spears
Title	Finance Director
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	tspears@hobbsnm.org
Phone	(575) 397-9239

Alternate - Official Representative:	
Name	Jan Fletcher
Title	City Clerk
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	jfletcher@hobbsnm.org
Phone	(575) 397-9200



NEW MEXICO
ENVIRONMENT DEPARTMENT



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

Harold Runnels Building
1190 St. Francis Drive
PO Box 5469
Santa Fe, NM 87502
Phone (505) 827-2806 Fax (505) 827-2837
www.env.nm.gov

BUTCH TONGATE
Cabinet Secretary-Designate
J.C. BORREGO
Acting Deputy Secretary

November 2, 2016

Honorable Sam Cobb
City of Hobbs
200 E. Broadway
Hobbs, NM 88240

Special Appropriation Project:
16-A2265-STB Hobbs Aerobic Digestion Basins
\$100,000

Enclosed you will find two original grant agreements for the above-mentioned grant. Please read the grant agreement carefully. The grant should be signed by your community's chief executive who has signatory authority provided by law (charter, ordinance or resolution).

Prior to signing the grant agreement, your local governing body must meet and pass a resolution similar to the resolution enclosed. The purpose of this resolution is to designate an individual to sign the grant agreement and also to designate an official representative(s) who will act as the point of contact and who is authorized to sign reimbursement requests and other documents requiring a signature for submittal to the New Mexico Environment Department (NMED). Please note that successors to the designee(s) are also eligible as designees in case of staff replacements. NMED must also have a current W-9 form on file. The most recent revision of the W-9 form (as approved by the Department of Finance and Administration) and instructions are also enclosed.

Please return **both signed original grant agreements including Project Description (Attachment A), the completed W-9 form, passed resolution and signature page to NMED.** Upon the NMED Secretary's signature, one original grant agreement will be returned to you. We recommend that duplicate copies of all documents be made prior to returning them to NMED.

Your project manager, Sara Rhoton at (505) 222-9568 or Sara.Rhoton@state.nm.us, will be glad to answer any questions you may have regarding the technical aspects of your project. Disbursement request questions and other financial matters can be directed to the program administrator, Valerie Trujillo at (505) 827-2958 or valerie.trujillo@state.nm.us.

We are looking forward to working with you on this project and will do whatever we can to help make it a worthwhile improvement to your community.

Sincerely,



Jim Chiasson, P.E., Chief
Construction Programs Bureau
New Mexico Environment Department

Enclosures: Two Grant Agreements; Attachments A, B & C; Exhibits 1, 2, 3 & 4; W-9 Form and Instructions; Signature Page

cc: Sara Rhoton, Project Manager
Valerie Trujillo, Program Administrator

City of Hobbs
New Grant Agreement Checklist

Return the following to:

Jim Chiasson, Bureau Chief
New Mexico Environment Department
Construction Programs Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

- Two original signed Grant Agreements for:
16-A2265-STB Hobbs Aerobic Digestion Basins \$100,000
- Attachment A (Project Description):
- Completed W-9 form
- Resolution
- Signature Page for Official Representative(s) - (Signatures of Official Representative(s) listed on page 4 of the Grant Agreement)

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 89200 CAPITAL APPROPRIATION PROJECT
16-A2265-STB**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and City of Hobbs, 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 2016, Chapter 81, 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, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

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:

16-A2265 (\$100,000) APPROPRIATION REVERSION DATE: June 30, 2020
Laws of 2016, Chapter 81, Section 18, Paragraph 30, one hundred thousand dollars (\$100,000), to plan, design and construct aerobic digestion basins, including the purchase and installation of related equipment, at the wastewater reclamation facility in Hobbs in Lea county

The Grantee's total reimbursements shall not exceed the appropriation amount one hundred thousand dollars (\$100,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, zero (\$0), which equals one hundred thousand dollars (\$100,000) (the "Adjusted Appropriation Amount").

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.

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." Attachments A, B and C set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A, B and C impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A, B and C shall prevail, in the event of irreconcilable conflict. 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 Reimburse² 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 Grantee's legal procurement 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 ;
- (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:

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.

- 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 of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its 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

(vi) The Grantee's submittal 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 as follows:

- 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 expenditures.
- c. The Department may, in its 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 4.
- d. The date the Department sends, by mail or email, 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 begin work.

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 and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Department: NMED
Name: Valerie Trujillo
Title: Project Administrator
Address: Construction Programs Bureau
Harold Runnels Bldg, Room S-2072
PO Box 5469
Santa Fe, NM 87502
Email: valerie.trujillo@state.nm.us
Telephone: (505) 827-2958
FAX: (505) 827-2837

Department: NMED
Name: Sara Rhoton
Title: Project Manager
Address: Construction Programs Bureau
121 Tijeras Ave., NE, Suite 1000
Albuquerque, NM 87102
Email: Sara.Rhoton@state.nm.us
Telephone: (505) 222-9568
FAX: (505) 222-9510

The Grantee's designee shall have authority from Grantee to request disbursements. 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 facsimile, 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 facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. 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, EARLY TERMINATION

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, 2020** 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, 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 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, 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 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 absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending 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 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 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. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 2. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly 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 a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 2. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

C. Paperless Reporting

In lieu of the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The information currently required to be reported into the database is set forth in Exhibit 1. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly 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 a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

D. 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. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

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 3. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of 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 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.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II 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. 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 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, if 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, the so-called "Anti-Donation Clause."
 - (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
 - (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 it 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 Conflict of Interest and 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 his/her 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 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 six (6) 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 and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor 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

Attachments A, B and C are incorporated by reference and made part of the 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 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 Hobbs may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Hobbs’s 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 Hobbs or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Hobbs or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges 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 a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the City of Hobbs may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Hobbs’s 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 CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF 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 BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

GRANTEE

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

Date

<input type="text"/>	Amendment
No.	_____
Date	_____

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2265-STB

The GRANTEE agrees to accomplish the project as described below:

X

X

Official Representative

NMED Project Manager Approval

ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS
TO
STATE OF NEW MEXICO
CAPITAL APPROPRIATION FUND AGREEMENT

ARTICLE 1 **REVIEW**

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau (CPB) prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form and must be approved by the CPB project manager.
- B. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate approval. CPB reserves the right to deny reimbursement under any contract not properly procured or otherwise ineligible under the grant terms.
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval **prior to** selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, the engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- D. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval **prior to** executing the agreement/contract or using Grantee's staff. Unless a waiver has been received, the required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at www.nmenv.state.nm.us/cpb/cpbtop.html. Any waiver of the required engineering contract form must be in writing from CPB. NMED CPB requires that one copy of the executed contracts be supplied to them. The contract is between the grantee and their engineer. The State of New Mexico will not be a party to the contract.
- E. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant should meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for

review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.

- F. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver in writing of the report requirement has been received from CPB.
- G. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, and specifications for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids. Any addenda prepared after the project has been advertised for bids must be submitted to NMED for review and approval.
- H. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- I. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. At the pre-construction conference, the selected contractor will submit a construction schedule to the Grantee and, if requested, to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.

- K. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- L. The Grantee will provide an Engineer's Construction Status Report (ECSR) using a template provided by NMED with each disbursement request that includes construction costs. The Engineer's Construction Status Report will include a description of the work completed during the same time period covered by the contractor's pay application and must be signed by a professional engineer and the Grantee's representative designated to oversee the project. Construction reimbursements cannot be paid without the NMED approved ECSR.
- M. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- N. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- O. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law. NMED may request an opportunity to review and comment on the ordinance to ensure compliance with this requirement.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the Grantee's project engineer.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
 - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
 - iii. A certificate of substantial completion including punch list items;
 - iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
 - v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
 - vi. Letter from the owner certifying receipt and acceptance of the record drawings;
 - vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the 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 Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;

- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

ARTICLE 4 PROPERTY ACQUISITION

- A. With the exception of easements (See Article 1.H above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED **prior to** the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

ATTACHMENT C

NEW MEXICO ENVIRONMENT DEPARTMENT CONSTRUCTION PROGRAMS BUREAU

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2265-STB

The purpose of this Attachment C is to specify Special Grant Conditions for the City of Hobbs in accordance with the terms of the Grant Agreement Article XVII, Section B.3, which states the Department may:

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.

Pursuant to Executive Order (EO) 13-006, "Establishing Uniform Funding Criteria and Grant Management and Oversight Requirements for Grants of State Capital Outlay Appropriations by State Agencies to Other Entities," and the regulations implementing the EO, the following uniform funding criteria must be met in order for a grantee to be eligible to receive a grant of a State capital outlay appropriation:

1. a grantee's annual audit for the most recently concluded fiscal year must be a public record pursuant to NMSA 1978, Section 12-6-5(A);
2. in the case of a grantee whose most recent annual audit, or special audit released since its most recent annual audit became a public record, documents material weaknesses or significant deficiencies that raise concerns about the grantee's ability to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired with grant funds:
 - a. the grantee must have remedied the material weaknesses and significant deficiencies to the satisfaction of the State agency making the grant;
 - b. the State agency making the grant must have determined that it can impose and has the resources to implement special grant conditions that adequately address those weaknesses and deficiencies; or
 - c. the State agency making the grant must have determined that another appropriate entity is able and willing to act as fiscal agent for the grant;

After a review of the City of Hobbs' most recent annual audit, it was determined that Special Grant Conditions must be imposed and implemented in order for the City of Hobbs to be eligible to receive a grant of a State capital outlay appropriation. In accordance with the Grant Agreement and the established uniform funding criteria, THE FOLLOWING SPECIAL GRANT CONDITIONS APPLY to the above-referenced project that the Environment Department administers for the City of Hobbs:

Special Grant Conditions for City of Hobbs

1. The City of Hobbs must provide training to employees responsible for the monitoring of the City's capital assets in the capital assets process and will have to provide documentation that training was done by June 30, 2017.

These Special Grant Conditions will be implemented in connection with the Grant Agreement and will remain in place for the duration of the Grant Agreement unless and until NMED is satisfied that the EO 13-006 uniform funding criteria has been met such that certain Special Grant Conditions may be eliminated. In the event that it becomes necessary to revise and/or eliminate certain Special Grant Conditions, NMED will notify the City of Hobbs in writing.

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
DATABASE PERIODIC REPORT
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
PAPER PERIODIC/FINAL REPORT
EXHIBIT 2**

PERIODIC REPORT FINAL REPORT

Grantee: _____

Project Number: _____ Reporting Period: _____

1. Please provide a detailed status of project referenced above.

A. Third Party Obligations

Purchase Order or Contract # _____

Name of Contractor or Vendor: _____

Amount of Third Party Obligation: _____

Date Executed: _____

Termination Date: _____

B. Project Phase

Bonds Sold Plan/Design Bid Documents Construction
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: _____

Total Amount of all Notices of Obligation to Reimburse: _____

Total Grant Amount Expended by Grantee to Date: _____

Grant Balance as of this Date: _____

Amount of Other Unexpended Funding Sources: _____

PERIODIC REPORT

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

FINAL REPORT

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

Grantee Representative/Title

Date

DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY _____

C. DISBURSEMENT REQUEST NUMBER _____

B. PROJECT NUMBER _____

D. GRANT AMOUNT _____

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
TOTAL		\$ -		\$ -		\$ -		\$ -

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official: X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____

Notary Public _____ My Commission expires _____

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT

INITIAL Notice of Obligation to Reimburse Grantee # 1

DATE: _____

TO: Grantee: _____
Grantee Official Representative: _____

FROM: Department Representative: _____, NMED/CPB Project Manager

SUBJECT: Notice of Obligation to Reimburse¹ Grantee
Project Number: _____

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: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

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 adjusted for AIPP if applicable:	_____
The Amount of this Notice of Obligation:	_____ \$0.00
The Total Amount of all Previously Issued Notices of Obligation:	_____ N/A
The Total Amount of all Notices of Obligation to Date:	_____ N/A

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 "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee.

Resolution Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as SAP Project Number Grant Agreement.

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor / Chair / Director, is authorized to sign the agreement for this project, and

Official Representative Name and Title and Alternate - Official Representative and Title, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: _____.

Name, Mayor/ Chair, Community / Utility

(Signature)

Date

(SEAL)

ATTEST:

Notary Name, Notary Title

(Signature)

Date

Construction Programs Bureau Signature Page

Project Name:	City of Hobbs
Project Number:	16-A2265-STB
Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	

Alternate - Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: 2016 Appropriation; 16-A2266-STB Hobbs Effluent System Improvements
DEPT. OF ORIGIN: Engineering
DATE SUBMITTED: November 14, 2016
SUBMITTED BY: Todd Randall, City Engineer

Summary:

A State of New Mexico 2016 Legislative special appropriation in the amount of \$100,000 has been awarded for the City of Hobbs Aquifer Storage and Recovery. This grant is for design and construction costs associated with an aquifer storage/aquifer recovery facility adjacent to the treatment facility.

A resolution of the City of Hobbs City Commission is required which authorizes the Mayor to sign the grant agreement, and designation of an official representative, including an alternate, who will be point of contact and authorized signatory(s) for reimbursement requests and other documents required by the New Mexico Environmental Department.

Fiscal Impact:

Reviewed By: _____


Finance Department


Upon final execution of grant agreement, City will be eligible to submit for reimbursement of actual costs for construction, up to the appropriations amount of \$100,000.00. The reversion date for this appropriation is June 30, 2020.

Attachments:

- A Resolution authorizing the Mayor to sign grant agreement 16-A2266-STB, and designating the Finance Director and City Clerk as official representatives authorized to sign official grant documents.
- Grant agreement 16-A2266-STB; State of New Mexico, Department of Environment

Legal Review:

Approved As To Form: _____


City Attorney

Recommendation:

Approve a Resolution authorizing the Mayor of the City of Hobbs to sign grant agreement 16-A2266-STB in the amount of \$100,000.00 for the City of Hobbs Effluent System Improvements and designate both the City of Hobbs Finance Director and City Clerk as official signatory representatives for this agreement.

Approved For Submittal By:


Department Director

City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6499

A RESOLUTION AUTHORIZING THE MAYOR
TO APPROVE THE 2016 LEGISLATIVE APPROPRIATION
PROJECT 16-A2266-STB HOBBS EFFLUENT SYSTEM IMPROVEMENTS

WHEREAS, the City of Hobbs shall enter into a Grant Agreement with the State of New Mexico Environment Department; and

WHEREAS, the Grant Agreement is identified as Legislative Appropriation 16-A2266-STB; and

WHEREAS, the Finance Director and City Clerk, or their successor, will be designated as a point of contact an authorized signatory for reimbursement requests and other documents that may be required;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that the Mayor be and hereby is, authorized and directed to execute, on behalf of the City of Hobbs, Legislative Appropriation Project 16-A2266-STB.

PASSED, ADOPTED AND APPROVEDF this 21st day of November, 2016.

SAM D. COBB, Mayor

JAN FLETCHER, City Clerk

<input type="text"/>	Amendment
No.	<input type="text"/>
Date	<input type="text"/>

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2266-STB

The GRANTEE agrees to accomplish the project as described below:

Project consists of the design and construction of a 500,000 gallon/day aquifer recharge (infiltration galleries) and recovery system to store excess reclaimed water produced during winter months. This is a segment of the City of Hobbs Effluent Reuse Plan and is a cost effective method of storing water to meet the demand for irrigation water during the summer months.

X

Official Representative

X

NMED Project Manager Approval

Construction Programs Bureau Signature Page

Project Name:	City of Hobbs
Project Number:	16-A2266-STB
Official Representative:	
Name	Toby Spears
Title	Finance Director
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	tspears@hobbsnm.org
Phone	(575) 397-9239

Alternate - Official Representative:	
Name	Jan Fletcher
Title	City Clerk
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	jfletcher@hobbsnm.org
Phone	(575) 397-9200



NEW MEXICO
ENVIRONMENT DEPARTMENT



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

Harold Runnels Building
1190 St. Francis Drive
PO Box 5469
Santa Fe, NM 87502
Phone (505) 827-2806 Fax (505) 827-2837
www.env.nm.gov

BUTCH TONGATE
Cabinet Secretary-Designate
J.C. BORREGO
Acting Deputy Secretary

November 2, 2016

Honorable Sam Cobb
City of Hobbs
200 E. Broadway
Hobbs, NM 88240

Special Appropriation Project:
16-A2266-STB Hobbs Effluent Reuse Sys Improve
\$100,000

Enclosed you will find two original grant agreements for the above-mentioned grant. Please read the grant agreement carefully. The grant should be signed by your community's chief executive who has signatory authority provided by law (charter, ordinance or resolution).

Prior to signing the grant agreement, your local governing body must meet and pass a resolution similar to the resolution enclosed. The purpose of this resolution is to designate an individual to sign the grant agreement and also to designate an official representative(s) who will act as the point of contact and who is authorized to sign reimbursement requests and other documents requiring a signature for submittal to the New Mexico Environment Department (NMED). Please note that successors to the designee(s) are also eligible as designees in case of staff replacements. NMED must also have a current W-9 form on file. The most recent revision of the W-9 form (as approved by the Department of Finance and Administration) and instructions are also enclosed.

Please return **both signed original grant agreements including Project Description (Attachment A), the completed W-9 form, passed resolution and signature page to NMED.** Upon the NMED Secretary's signature, one original grant agreement will be returned to you. We recommend that duplicate copies of all documents be made prior to returning them to NMED.

Your project manager, Sara Rhoton at (505) 222-9568 or Sara.Rhoton@state.nm.us, will be glad to answer any questions you may have regarding the technical aspects of your project. Disbursement request questions and other financial matters can be directed to the program administrator, Valerie Trujillo at (505) 827-2958 or valerie.trujillo@state.nm.us.

We are looking forward to working with you on this project and will do whatever we can to help make it a worthwhile improvement to your community.

Sincerely,

Jim Chiasson, P.E., Chief
Construction Programs Bureau
New Mexico Environment Department

Enclosures: Two Grant Agreements; Attachments A, B & C; Exhibits 1, 2, 3 & 4; W-9 Form and Instructions; Signature Page

cc: Sara Rhoton, Project Manager
Valerie Trujillo, Program Administrator

City of Hobbs
New Grant Agreement Checklist

Return the following to:

Jim Chiasson, Bureau Chief
New Mexico Environment Department
Construction Programs Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

- Two original signed Grant Agreements for:
16-A2266-STB Hobbs Effluent Reuse Sys Improve \$100,000
- Attachment A (Project Description):
- Completed W-9 form
- Resolution
- Signature Page for Official Representative(s) - (Signatures of Official Representative(s) listed on page 4 of the Grant Agreement)

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 89200 CAPITAL APPROPRIATION PROJECT
16-A2266-STB**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and City of Hobbs, 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 2016, Chapter 81, 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, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

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:

16-A2266 (\$100,000) APPROPRIATION REVERSION DATE: June 30, 2020
Laws of 2016, Chapter 81, Section 18, Paragraph 31, one hundred thousand dollars (\$100,000), to plan, design, construct and improve the effluent reuse system in Hobbs in Lea county

The Grantee's total reimbursements shall not exceed the appropriation amount one hundred thousand dollars (\$100,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, zero (\$0), which equals one hundred thousand dollars (\$100,000) (the "Adjusted Appropriation Amount").

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.

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." Attachments A, B and C set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A, B and C impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A, B and C shall prevail, in the event of irreconcilable conflict. 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 Reimburse² 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 Grantee's legal procurement 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 ;
- (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:

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.

- 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 of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its 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

(vi) The Grantee's submittal 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 as follows:

- 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 expenditures.
- c. The Department may, in its 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 4.
- d. The date the Department sends, by mail or email, 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 begin work.

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 and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Department: NMED
Name: Valerie Trujillo
Title: Project Administrator
Address: Construction Programs Bureau
Harold Runnels Bldg, Room S-2072
PO Box 5469
Santa Fe, NM 87502
Email: valerie.trujillo@state.nm.us
Telephone: (505) 827-2958
FAX: (505) 827-2837

Department: NMED
Name: Sara Rhoton
Title: Project Manager
Address: Construction Programs Bureau
121 Tijeras Ave., NE, Suite 1000
Albuquerque, NM 87102
Email: Sara.Rhoton@state.nm.us
Telephone: (505) 222-9568
FAX: (505) 222-9510

The Grantee's designee shall have authority from Grantee to request disbursements. 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 facsimile, 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 facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. 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, EARLY TERMINATION

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, 2020** 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, 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 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, 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 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 absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending 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 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 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. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 2. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly 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 a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 2. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, whichever ever first occurs.

C. Paperless Reporting

In lieu of the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The information currently required to be reported into the database is set forth in Exhibit 1. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly 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 a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, whichever ever first occurs.

D. 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. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

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 3. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of 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 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.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II 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. 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 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, if 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, the so-called "Anti-Donation Clause."
 - (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
 - (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 it 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 Conflict of Interest and 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 his/her 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 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 six (6) 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 and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor 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

Attachments A, B and C are incorporated by reference and made part of the 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 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 Hobbs may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Hobbs’s 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 Hobbs or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Hobbs or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges 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 a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the City of Hobbs may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Hobbs’s 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 CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF 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 BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

GRANTEE

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

Date

<input type="text"/>	Amendment
No.	_____
Date	_____

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2266-STB

The GRANTEE agrees to accomplish the project as described below:

X

X

Official Representative

NMED Project Manager Approval

**ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS
TO
STATE OF NEW MEXICO
CAPITAL APPROPRIATION FUND AGREEMENT**

ARTICLE 1 REVIEW

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau (CPB) prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form and must be approved by the CPB project manager.
- B. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate approval. CPB reserves the right to deny reimbursement under any contract not properly procured or otherwise ineligible under the grant terms.
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval **prior to** selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, the engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- D. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval **prior to** executing the agreement/contract or using Grantee's staff. Unless a waiver has been received, the required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at www.nmenv.state.nm.us/cpb/cpbtop.html. Any waiver of the required engineering contract form must be in writing from CPB. NMED CPB requires that one copy of the executed contracts be supplied to them. The contract is between the grantee and their engineer. The State of New Mexico will not be a party to the contract.
- E. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant should meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for

review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.

- F. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver in writing of the report requirement has been received from CPB.
- G. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, and specifications for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids. Any addenda prepared after the project has been advertised for bids must be submitted to NMED for review and approval.
- H. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- I. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. At the pre-construction conference, the selected contractor will submit a construction schedule to the Grantee and, if requested, to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.

- K. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- L. The Grantee will provide an Engineer's Construction Status Report (ECSR) using a template provided by NMED with each disbursement request that includes construction costs. The Engineer's Construction Status Report will include a description of the work completed during the same time period covered by the contractor's pay application and must be signed by a professional engineer and the Grantee's representative designated to oversee the project. Construction reimbursements cannot be paid without the NMED approved ECSR.
- M. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- N. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- O. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law. NMED may request an opportunity to review and comment on the ordinance to ensure compliance with this requirement.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the Grantee's project engineer.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
 - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
 - iii. A certificate of substantial completion including punch list items;
 - iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
 - v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
 - vi. Letter from the owner certifying receipt and acceptance of the record drawings;
 - vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the 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 Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;

- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

ARTICLE 4 PROPERTY ACQUISITION

- A. With the exception of easements (See Article 1.H above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

ATTACHMENT C

NEW MEXICO ENVIRONMENT DEPARTMENT CONSTRUCTION PROGRAMS BUREAU

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2266-STB

The purpose of this Attachment C is to specify Special Grant Conditions for the City of Hobbs in accordance with the terms of the Grant Agreement Article XVII, Section B.3, which states the Department may:

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.

Pursuant to Executive Order (EO) 13-006, "Establishing Uniform Funding Criteria and Grant Management and Oversight Requirements for Grants of State Capital Outlay Appropriations by State Agencies to Other Entities," and the regulations implementing the EO, the following uniform funding criteria must be met in order for a grantee to be eligible to receive a grant of a State capital outlay appropriation:

1. a grantee's annual audit for the most recently concluded fiscal year must be a public record pursuant to NMSA 1978, Section 12-6-5(A);
2. in the case of a grantee whose most recent annual audit, or special audit released since its most recent annual audit became a public record, documents material weaknesses or significant deficiencies that raise concerns about the grantee's ability to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired with grant funds:
 - a. the grantee must have remedied the material weaknesses and significant deficiencies to the satisfaction of the State agency making the grant;
 - b. the State agency making the grant must have determined that it can impose and has the resources to implement special grant conditions that adequately address those weaknesses and deficiencies;
 - or
 - c. the State agency making the grant must have determined that another appropriate entity is able and willing to act as fiscal agent for the grant;

After a review of the City of Hobbs' most recent annual audit, it was determined that Special Grant Conditions must be imposed and implemented in order for the City of Hobbs to be eligible to receive a grant of a State capital outlay appropriation. In accordance with the Grant Agreement and the established uniform funding criteria, THE FOLLOWING SPECIAL GRANT CONDITIONS APPLY TO the above-referenced project that the Environment Department administers for the City of Hobbs:

Special Grant Conditions for City of Hobbs

1. The City of Hobbs must provide training to employees responsible for the monitoring of the City's capital assets in the capital assets process and will have to provide documentation that training was done by June 30, 2017.

These Special Grant Conditions will be implemented in connection with the Grant Agreement and will remain in place for the duration of the Grant Agreement unless and until NMED is satisfied that the EO 13-006 uniform funding criteria has been met such that certain Special Grant Conditions may be eliminated. In the event that it becomes necessary to revise and/or eliminate certain Special Grant Conditions, NMED will notify the City of Hobbs in writing.

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
DATABASE PERIODIC REPORT
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction Furnish/Equipment							
Total							

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
PAPER PERIODIC/FINAL REPORT
EXHIBIT 2**

PERIODIC REPORT FINAL REPORT

Grantee: _____

Project Number: _____

Reporting Period: _____

1. Please provide a detailed status of project referenced above.

A. Third Party Obligations

Purchase Order or Contract # _____

Name of Contractor or Vendor: _____

Amount of Third Party Obligation: _____

Date Executed: _____

Termination Date: _____

B. Project Phase

Bonds Sold Plan/Design Bid Documents Construction
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: _____

Total Amount of all Notices of Obligation to Reimburse: _____

Total Grant Amount Expended by Grantee to Date: _____

Grant Balance as of this Date: _____

Amount of Other Unexpended Funding Sources: _____

PERIODIC REPORT

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

FINAL REPORT

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

Grantee Representative/Title

Date

NEW MEXICO ENVIRONMENT DEPARTMENT
 CONSTRUCTION PROGRAMS BUREAU
DISBURSEMENT REQUEST
 SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY _____

C. DISBURSEMENT REQUEST NUMBER _____

B. PROJECT NUMBER _____

D. GRANT AMOUNT _____

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
TOTAL		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official: X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____

Notary Public _____ My Commission expires _____

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT

INITIAL Notice of Obligation to Reimburse Grantee # 1

DATE: _____
TO: Grantee: _____
Grantee Official Representative: _____
FROM: Department Representative: _____, NMED/CPB Project Manager
SUBJECT: Notice of Obligation to Reimburse¹ Grantee
Project Number: _____

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: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

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 adjusted for AIPP if applicable: _____
The Amount of this Notice of Obligation: _____ \$0.00
The Total Amount of all Previously Issued Notices of Obligation: _____ N/A
The Total Amount of all Notices of Obligation to Date: _____ N/A

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 "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee.

Resolution Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as SAP Project Number Grant Agreement.

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor / Chair / Director, is authorized to sign the agreement for this project, and

Official Representative Name and Title and Alternate - Official Representative and Title, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: _____.

Name, Mayor/ Chair, Community / Utility

(Signature)

Date

(SEAL)

ATTEST:

Notary Name, Notary Title

(Signature)

Date

Construction Programs Bureau Signature Page

Project Name:	City of Hobbs
Project Number:	16-A2266-STB
Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	

Alternate - Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	

DO NOT SEND TO
IRS - SUBMIT
FORM TO
REQUIRING
AGENCY

FCD 04/2016

NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION
FINANCIAL CONTROL DIVISION
SUBSTITUTE FORM W-9



REQUEST FOR TAXPAYER IDENTIFICATION NUMBER, CERTIFICATION

TYPE IN ALL CAPS OR PRINT NEATLY, PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION

PART I: VENDOR INFORMATION

1. Legal Business Name: (As it appears on the IRS EIN records, CP575, 147C - or - Social Security Administration records, Social Security Card, certified Form SSA7028)	2. If you use a DBA/Trade Name, please list below:
3. Entity Type (Check only one, unless you are or have been a State of New Mexico Employee, then also check State of New Mexico Employee box):	
<input type="checkbox"/> Individual / Sole Proprietorship <input type="checkbox"/> Estate or Trust <input type="checkbox"/> Single Member / LLC (Individual) <input type="checkbox"/> Government (Local, State, Federal) <input type="checkbox"/> Partnership General / LLC <input type="checkbox"/> Indian Tribe <input type="checkbox"/> Corporation / Professional Corporation / LLC <input type="checkbox"/> Tax-Exempt organization under IRC Section 501 C [] <input type="checkbox"/> Non-United States Business Entity <input type="checkbox"/> State of New Mexico Employee (Enter BU) []	
4. 1099 Reporting: Services provided to the State by vendor, if not applicable skip:	
<input type="checkbox"/> Health care or medical service <input type="checkbox"/> Horse hire / NM Employee <input type="checkbox"/> Agency Volunteer (specify agency) [] <input type="checkbox"/> Legal or attorney services <input type="checkbox"/> Urban search & rescue member <input type="checkbox"/> State of NM Appointed Board member / commissioner / committee member <input type="checkbox"/> Rental of Real Property <input type="checkbox"/> Royalties	

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. Enter your TIN here (DO NOT USE DASHES)		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
2. Taxpayer Identification Type (check appropriate box):		
<input type="checkbox"/> Employer ID No. (EIN)	<input type="checkbox"/> Social Security No. (SSN)	<input type="checkbox"/> Employee ID <input type="checkbox"/> N/A (Non-United States Business Entity)

PART III: ADDRESS

1. Address: (if a state employee, enter Agency name and Field Office Address) Address Line #1 Address Line #2 Address Line #3 City State Zip + 4 Code	2. Remittance Address, IF DIFFERENT: Address Line #1 Address Line #2 Address Line #3 City State Zip + 4 Code
---	--

PART IV: CERTIFICATION

Under penalties of perjury, I certify that:

- The number shown on this form is my correct tax payer identification number (or I am waiting for a number to be issued to me), AND
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, AND
- I am a U.S. Citizen or other U.S. person.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding

Printed Name	Printed Title	Telephone Number
Signature	Email	Date (mm/dd/yyyy)

PART V: OPTIONAL DIRECT DEPOSIT (ACH)

Warning: The State of New Mexico will not process International ACH Transactions (IAT). If any payment to you from the State will ever result in an IAT under National Automated Clearing House Association (NACHA) operating rules or if you are not sure if the rules apply to you DO NOT FILL OUT THIS SECTION OF THE FORM. Please provide a copy of a voided check or letter from bank confirming information indicated above.

Include a voided check or letter from financial institution if requesting ACH payments Type of Account Checking Savings

I acknowledge the IAT warning and authorize the State of New Mexico to initiate direct deposit of funds to the account and financial institution indicated, and to recover funds deposited in error if necessary in compliance with NACHA regulations.

Signature	Printed Name
-----------	--------------

PART VI: OFFICE USE ONLY

OFFICIAL / POC USE ONLY BUSINESS UNIT DATE (mm/dd/yyyy) PHONE NO. POC (Print name) POC Initials	DFA / FCD USE ONLY
---	---------------------------

Instructions for Completing this Form

This form substitutes for the IRS W-9 form. Complete this form if you will receive payment from the State of New Mexico and/or you are a vendor who provides goods and services to the State of New Mexico. To comply with the Internal Revenue Service (IRS) regulations regarding 1099 reporting, the State of New Mexico is required to collect the following information to be completed on the Substitute W-9 form. The information collected on this form will allow the State to confirm that our records contain the official name of your business, the Tax Identification Number (TIN) that the IRS has on file for your business and business type.

Check the appropriate box(s) that this form is to be utilized and fill in the corresponding section(s) indicated next to the box(s) checked.

PART I: VENDOR INFORMATION

1. **Legal Business Name** Enter the legal name as registered with the IRS or Social Security Administration.
2. **DBA/Trade Name** Individuals leave blank. Sole Proprietorships: Enter DBA (doing business as) name. All Others: Complete only if business name is different than Legal Name.
3. **Entity Type** Check ONE box which describes business entity. If a current, past, or becoming a state employee, please also mark the State of New Mexico Employee box and enter the Business Unit number for the agency. Also, provide the 6 digit employee ID as assigned in SHARE HCM in the Part II Taxpayer Identification Number (TIN) & Taxpayer Identification Type section and mark the Employee ID box.
4. **1099 Reporting** Check the appropriate box that applies to the type of services being provided to the State. If the type of service is not specifically stated, then leave blank.

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. **Taxpayer Identification Number** Enter TIN with no dashes in the boxes provided
 - a. TIN is always a 9-digit number. Provide the Social Security Number (SSN) assigned by the Social Security Administration (SSA) or the Federal Employer Identification Number (FEIN) assigned to the business or other entity by the Internal Revenue Service (IRS).
 - b. **Employee ID** is always a 6-digit number. Provide the employee ID assigned by the State of New Mexico for payroll processing in SHARE HCM.
2. **TIN Identification Type** Mark the appropriate box for the TIN provided above.

PART III: ADDRESS

1. **Address** Where correspondence, payment(s), purchase order(s) or 1099s should be sent.
 - a. **Employees** If a current employee, please provide this following:
 - i. **Address Line #1:** State Agency Name
 - ii. **Address Line #2:** Field Office Mailing Address
 - iii. **Address Line #3:** N/A
 - b. **CDBG** When providing a Community Development Block Grant (CDBG) remittance address, provide bank name in address line #1 and physical address in address line #2
2. **Remittance Address** If different than Address
3. **Zip Code and Phone Number** The 5 + 4 code will be required to be entered for all zip codes. If the last 4 digits are unknown, then 4 zeros (0) can be entered. Do not enter the "-" as part of the zip code. When entering the phone number, only enter the 10 digit number. Do not enter the "()" or "-" as part of the phone number.

PART IV: CERTIFICATION

By signing this document you are certifying that all information provided is accurate and complete. The person signing this document should be the partner in the partnership, an officer of the corporation, the individual or sole proprietor noted under legal name above, or the New Mexico State Employee for which the vendor account is established.

Identifying information is required of the person signing the form.

PART V: OPTIONAL DIRECT DEPOSIT (ACH) You may elect to receive payments from the State of New Mexico through Automated Clearing House (ACH) direct deposit. Please provide a copy of a voided check or letter from financial institution with the banking information. Without one of the two items, ACH information WILL NOT be entered and payments will be made by warrant. Select the type of account being provided.

I Acknowledge Print name and sign to acknowledge the IAT warning and to authorize the State of New Mexico to initiate direct deposit of funds to your financial institution provided.

Privacy Act Notice Section 6109 requires you to furnish your correct TIN to persons who must file information



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: 2016 Appropriation; 16-A2267-STB Hobbs Sewer Lines/Manholes
DEPT. OF ORIGIN: Engineering
DATE SUBMITTED: November 14, 2016
SUBMITTED BY: Todd Randall, City Engineer


Summary:

A State of New Mexico 2016 Legislative special appropriation in the amount of \$431,000 has been awarded for the replacement of the sewer lines and manholes. This grant is for professional engineering services and construction of the Trunk F concrete sewer line alongside the Lovington Hwy which is in need of replacement due to extensive corrosion and limited capacity.

A resolution of the City of Hobbs City Commission is required which authorizes the Mayor to sign the grant agreement, and designation of an official representative, including an alternate, who will be point of contact and authorized signatory(s) for reimbursement requests and other documents required by the New Mexico Environmental Department.

Fiscal Impact:

Reviewed By: _____


Finance Department

After execution of grant agreement, City will be eligible to submit for reimbursement of actual costs for professional engineering design services, up to the appropriation amount of \$431,000.00. The reversion date for this appropriation is June 30, 2020.

Attachments:

- A Resolution authorizing the Mayor to sign grant agreement 16-A2267-STB, and designating both the Finance Director and City Clerk as official representatives authorized to sign official grant documents.
- Grant agreement 16-A2267-STB; State of New Mexico, Department of Environment

Legal Review:

Approved As To Form: _____

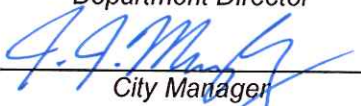

City Attorney

Recommendation:

Approve a Resolution authorizing the Mayor of the City of Hobbs to sign grant agreement 16-A2267-STB in the amount of \$431,000.00 for the City of Hobbs Sewer Lines/Manholes project and designate the City of Hobbs Finance Director and City Clerk as official signatory representatives for this agreement.

Approved For Submittal By:



Department Director


City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6500

A RESOLUTION AUTHORIZING THE MAYOR
TO APPROVE THE 2016 LEGISLATIVE APPROPRIATION
PROJECT 16-A2267-STB HOBBS SEWER LINES/MANHOLES

WHEREAS, the City of Hobbs shall enter into a Grant Agreement with the State of New Mexico Environment Department; and

WHEREAS, the Grant Agreement is identified as Legislative Appropriation 16-A2267-STB; and

WHEREAS, the Finance Director and City Clerk, or their successor, will be designated as a point of contact an authorized signatory for reimbursement requests and other documents that may be required;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that the Mayor be and hereby is, authorized and directed to execute, on behalf of the City of Hobbs, Legislative Appropriation Project 16-A2267-STB.

PASSED, ADOPTED AND APPROVEDF this 21st day of November, 2016.

SAM D. COBB, Mayor

JAN FLETCHER, City Clerk

<input type="text"/>	Amendment
No.	<input type="text"/>
Date	<input type="text"/>

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2267-STB

The GRANTEE agrees to accomplish the project as described below:

Project is an infrastructure replacement project which consists of the design and construction of 4000 linear feed of existing 21" and 30" major sewer trunk lines and manholes through the center of Hobbs. Work to be included are bypass pumping during construction, and the disposal of existing deteriorated concrete lined sewer line in Hobbs in Lea County.

X **X**
Official Representative **NMED Project Manager Approval**

Project Name:	City of Hobbs
Project Number:	16-A2267-STB
Official Representative:	
Name	Toby Spears
Title	Finance Director
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	tspears@hobbsnm.org
Phone	(575) 397-9239

Alternate - Official Representative:	
Name	Jan Fletcher
Title	City Clerk
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	jfletcher@hobbsnm.org
Phone	(575) 397-9200



NEW MEXICO
ENVIRONMENT DEPARTMENT



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

Harold Runnels Building
1190 St. Francis Drive
PO Box 5469
Santa Fe, NM 87502
Phone (505) 827-2806 Fax (505) 827-2837
www.env.nm.gov

BUTCH TONGATE
Cabinet Secretary-Designate
J.C. BORREGO
Acting Deputy Secretary

November 2, 2016

Honorable Sam Cobb
City of Hobbs
200 E. Broadway
Hobbs, NM 88240

Special Appropriation Project:
16-A2267-STB Hobbs Sewer Lines/Manholes
Improve \$431,000

Enclosed you will find two original grant agreements for the above-mentioned grant. Please read the grant agreement carefully. The grant should be signed by your community's chief executive who has signatory authority provided by law (charter, ordinance or resolution).

Prior to signing the grant agreement, your local governing body must meet and pass a resolution similar to the resolution enclosed. The purpose of this resolution is to designate an individual to sign the grant agreement and also to designate an official representative(s) who will act as the point of contact and who is authorized to sign reimbursement requests and other documents requiring a signature for submittal to the New Mexico Environment Department (NMED). Please note that successors to the designee(s) are also eligible as designees in case of staff replacements. NMED must also have a current W-9 form on file. The most recent revision of the W-9 form (as approved by the Department of Finance and Administration) and instructions are also enclosed.

Please return **both signed original grant agreements including Project Description (Attachment A), the completed W-9 form, passed resolution and signature page to NMED.** Upon the NMED Secretary's signature, one original grant agreement will be returned to you. We recommend that duplicate copies of all documents be made prior to returning them to NMED.

Your project manager, Sara Rhoton at (505) 222-9568 or Sara.Rhoton@state.nm.us, will be glad to answer any questions you may have regarding the technical aspects of your project. Disbursement request questions and other financial matters can be directed to the program administrator, Valerie Trujillo at (505) 827-2958 or valerie.trujillo@state.nm.us.

We are looking forward to working with you on this project and will do whatever we can to help make it a worthwhile improvement to your community.

Sincerely,

Jim Chiasson, P.E., Chief
Construction Programs Bureau
New Mexico Environment Department

Enclosures: Two Grant Agreements; Attachments A, B & C; Exhibits 1, 2, 3 & 4; W-9 Form and Instructions; Signature Page

cc: Sara Rhoton, Project Manager
Valerie Trujillo, Program Administrator

City of Hobbs
New Grant Agreement Checklist

Return the following to:

Jim Chiasson, Bureau Chief
New Mexico Environment Department
Construction Programs Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

- Two original signed Grant Agreements for:
16-A2267-STB Hobbs Sewer Lines/Manholes Improve \$431,000
- Attachment A (Project Description):
- Completed W-9 form
- Resolution
- Signature Page for Official Representative(s) - (Signatures of Official Representative(s) listed on page 4 of the Grant Agreement)

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 89200 CAPITAL APPROPRIATION PROJECT
16-A2267-STB**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and City of Hobbs, 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 2016, Chapter 81, 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, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

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:

16-A2267 (\$431,000) APPROPRIATION REVERSION DATE: June 30, 2020
Laws of 2016, Chapter 81, Section 18, Paragraph 32, four hundred thirty-one thousand dollars (\$431,000), to plan, design, construct and replace the sewer lines and manholes in Hobbs in Lea county

The Grantee's total reimbursements shall not exceed the appropriation amount four hundred thirty-one thousand dollars (\$431,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, zero (\$0), which equals four hundred thirty-one thousand dollars (\$431,000) (the "Adjusted Appropriation Amount").

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.

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." Attachments A, B and C set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A, B and C impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A, B and C shall prevail, in the event of irreconcilable conflict. 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 Reimburse² 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 Grantee's legal procurement 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 ;
- (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:

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.

- 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 of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its 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

(vi) The Grantee's submittal 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 as follows:

- 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 expenditures.
- c. The Department may, in its 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 4.
- d. The date the Department sends, by mail or email, 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 begin work.

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 and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Department: NMED
Name: Valerie Trujillo
Title: Project Administrator
Address: Construction Programs Bureau
Harold Runnels Bldg, Room S-2072
PO Box 5469
Santa Fe, NM 87502
Email: valerie.trujillo@state.nm.us
Telephone: (505) 827-2958
FAX: (505) 827-2837

Department: NMED
Name: Sara Rhoton
Title: Project Manager
Address: Construction Programs Bureau
121 Tijeras Ave., NE, Suite 1000
Albuquerque, NM 87102
Email: Sara.Rhoton@state.nm.us
Telephone: (505) 222-9568
FAX: (505) 222-9510

The Grantee's designee shall have authority from Grantee to request disbursements. 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 facsimile, 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 facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. 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, EARLY TERMINATION

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, 2020** 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, 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 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, 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 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 absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending 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 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 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. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 2. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly 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 a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 2. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

C. Paperless Reporting

In lieu of the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The information currently required to be reported into the database is set forth in Exhibit 1. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly 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 a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

D. 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. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

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 3. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of 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 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.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II 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. 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 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, if 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, the so-called "Anti-Donation Clause."
 - (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
 - (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 it 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 Conflict of Interest and 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 his/her 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 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 six (6) 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 and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor 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

Attachments A, B and C are incorporated by reference and made part of the 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 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 Hobbs may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Hobbs’s 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 Hobbs or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Hobbs or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges 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 a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the City of Hobbs may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Hobbs’s 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 CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF 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 BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

GRANTEE

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

Date

<input type="text"/>	Amendment
No.	_____
Date	_____

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2267-STB

The GRANTEE agrees to accomplish the project as described below:

X

X

Official Representative

NMED Project Manager Approval

ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS
TO
STATE OF NEW MEXICO
CAPITAL APPROPRIATION FUND AGREEMENT

ARTICLE 1 REVIEW

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau (CPB) prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form and must be approved by the CPB project manager.
- B. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate approval. CPB reserves the right to deny reimbursement under any contract not properly procured or otherwise ineligible under the grant terms.
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If, the engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- D. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval prior to executing the agreement/contract or using Grantee's staff. Unless a waiver has been received, the required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at www.nmenv.state.nm.us/cpb/cpbtop.html. Any waiver of the required engineering contract form must be in writing from CPB. NMED CPB requires that one copy of the executed contracts be supplied to them. The contract is between the grantee and their engineer. The State of New Mexico will not be a party to the contract.
- E. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant should meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for

review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.

- F. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver in writing of the report requirement has been received from CPB.
- G. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, and specifications for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids. Any addenda prepared after the project has been advertised for bids must be submitted to NMED for review and approval.
- H. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- I. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. At the pre-construction conference, the selected contractor will submit a construction schedule to the Grantee and, if requested, to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.

- K. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- L. The Grantee will provide an Engineer's Construction Status Report (ECSR) using a template provided by NMED with each disbursement request that includes construction costs. The Engineer's Construction Status Report will include a description of the work completed during the same time period covered by the contractor's pay application and must be signed by a professional engineer and the Grantee's representative designated to oversee the project. Construction reimbursements cannot be paid without the NMED approved ECSR.
- M. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- N. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- O. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law. NMED may request an opportunity to review and comment on the ordinance to ensure compliance with this requirement.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the Grantee's project engineer.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
 - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
 - iii. A certificate of substantial completion including punch list items;
 - iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
 - v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
 - vi. Letter from the owner certifying receipt and acceptance of the record drawings;
 - vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the 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 Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;

- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

ARTICLE 4 PROPERTY ACQUISITION

- A. With the exception of easements (See Article 1.H above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

ATTACHMENT C

NEW MEXICO ENVIRONMENT DEPARTMENT CONSTRUCTION PROGRAMS BUREAU

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2267-STB

The purpose of this Attachment C is to specify Special Grant Conditions for the City of Hobbs in accordance with the terms of the Grant Agreement Article XVII, Section B.3, which states the Department may:

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.

Pursuant to Executive Order (EO) 13-006, "Establishing Uniform Funding Criteria and Grant Management and Oversight Requirements for Grants of State Capital Outlay Appropriations by State Agencies to Other Entities," and the regulations implementing the EO, the following uniform funding criteria must be met in order for a grantee to be eligible to receive a grant of a State capital outlay appropriation:

1. a grantee's annual audit for the most recently concluded fiscal year must be a public record pursuant to NMSA 1978, Section 12-6-5(A);
2. in the case of a grantee whose most recent annual audit, or special audit released since its most recent annual audit became a public record, documents material weaknesses or significant deficiencies that raise concerns about the grantee's ability to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired with grant funds:
 - a. the grantee must have remedied the material weaknesses and significant deficiencies to the satisfaction of the State agency making the grant;
 - b. the State agency making the grant must have determined that it can impose and has the resources to implement special grant conditions that adequately address those weaknesses and deficiencies;
 - or
 - c. the State agency making the grant must have determined that another appropriate entity is able and willing to act as fiscal agent for the grant;

After a review of the City of Hobbs' most recent annual audit, it was determined that Special Grant Conditions must be imposed and implemented in order for the City of Hobbs to be eligible to receive a grant of a State capital outlay appropriation. In accordance with the Grant Agreement and the established uniform funding criteria, THE FOLLOWING SPECIAL GRANT CONDITIONS APPLY to the above-referenced project that the Environment Department administers for the City of Hobbs:

Special Grant Conditions for City of Hobbs

1. The City of Hobbs must provide training to employees responsible for the monitoring of the City's capital assets in the capital assets process and will have to provide documentation that training was done by June 30, 2017.

These Special Grant Conditions will be implemented in connection with the Grant Agreement and will remain in place for the duration of the Grant Agreement unless and until NMED is satisfied that the EO 13-006 uniform funding criteria has been met such that certain Special Grant Conditions may be eliminated. In the event that it becomes necessary to revise and/or eliminate certain Special Grant Conditions, NMED will notify the City of Hobbs in writing.

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
DATABASE PERIODIC REPORT
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
PAPER PERIODIC/FINAL REPORT
EXHIBIT 2**

PERIODIC REPORT FINAL REPORT

Grantee: _____

Project Number: _____ Reporting Period: _____

1. Please provide a detailed status of project referenced above.

A. Third Party Obligations

Purchase Order or Contract # _____

Name of Contractor or Vendor: _____

Amount of Third Party Obligation: _____

Date Executed: _____

Termination Date: _____

B. Project Phase

Bonds Sold Plan/Design Bid Documents Construction
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: _____

Total Amount of all Notices of Obligation to Reimburse: _____

Total Grant Amount Expended by Grantee to Date: _____

Grant Balance as of this Date: _____

Amount of Other Unexpended Funding Sources: _____

PERIODIC REPORT

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

FINAL REPORT

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

Grantee Representative/Title

Date

DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY _____

C. DISBURSEMENT REQUEST NUMBER _____

B. PROJECT NUMBER _____

D. GRANT AMOUNT _____

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX		XXXXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
TOTAL		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official: X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____

Notary Public _____ My Commission expires _____

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT

INITIAL Notice of Obligation to Reimburse Grantee # 1

DATE: _____
TO: Grantee: _____
Grantee Official Representative: _____
FROM: Department Representative: _____, NMED/CPB Project Manager
SUBJECT: Notice of Obligation to Reimburse¹ Grantee
Project Number: _____

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: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

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 adjusted for AIPP if applicable: _____
The Amount of this Notice of Obligation: _____ \$0.00
The Total Amount of all Previously Issued Notices of Obligation: _____ N/A
The Total Amount of all Notices of Obligation to Date: _____ N/A

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 "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee.

Resolution Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as SAP Project Number Grant Agreement.

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor / Chair / Director, is authorized to sign the agreement for this project, and

Official Representative Name and Title and Alternate - Official Representative and Title, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: _____.

Name, Mayor/ Chair, Community / Utility

(Signature)

Date

(SEAL)

ATTEST:

Notary Name, Notary Title

(Signature)

Date

Construction Programs Bureau Signature Page

Project Name:	City of Hobbs
Project Number:	16-A2267-STB
Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	
Phone	

Alternate - Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	
Phone	

DO NOT SEND TO
IRS - SUBMIT
FORM TO
REQUESTING
AGENCY

FCD 04/2016

NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION
FINANCIAL CONTROL DIVISION
SUBSTITUTE FORM W-9



REQUEST FOR TAXPAYER IDENTIFICATION NUMBER, CERTIFICATION

TYPE IN ALL CAPS OR PRINT NEATLY, PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION

PART I: VENDOR INFORMATION

1. Legal Business Name: (As it appears on the IRS EIN records, CP575, 147C - or - Social Security Administration records, Social Security Card, certified Form SSA7028)	2. If you use a DBA/Trade Name, please list below:
3. Entity Type (Check only one, unless you are or have been a State of New Mexico Employee, then also check State of New Mexico Employee box):	
<input type="checkbox"/> Individual / Sole Proprietorship <input type="checkbox"/> Estate or Trust <input type="checkbox"/> Single Member / LLC (Individual) <input type="checkbox"/> Government (Local, State, Federal) <input type="checkbox"/> Partnership General / LLC <input type="checkbox"/> Indian Tribe <input type="checkbox"/> Corporation / Professional Corporation / LLC <input type="checkbox"/> Tax-Exempt organization under IRC Section 501 C [] <input type="checkbox"/> Non-United States Business Entity <input type="checkbox"/> State of New Mexico Employee (Enter BU) []	
4. 1099 Reporting: Services provided to the State by vendor, if not applicable skip:	
<input type="checkbox"/> Health care or medical service <input type="checkbox"/> Horse hire / NM Employee <input type="checkbox"/> Agency Volunteer (specify agency) [] <input type="checkbox"/> Legal or attorney services <input type="checkbox"/> Urban search & rescue member <input type="checkbox"/> State of NM Appointed Board member / <input type="checkbox"/> Rental of Real Property <input type="checkbox"/> Royalties commissioner / committee member	

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. Enter your TIN here (DO NOT USE DASHES)	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
2. Taxpayer Identification Type (check appropriate box):	
<input type="checkbox"/> Employer ID No. (EIN) <input type="checkbox"/> Social Security No. (SSN) <input type="checkbox"/> Employee ID <input type="checkbox"/> N/A (Non-United States Business Entity)	

PART III: ADDRESS

1. Address: (if a state employee, enter Agency name and Field Office Address) Address Line #1 Address Line #2 Address Line #3 City State Zip + 4 Code	2. Remittance Address, IF DIFFERENT: Address Line #1 Address Line #2 Address Line #3 City State Zip + 4 Code
---	--

PART IV: CERTIFICATION

Under penalties of perjury, I certify that:

- The number shown on this form is my correct tax payer identification number (or I am waiting for a number to be issued to me), AND
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, AND
- I am a U.S. Citizen or other U.S. person.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding

Printed Name	Printed Title	Telephone Number
Signature	Email	Date (mm/dd/yyyy)

PART V: OPTIONAL DIRECT DEPOSIT (ACH)

Warning: The State of New Mexico will not process International ACH Transactions (IAT). If any payment to you from the State will ever result in an IAT under National Automated Clearing House Association (NACHA) operating rules or if you are not sure if the rules apply to you DO NOT FILL OUT THIS SECTION OF THE FORM. Please provide a copy of a voided check or letter from bank confirming information indicated above.

Include a voided check or letter from financial institution if requesting ACH payments

Type of Account Checking Savings

I acknowledge the IAT warning and authorize the State of New Mexico to initiate direct deposit of funds to the account and financial institution indicated, and to recover funds deposited in error if necessary in compliance with NACHA regulations.

Signature	Printed Name
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PART VI: OFFICE USE ONLY

OFFICIAL / POC USE ONLY BUSINESS UNIT DATE (mm/dd/yyyy) PHONE NO. POC (Print name) POC Initials	DFA / FCD USE ONLY
---	---------------------------

Instructions for Completing this Form

This form substitutes for the IRS W-9 form. Complete this form if you will receive payment from the State of New Mexico and/or you are a vendor who provides goods and services to the State of New Mexico. To comply with the Internal Revenue Service (IRS) regulations regarding 1099 reporting, the State of New Mexico is required to collect the following information to be completed on the Substitute W-9 form. The information collected on this form will allow the State to confirm that our records contain the official name of your business, the Tax Identification Number (TIN) that the IRS has on file for your business and business type.

Check the appropriate box(s) that this form is to be utilized and fill in the corresponding section(s) indicated next to the box(s) checked.

PART I: VENDOR INFORMATION

1. **Legal Business Name** Enter the legal name as registered with the IRS or Social Security Administration.
2. **DBA/Trade Name** Individuals leave blank. Sole Proprietorships: Enter DBA (doing business as) name. All Others: Complete only if business name is different than Legal Name.
3. **Entity Type** Check ONE box which describes business entity. If a current, past, or becoming a state employee, please also mark the State of New Mexico Employee box and enter the Business Unit number for the agency. Also, provide the 6 digit employee ID as assigned in SHARE HCM in the Part II Taxpayer Identification Number (TIN) & Taxpayer Identification Type section and mark the Employee ID box.
4. **1099 Reporting** Check the appropriate box that applies to the type of services being provided to the State. If the type of service is not specifically stated, then leave blank.

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. **Taxpayer Identification Number** Enter TIN with no dashes in the boxes provided
 - a. TIN is always a 9-digit number. Provide the Social Security Number (SSN) assigned by the Social Security Administration (SSA) or the Federal Employer Identification Number (FEIN) assigned to the business or other entity by the Internal Revenue Service (IRS).
 - b. **Employee ID** is always a 6-digit number. Provide the employee ID assigned by the State of New Mexico for payroll processing in SHARE HCM.
2. **TIN Identification Type** Mark the appropriate box for the TIN provided above.

PART III: ADDRESS

1. **Address** Where correspondence, payment(s), purchase order(s) or 1099s should be sent.
 - a. **Employees** If a current employee, please provide this following:
 - i. **Address Line #1:** State Agency Name
 - ii. **Address Line #2:** Field Office Mailing Address
 - iii. **Address Line #3:** N/A
 - b. **CDBG** When providing a Community Development Block Grant (CDBG) remittance address, provide bank name in address line #1 and physical address in address line #2
2. **Remittance Address** If different than Address
3. **Zip Code and Phone Number** The 5 + 4 code will be required to be entered for all zip codes. If the last 4 digits are unknown, then 4 zeros (0) can be entered. Do not enter the "-" as part of the zip code. When entering the phone number, only enter the 10 digit number. Do not enter the "(" or "-" as part of the phone number.

PART IV: CERTIFICATION

By signing this document you are certifying that all information provided is accurate and complete. The person signing this document should be the partner in the partnership, an officer of the corporation, the individual or sole proprietor noted under legal name above, or the New Mexico State Employee for which the vendor account is established.

Identifying information is required of the person signing the form.

PART V: OPTIONAL DIRECT DEPOSIT (ACH) You may elect to receive payments from the State of New Mexico through Automated Clearing House (ACH) direct deposit. Please provide a copy of a voided check or letter from financial institution with the banking information. Without one of the two items, ACH information WILL NOT be entered and payments will be made by warrant. Select the type of account being provided.

I Acknowledge Print name and sign to acknowledge the IAT warning and to authorize the State of New Mexico to initiate direct deposit of funds to your financial institution provided.

Privacy Act Notice Section 6109 requires you to furnish your correct TIN to persons who must file information



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: 2016 Appropriation; 16-A2268-STB Hobbs Wastewater Reclamation Facility
DEPT. OF ORIGIN: Engineering
DATE SUBMITTED: November 14, 2016
SUBMITTED BY: Todd Randall, City Engineer

Summary:

A State of New Mexico 2016 Legislative special appropriation in the amount of \$100,000 has been awarded for planning and design of a tertiary (filtering) treatment process at the Wastewater Reclamation Facility. Reclaimed water from the treatment facility is currently classified as Class 1B. By undergoing tertiary treatment, reclaimed water will meet NMED's criteria as Class 1A effluent and can be utilized without site restrictions, or set-back limits.

A resolution of the City of Hobbs City Commission is required which authorizes the Mayor to sign the grant agreement, and designation of an official representative, including an alternate, who will be point of contact and authorized signatory(s) for reimbursement requests and other documents required by the New Mexico Environmental Department.

Fiscal Impact:

Reviewed By: _____

[Signature]
Finance Department

After execution of grant agreement, City will be eligible to submit for reimbursement of actual costs for professional engineering design services, up to the appropriation amount of \$100,000.00. The reversion date for this appropriation is June 30, 2020.

Attachments:

- A Resolution authorizing the Mayor to sign grant agreement 16-A2268-STB, and designating both the Finance Director and City Clerk as official representatives authorized to sign official grant documents.
- Grant agreement 16-A2268-STB; State of New Mexico, Department of Environment

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

Approve a Resolution authorizing the Mayor of the City of Hobbs to sign grant agreement 16-A2268-STB in the amount of \$100,000.00 for the City of Hobbs Wastewater Reclamation Facility and designate the City of Hobbs Finance Director and City Clerk as official signatory representatives for this agreement.

Approved For Submittal By: _____

[Signature]
Department Director
[Signature]
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CITY OF HOBBS

RESOLUTION NO. 6501

A RESOLUTION AUTHORIZING THE MAYOR
TO APPROVE THE 2016 LEGISLATIVE APPROPRIATION
PROJECT 16-A2268-STB HOBBS WASTEWATER RECLAMATION FACILITY

WHEREAS, the City of Hobbs shall enter into a Grant Agreement with the State of New Mexico Environment Department; and

WHEREAS, the Grant Agreement is identified as Legislative Appropriation 16-A2268-STB; and

WHEREAS, the Finance Director and City Clerk, or their successor, will be designated as a point of contact an authorized signatory for reimbursement requests and other documents that may be required;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO that the Mayor be and hereby is, authorized and directed to execute, on behalf of the City of Hobbs, Legislative Appropriation Project 16-A2268-STB.

PASSED, ADOPTED AND APPROVEDF this 21st day of November, 2016.

SAM D. COBB, Mayor

JAN FLETCHER, City Clerk

<input type="text"/>	Amendment
No.	_____
Date	_____

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2268-STB

The GRANTEE agrees to accomplish the project as described below:

Project consists of planning, design and construction of a 5.5 million gallon/day tertiary treatment process at the Hobbs Wastewater Reclamation Facility to treat effluent water to meet NMED's Class 1A criteria. The additional treatment will result in additional potable water savings as reclaimed water can be utilized without site restrictions, and setback limits, as required for Class 1B effluent water.

X

X

Official Representative

NMED Project Manager Approval

Project Name:	City of Hobbs
Project Number:	16-A2268-STB
Official Representative:	
Name	Toby Spears
Title	Finance Director
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	tspears@hobbsnm.org
Phone	(575) 397-9239

Alternate - Official Representative:	
Name	Jan Fletcher
Title	City Clerk
Signature	
Address	200 E. Broadway, Hobbs, NM 88240
E-mail	jfletcher@hobbsnm.org
Phone	(575) 397-9200



NEW MEXICO
ENVIRONMENT DEPARTMENT



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

Harold Runnels Building
1190 St. Francis Drive
PO Box 5469
Santa Fe, NM 87502
Phone (505) 827-2806 Fax (505) 827-2837
www.env.nm.gov

BUTCH TONGATE
Cabinet Secretary-Designate
J.C. BORREGO
Acting Deputy Secretary

November 2, 2016

Honorable Sam Cobb
City of Hobbs
200 E. Broadway
Hobbs, NM 88240

Special Appropriation Project:
16-A2268-STB Hobbs Wastewater Reclamation Felty
Improve \$100,000

Enclosed you will find two original grant agreements for the above-mentioned grant. Please read the grant agreement carefully. The grant should be signed by your community's chief executive who has signatory authority provided by law (charter, ordinance or resolution).

Prior to signing the grant agreement, your local governing body must meet and pass a resolution similar to the resolution enclosed. The purpose of this resolution is to designate an individual to sign the grant agreement and also to designate an official representative(s) who will act as the point of contact and who is authorized to sign reimbursement requests and other documents requiring a signature for submittal to the New Mexico Environment Department (NMED). Please note that successors to the designee(s) are also eligible as designees in case of staff replacements. NMED must also have a current W-9 form on file. The most recent revision of the W-9 form (as approved by the Department of Finance and Administration) and instructions are also enclosed.

Please return **both signed original grant agreements including Project Description (Attachment A), the completed W-9 form, passed resolution and signature page to NMED.** Upon the NMED Secretary's signature, one original grant agreement will be returned to you. We recommend that duplicate copies of all documents be made prior to returning them to NMED.

Your project manager, Sara Rhoton at (505) 222-9568 or Sara.Rhoton@state.nm.us, will be glad to answer any questions you may have regarding the technical aspects of your project. Disbursement request questions and other financial matters can be directed to the program administrator, Valerie Trujillo at (505) 827-2958 or valerie.trujillo@state.nm.us.

We are looking forward to working with you on this project and will do whatever we can to help make it a worthwhile improvement to your community.

Sincerely,

Jim Chiasson, P.E., Chief
Construction Programs Bureau
New Mexico Environment Department

Enclosures: Two Grant Agreements; Attachments A, B & C; Exhibits 1, 2, 3 & 4; W-9 Form and Instructions; Signature Page

cc: Sara Rhoton, Project Manager
Valerie Trujillo, Program Administrator

City of Hobbs
New Grant Agreement Checklist

Return the following to:

Jim Chiasson, Bureau Chief
New Mexico Environment Department
Construction Programs Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

- Two original signed Grant Agreements for:
16-A2268-STB Hobbs Wastewater Reclamation Facility Improve \$100,000
- Attachment A (Project Description):
- Completed W-9 form
- Resolution
- Signature Page for Official Representative(s) - (Signatures of Official Representative(s) listed on page 4 of the Grant Agreement)

**STATE OF NEW MEXICO
DEPARTMENT OF ENVIRONMENT
FUND 89200 CAPITAL APPROPRIATION PROJECT
16-A2268-STB**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__, by and between the Department of Environment, Harold Runnels Building, Room S-2072, 1190 St. Francis Drive, Santa Fe, New Mexico, 87505, hereinafter called the "Department" or abbreviation such as "NMED", and City of Hobbs, 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 2016, Chapter 81, 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, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

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:

16-A2268 (\$100,000) APPROPRIATION REVERSION DATE: June 30, 2020
Laws of 2016, Chapter 81, Section 18, Paragraph 33, one hundred thousand dollars (\$100,000), to plan and design improvements to the wastewater reclamation facility in Hobbs in Lea county

The Grantee's total reimbursements shall not exceed the appropriation amount one hundred thousand dollars (\$100,000) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, zero (\$0), which equals one hundred thousand dollars (\$100,000) (the "Adjusted Appropriation Amount").

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.

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." Attachments A, B and C set forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachments A, B and C impose more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachments A, B and C shall prevail, in the event of irreconcilable conflict. 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 Reimburse² 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 Grantee's legal procurement 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 ;
- (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:

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.

- 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 of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its 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

(vi) The Grantee's submittal 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 as follows:

- 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 expenditures.
- c. The Department may, in its 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 4.
- d. The date the Department sends, by mail or email, 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 begin work.

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 and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: _____	Grantee: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Email: _____	Email: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

Department: NMED
Name: Valerie Trujillo
Title: Project Administrator
Address: Construction Programs Bureau
Harold Runnels Bldg, Room S-2072
PO Box 5469
Santa Fe, NM 87502
Email: valerie.trujillo@state.nm.us
Telephone: (505) 827-2958
FAX: (505) 827-2837

Department: NMED
Name: Sara Rhoton
Title: Project Manager
Address: Construction Programs Bureau
121 Tijeras Ave., NE, Suite 1000
Albuquerque, NM 87102
Email: Sara.Rhoton@state.nm.us
Telephone: (505) 222-9568
FAX: (505) 222-9510

The Grantee's designee shall have authority from Grantee to request disbursements. 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 facsimile, 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 facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. 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, EARLY TERMINATION

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, 2020** 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, 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 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, 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 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 absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending 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 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 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. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 2. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly 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 a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 2. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

C. Paperless Reporting

In lieu of the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The information currently required to be reported into the database is set forth in Exhibit 1. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly 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 a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

D. 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. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

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 3. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of 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 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.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II 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. 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 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, if 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, the so-called "Anti-Donation Clause."
 - (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, written approval.
 - (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 it 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 Conflict of Interest and 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 his/her 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 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 six (6) 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 and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor 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

Attachments A, B and C are incorporated by reference and made part of the 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 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 Hobbs may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Hobbs’s 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 Hobbs or the NMED or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Hobbs or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges 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 a NMED Grant Agreement. Should the NMED early terminate the grant agreement, the City of Hobbs may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Hobbs’s 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 CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF 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 BOF conditions being satisfied.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]

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

GRANTEE

Signature of Official with Authority to Bind Grantee

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

NEW MEXICO ENVIRONMENT DEPARTMENT

By:

Its: Cabinet Secretary or Deputy Cabinet Secretary

Date

<input type="text"/>	Amendment
No.	_____
Date	_____

ATTACHMENT A
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
PROJECT DESCRIPTION

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2268-STB

The GRANTEE agrees to accomplish the project as described below:

X

X

Official Representative

NMED Project Manager Approval

**ATTACHMENT B – NMENV TECHNICAL REQUIREMENTS
TO
STATE OF NEW MEXICO
CAPITAL APPROPRIATION FUND AGREEMENT**

ARTICLE 1 REVIEW

Upon execution of the agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit a detailed project description to NMED Construction Programs Bureau (CPB) prior to committing to expenditures from these funds. The detailed description will be provided on the Attachment A form and must be approved by the CPB project manager.
- B. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee prior to this agreement, that are related to the project, for review and, if appropriate approval. CPB reserves the right to deny reimbursement under any contract not properly procured or otherwise ineligible under the grant terms.
- C. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit documentation regarding the hiring process to be used and the Request for Proposals (RFP), if applicable, to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must be performed in compliance with the New Mexico Procurement Code [Sections 13-1-21 et seq. NMSA 1978]. If the engineering fees will exceed \$60,000, excluding gross receipt taxes, the Grantee is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB: phone (505) 888-6161 and e-mail ptab@acecnm.org.)
- D. If these grant funds are to be used for engineering and/or other professional services, the Grantee must submit a draft of any engineering agreement and/or other professional services contract, or a letter certifying that the Grantee's staff will be used for design, to NMED for review and approval prior to executing the agreement/contract or using Grantee's staff. Unless a waiver has been received, the required engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at www.nmenv.state.nm.us/cpb/cpbtop.html. Any waiver of the required engineering contract form must be in writing from CPB. NMED CPB requires that one copy of the executed contracts be supplied to them. The contract is between the grantee and their engineer. The State of New Mexico will not be a party to the contract.
- E. A preliminary engineering report (PER) or study by a registered New Mexico Professional Engineer may be required. If a PER or study is to be prepared, the Grantee and their consultant should meet with NMED before starting any work for a "scoping" meeting to fully discuss the scope and extent of the PER. The consultant shall present their preliminary outline for the PER, including the alternatives to be considered. The Grantee must submit the final PER and/or study to NMED for

review and approval before preparation of plans and specifications. The purpose of the PER and/or study is to analyze and choose the most technically feasible and cost effective solution for the project. The PER must follow USDA RUS Bulletin 1780-2.

- F. Grantee agrees not to start the preparation of plans and specifications until NMED approval of the PER, study, or waiver in writing of the report requirement has been received from CPB.
- G. If the grant funds are to be used for engineering design or for construction, the Grantee must submit all plans, and specifications for this project (prepared by a registered New Mexico Professional Engineer) to NMED for review and approval before the project is advertised for construction bids. Any addenda prepared after the project has been advertised for bids must be submitted to NMED for review and approval.
- H. The Grantee must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. A site certificate certifying that all necessary easements and/or property upon or through which the project is being constructed have been obtained must be submitted prior to the advertisement for bid of the project. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor. The Grantee must submit the recommendation of award, certified bid tabulation, a copy of bid bond for the selected contractor and evidence of full project financing to NMED for review and approval prior to awarding the contract. Grantee shall not award the contract until NMED has concurred in writing with the award. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), will be used for awarding construction contracts. Contracts will be awarded to the responsive, responsible bidder who submits the lowest acceptable bid, or as provided for by State Law.
- I. Following NMED approval of the proposed award, the Grantee will submit the notice of the award and the minutes of the meeting in which the award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed to NMED for review. The selected contractor will be required to post a performance and payment bond in accordance with requirements of Section 13-4-18 NMSA 1978.
- J. At the pre-construction conference, the selected contractor will submit a construction schedule to the Grantee and, if requested, to NMED. The Grantee will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. The decision by NMED will be rendered promptly in writing to the Grantee. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written confirmation to the Grantee.

- K. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction. The Grantee will be required to submit the inspector's résumé to NMED for review and approval. All daily inspection reports shall be made available to the NMED Project Manager upon request.
- L. The Grantee will provide an Engineer's Construction Status Report (ECSR) using a template provided by NMED with each disbursement request that includes construction costs. The Engineer's Construction Status Report will include a description of the work completed during the same time period covered by the contractor's pay application and must be signed by a professional engineer and the Grantee's representative designated to oversee the project. Construction reimbursements cannot be paid without the NMED approved ECSR.
- M. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans, but will be a general NMED review as described in Article 2 below.
- N. If applicable, the Grantee (or the system owner) will employ qualified utility operators and will comply with all provisions of the New Mexico Utility Operators Certification Act, Section 61-33-1 et seq. NMSA 1978.
- O. If the grant funds are to be used for construction of wastewater collection lines or water distribution lines, the Grantee will assure NMED that the existing population will connect to the collection system or distribution system within reasonable time after project completion. This will be accomplished by adoption and annual review of an ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law. NMED may request an opportunity to review and comment on the ordinance to ensure compliance with this requirement.

ARTICLE 2 NMED OVERSIGHT

NMED inspection, review and approval are only for purposes of compliance with applicable state grant requirements, procedures, statutes and regulations. NMED approval will not be interpreted as any warranty or guarantee of any kind. Approval of plans and design of the project means only that plans are complete and in compliance with applicable state grant requirements, procedures and regulations. NMED will bring to the Grantee's attention, any obvious defects in the project's design, materials or workmanship, but all such defects and their correction will be the responsibility of the Grantee and its contractors and consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and consultants will remain responsible for the completion and success of the project. Approval does not relieve the owner or engineer of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 CLOSEOUT

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the Grantee's project engineer.
- B. If the grant funds are to be used for preparation of a PER, a study, or plans and specifications, final payment will be made after approval by NMED of the PER, study, or plans and specifications. Payments do not constitute approval of any of these documents.
- C. If the grant funds are to be used for purchase of equipment, final payment will be made after approval by NMED of receipt of equipment title and appraisal reports for used equipment.
- D. If the grant funds are to be used for construction, final payment will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals;
 - ii. A final reimbursement request including the final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee;
 - iii. A certificate of substantial completion including punch list items;
 - iv. A letter certifying project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED for final review and approval;
 - v. Certification letter by the Grantee that the Labor Standards Contract Provisions have been met;
 - vi. Letter from the owner certifying receipt and acceptance of the record drawings;
 - vii. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the 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 Grantee or its property might in any way be responsible, have been paid or otherwise satisfied;

- viii. A written consent of the surety, if any, to final payment; and
- ix. Grantee's ledger sheets including all payments made by the Grantee may be requested with the final reimbursement request and before the final reimbursement request can be processed by NMED.

ARTICLE 4 PROPERTY ACQUISITION

- A. With the exception of easements (See Article 1.H above), when real property is acquired by the Grantee, either through purchase or donation as a part of this project and within the project period, the Grantee will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED **prior to** the acquisition of any real property. After real property acquisition, the Grantee will make available to NMED all documents of title pertaining to the acquired property and all easements or rights-of-way necessary for the completion of work under this grant agreement.

ATTACHMENT C

NEW MEXICO ENVIRONMENT DEPARTMENT CONSTRUCTION PROGRAMS BUREAU

NAME OF GRANTEE: City of Hobbs

PROJECT NO: 16-A2268-STB

The purpose of this Attachment C is to specify Special Grant Conditions for the City of Hobbs in accordance with the terms of the Grant Agreement Article XVII, Section B.3, which states the Department may:

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.

Pursuant to Executive Order (EO) 13-006, "Establishing Uniform Funding Criteria and Grant Management and Oversight Requirements for Grants of State Capital Outlay Appropriations by State Agencies to Other Entities," and the regulations implementing the EO, the following uniform funding criteria must be met in order for a grantee to be eligible to receive a grant of a State capital outlay appropriation:

1. a grantee's annual audit for the most recently concluded fiscal year must be a public record pursuant to NMSA 1978, Section 12-6-5(A);
2. in the case of a grantee whose most recent annual audit, or special audit released since its most recent annual audit became a public record, documents material weaknesses or significant deficiencies that raise concerns about the grantee's ability to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired with grant funds:
 - a. the grantee must have remedied the material weaknesses and significant deficiencies to the satisfaction of the State agency making the grant;
 - b. the State agency making the grant must have determined that it can impose and has the resources to implement special grant conditions that adequately address those weaknesses and deficiencies; or
 - c. the State agency making the grant must have determined that another appropriate entity is able and willing to act as fiscal agent for the grant;

After a review of the City of Hobbs' most recent annual audit, it was determined that Special Grant Conditions must be imposed and implemented in order for the City of Hobbs to be eligible to receive a grant of a State capital outlay appropriation. In accordance with the Grant Agreement and the established uniform funding criteria, THE FOLLOWING SPECIAL GRANT CONDITIONS APPLY to the above-referenced project that the Environment Department administers for the City of Hobbs:

Special Grant Conditions for City of Hobbs

1. The City of Hobbs must provide training to employees responsible for the monitoring of the City's capital assets in the capital assets process and will have to provide documentation that training was done by June 30, 2017.

These Special Grant Conditions will be implemented in connection with the Grant Agreement and will remain in place for the duration of the Grant Agreement unless and until NMED is satisfied that the EO 13-006 uniform funding criteria has been met such that certain Special Grant Conditions may be eliminated. In the event that it becomes necessary to revise and/or eliminate certain Special Grant Conditions, NMED will notify the City of Hobbs in writing.

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
DATABASE PERIODIC REPORT
EXHIBIT 1**

The Capital Projects Monitoring Systems (CPMS) can be found at: <http://cpms.dfa.state.nm.us>. Below are screenshots from the website on required fields for Local Entities. Please contact your program manager for Login and Password information.

Local Data	
ICIP Project #	
ICIP Priority	
Expended Amount (Local Entity)	\$0
Current Balance (Local Entity)	\$0
Project Status (Local Entity)	
Project Phase (Local Entity)	
Goal/Milestone achieved last quarter	
Goal/Milestone for next quarter	
Valid Contracts in Place (True/False)	
No activity for month being reported (True/False)	
Last Submission Date (Local)	
Last Update (Local)	

	Date Completed, Expected Completion Date or N/A	Amount Funded to Date	Future Funding Amounts	Funding Sources	Contractor Name	Contract Amount	Comments
Grant Agreement Issued							
Water Rights							
Easement & ROW							
Acquisition							
Archaeological Studies							
Environmental Studies							
Planning							
Design							
Construction							
Furnish/Equipment							
Total							

**STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
PAPER PERIODIC/FINAL REPORT
EXHIBIT 2**

PERIODIC REPORT FINAL REPORT

Grantee: _____

Project Number: _____ Reporting Period: _____

1. Please provide a detailed status of project referenced above.

A. Third Party Obligations

Purchase Order or Contract # _____

Name of Contractor or Vendor: _____

Amount of Third Party Obligation: _____

Date Executed: _____

Termination Date: _____

B. Project Phase

Bonds Sold Plan/Design Bid Documents Construction
(provide anticipated date of commencement and completion for each phase)

2. Grant Amount adjusted for AIPP if applicable: _____

Total Amount of all Notices of Obligation to Reimburse: _____

Total Grant Amount Expended by Grantee to Date: _____

Grant Balance as of this Date: _____

Amount of Other Unexpended Funding Sources: _____

PERIODIC REPORT

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

FINAL REPORT

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

Grantee Representative/Title

Date

DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)

A. NAME OF ENTITY _____

C. DISBURSEMENT REQUEST NUMBER _____

B. PROJECT NUMBER _____

D. GRANT AMOUNT _____

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Administrative Expenses	XXXXXXXXXX		XXXXXXXXXX		XXXXXXXXXX		XXXXXXXXXX	\$ -
Engineer Fees							\$ -	\$ -
Other Professional							\$ -	\$ -
Service Fees							\$ -	\$ -
Inspection Fees							\$ -	\$ -
Property Acquisition							\$ -	\$ -
Construction Cost							\$ -	\$ -
Planning Cost							\$ -	\$ -
Equipment							\$ -	\$ -
Other Costs (specify)							\$ -	\$ -
Contingencies							\$ -	\$ -
TOTAL		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; 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.

Signature of Authorized Official: X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 20____

Notary Public _____ My Commission expires _____

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT

INITIAL Notice of Obligation to Reimburse Grantee # 1

DATE: _____

TO: Grantee: _____
Grantee Official Representative: _____

FROM: Department Representative: _____, NMED/CPB Project Manager

SUBJECT: Notice of Obligation to Reimburse¹ Grantee
Project Number: _____

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: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

Vendor or Contractor: _____
Third Party Obligation Amount: _____
Termination Date: _____

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 adjusted for AIPP if applicable:	_____
The Amount of this Notice of Obligation:	_____ \$0.00
The Total Amount of all Previously Issued Notices of Obligation:	_____ N/A
The Total Amount of all Notices of Obligation to Date:	_____ N/A

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 "Reimburse" as used throughout this Notice of Obligation to Reimburse 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 the Grant Agreement and are a valid liability of the Grantee.

Resolution Resolution Number

Whereas, the Board of Directors / Council / Commission of Community / Utility of County Name County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as SAP Project Number Grant Agreement.

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Name, Mayor / Chair / Director, is authorized to sign the agreement for this project, and

Official Representative Name and Title and Alternate - Official Representative and Title, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests and act as a single point of contact concerning all matters related to the grant agreement.

PASSED, APPROVED, AND ADOPTED: _____.

Name, Mayor/ Chair, Community / Utility

(Signature)

Date

(SEAL)

ATTEST:

Notary Name, Notary Title

(Signature)

Date

Construction Programs Bureau Signature Page

Project Name:	City of Hobbs
Project Number:	16-A2268-STB
Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	

Alternate - Official Representative:	
Name	
Title	
Signature	
Address	
E-mail	-
Phone	

DO NOT SEND TO
IRS - SUBMIT
FORM TO
REQUESTING
AGENCY

FCD 04/2016

NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION
FINANCIAL CONTROL DIVISION
SUBSTITUTE FORM W-9



REQUEST FOR TAXPAYER IDENTIFICATION NUMBER, CERTIFICATION

TYPE IN ALL CAPS OR PRINT NEATLY, PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION

PART I: VENDOR INFORMATION

1. Legal Business Name: (As it appears on the IRS EIN records, CP575, 147C - or - Social Security Administration records, Social Security Card, certified Form SSA7028)	2. If you use a DBA/Trade Name, please list below:
3. Entity Type (Check only one, unless you are or have been a State of New Mexico Employee, then also check State of New Mexico Employee box):	
<input type="checkbox"/> Individual / Sole Proprietorship <input type="checkbox"/> Estate or Trust <input type="checkbox"/> Single Member / LLC (Individual) <input type="checkbox"/> Government (Local, State, Federal) <input type="checkbox"/> Partnership General / LLC <input type="checkbox"/> Indian Tribe <input type="checkbox"/> Corporation / Professional Corporation / LLC <input type="checkbox"/> Tax-Exempt organization under IRC Section 501 C <input type="text"/> <input type="checkbox"/> Non-United States Business Entity <input type="checkbox"/> State of New Mexico Employee (Enter BU) <input type="text"/>	
4. 1099 Reporting: Services provided to the State by vendor, if not applicable skip:	
<input type="checkbox"/> Health care or medical service <input type="checkbox"/> Horse hire / NM Employee <input type="checkbox"/> Agency Volunteer (specify agency) <input type="text"/> <input type="checkbox"/> Legal or attorney services <input type="checkbox"/> Urban search & rescue member <input type="checkbox"/> State of NM Appointed Board member / <input type="checkbox"/> Rental of Real Property <input type="checkbox"/> Royalties commissioner / committee member	

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. Enter your TIN here (DO NOT USE DASHES)	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
2. Taxpayer Identification Type (check appropriate box):	
<input type="checkbox"/> Employer ID No. (EIN) <input type="checkbox"/> Social Security No. (SSN) <input type="checkbox"/> Employee ID <input type="checkbox"/> N/A (Non-United States Business Entity)	

PART III: ADDRESS

1. Address: (If a state employee, enter Agency name and Field Office Address) Address Line #1 Address Line #2 Address Line #3 City State Zip + 4 Code	2. Remittance Address, IF DIFFERENT: Address Line #1 Address Line #2 Address Line #3 City State Zip + 4 Code
---	--

PART IV: CERTIFICATION

Under penalties of perjury, I certify that:

- The number shown on this form is my correct tax payer identification number (or I am waiting for a number to be issued to me), AND
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, AND
- I am a U.S. Citizen or other U.S. person.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding

Printed Name	Printed Title	Telephone Number
Signature	Email	Date (mm/dd/yyyy)

PART V: OPTIONAL DIRECT DEPOSIT (ACH)

Warning: The State of New Mexico will not process International ACH Transactions (IAT). If any payment to you from the State will ever result in an IAT under National Automated Clearing House Association (NACHA) operating rules or if you are not sure if the rules apply to you DO NOT FILL OUT THIS SECTION OF THE FORM. Please provide a copy of a voided check or letter from bank confirming information indicated above.

Include a voided check or letter from financial institution if requesting ACH payments

Type of Account	<input type="radio"/> Checking	<input type="radio"/> Savings
-----------------	--------------------------------	-------------------------------

I acknowledge the IAT warning and authorize the State of New Mexico to initiate direct deposit of funds to the account and financial institution indicated, and to recover funds deposited in error if necessary in compliance with NACHA regulations.

Signature	Printed Name
-----------	--------------

PART VI: OFFICE USE ONLY

OFFICIAL / POC USE ONLY BUSINESS UNIT DATE (mm/dd/yyyy) PHONE NO. POC (Print name) POC Initials	DFA / FCD USE ONLY
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Instructions for Completing this Form

This form substitutes for the IRS W-9 form. Complete this form if you will receive payment from the State of New Mexico and/or you are a vendor who provides goods and services to the State of New Mexico. To comply with the Internal Revenue Service (IRS) regulations regarding 1099 reporting, the State of New Mexico is required to collect the following information to be completed on the Substitute W-9 form. The information collected on this form will allow the State to confirm that our records contain the official name of your business, the Tax Identification Number (TIN) that the IRS has on file for your business and business type.

Check the appropriate box(s) that this form is to be utilized and fill in the corresponding section(s) indicated next to the box(s) checked.

PART I: VENDOR INFORMATION

1. **Legal Business Name** Enter the legal name as registered with the IRS or Social Security Administration.
2. **DBA/Trade Name** Individuals leave blank. Sole Proprietorships: Enter DBA (doing business as) name. All Others: Complete only if business name is different than Legal Name.
3. **Entity Type** Check ONE box which describes business entity. If a current, past, or becoming a state employee, please also mark the State of New Mexico Employee box and enter the Business Unit number for the agency. Also, provide the 6 digit employee ID as assigned in SHARE HCM in the Part II Taxpayer Identification Number (TIN) & Taxpayer Identification Type section and mark the Employee ID box.
4. **1099 Reporting** Check the appropriate box that applies to the type of services being provided to the State. If the type of service is not specifically stated, then leave blank.

PART II: TAXPAYER IDENTIFICATION NUMBER (TIN) & TAXPAYER IDENTIFICATION TYPE

1. **Taxpayer Identification Number** Enter TIN with no dashes in the boxes provided
 - a. TIN is always a 9-digit number. Provide the Social Security Number (SSN) assigned by the Social Security Administration (SSA) or the Federal Employer Identification Number (FEIN) assigned to the business or other entity by the Internal Revenue Service (IRS).
 - b. Employee ID is always a 6-digit number. Provide the employee ID assigned by the State of New Mexico for payroll processing in SHARE HCM.
2. **TIN Identification Type** Mark the appropriate box for the TIN provided above.

PART III: ADDRESS

1. **Address** Where correspondence, payment(s), purchase order(s) or 1099s should be sent.
 - a. **Employees** If a current employee, please provide this following:
 - i. **Address Line #1:** State Agency Name
 - ii. **Address Line #2:** Field Office Mailing Address
 - iii. **Address Line #3:** N/A
 - b. **CDBG** When providing a Community Development Block Grant (CDBG) remittance address, provide bank name in address line #1 and physical address in address line #2
2. **Remittance Address** If different than Address
3. **Zip Code and Phone Number** The 5 + 4 code will be required to be entered for all zip codes. If the last 4 digits are unknown, then 4 zeros (0) can be entered. Do not enter the "-" as part of the zip code. When entering the phone number, only enter the 10 digit number. Do not enter the "(" or "-" as part of the phone number.

PART IV: CERTIFICATION

By signing this document you are certifying that all information provided is accurate and complete. The person signing this document should be the partner in the partnership, an officer of the corporation, the individual or sole proprietor noted under legal name above, or the New Mexico State Employee for which the vendor account is established.

Identifying information is required of the person signing the form.

PART V: OPTIONAL DIRECT DEPOSIT (ACH) You may elect to receive payments from the State of New Mexico through Automated Clearing House (ACH) direct deposit. Please provide a copy of a voided check or letter from financial institution with the banking information. Without one of the two items, ACH information WILL NOT be entered and payments will be made by warrant. Select the type of account being provided.

I Acknowledge Print name and sign to acknowledge the IAT warning and to authorize the State of New Mexico to initiate direct deposit of funds to your financial institution provided.

Privacy Act Notice Section 6109 requires you to furnish your correct TIN to persons who must file information



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: Community Oriented Policing Services (COPS) Hiring Grant Award

DEPT. OF ORIGIN: Police Department
DATE SUBMITTED: November 15, 2016
SUBMITTED BY: Chief Chris McCall

Summary:

Public Safety- The Hobbs Police Department applied for a grant through the COPS office of the U.S. Department of Justice to fund police officer positions. The grant allows for certified police officers to be hired with the task of developing community relations within the City of Hobbs. The department is committed to the community and through this grant, will dedicate five personnel to community engagement efforts in order to build trust with diverse members of the community.

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

The fiscal impact to the City is grant funding in the amount of \$625,000.00. The City's projected share totals \$751,164.50. This agreement will be effective for 36 months. As part of the agreement the city agrees to continue to fund these positions for one year after the grant expiration.

Attachments:

Award Letter from the USDOJ COPS Office.

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Staff recommends approval of this grant with the USDOJ COPS Office.

Approved For Submittal By:

[Signature]
Department Director

[Signature]
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

Chris McCall

Subject: FW: COPS Hiring Program Award - LE



U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
115 N Street, NE, Washington, D.C. 20530

COPS★

October 3, 2016

Chief of Police Chris McCall
Hobbs Police Department
300 North Turner Street
Hobbs, NM 88240

Re: COPS Hiring Program Award #2016UMWX0189
ORI#: NM01302

Dear Chief of Police McCall:

Congratulations! On behalf of Attorney General Loretta E. Lynch, I am pleased to inform you that the Office of Community Oriented Policing Services (COPS Office) has approved your agency for 5 officer positions under the 2016 COPS Hiring Program (CHP). The estimated amount of federal funds to be awarded to your jurisdiction over the three-year award period is \$625,000. Your local cash match will be \$751,165. Your agency may use CHP award funding to hire new officers or rehire officers who have been laid off or are scheduled to be laid off on a specific future date, as a result of local budget reductions, on or after the official award start date. Please note that any changes to the awarded hiring categories require an official review and approval by the COPS Office.

To officially accept and begin your CHP award, your agency must access the COPS Office website at www.cops.usdoj.gov and select the Account Access link in the upper-right corner to log in, review, and electronically sign the Award Document (including Award Terms and Conditions) and any special conditions as applicable. If your agency was awarded funding for School Resource Officers (SRO), a Memorandum of Understanding (MOU) must be signed by the law enforcement executive and designated representative for the school/school district and submitted to the COPS Office for review. More details

about the process and deadline for MOU submission will be provided in a subsequent document. In addition, *COPS Office-funded SROs are required to complete a National Association of School Resource Officers (NASRO) Basic School Resource Officer Course no later than nine months after the date shown on the this letter.* More details about the mandatory training will be provided in a subsequent document. These documents, along with your Award Document and official Award Congratulatory Letter, will be placed in your online account on or around October 1, 2016.

To electronically sign your Award Document, the appropriate Account Roles with E-Signature and User Permissions must be established and assigned in the COPS Office Agency Portal. The Agency Portal Instruction Manual, currently available on the COPS Office website at <http://cops.usdoj.gov/pdf/UserGuide.pdf>, has been enhanced to include a Quick Step Guide. This guide will provide your agency with all of the information needed to successfully establish Account Roles and assign User Permissions in preparation to sign the Award Document, as well as manage many aspects of your CHP award online. Please review and follow these steps carefully as this is the only method for signing your Award Document.

The CHP award start date is **September 1, 2016**. Therefore, your agency can be reimbursed for allowable and approved expenditures made on or after this date. Please be advised that some of your requested items may not have been approved by the COPS Office during the budget review process. When you receive your award package, please carefully review your Financial Clearance Memorandum (FCM) to determine your approved budget, as award funds may only be used for approved items. The FCM will specify the final award amount and will identify any disallowed costs. We strongly encourage you to immediately visit CHP web page at <http://cops.usdoj.gov/Default.asp?Item=2367> and access a supplemental online award package that contains a variety of important and helpful documents that will assist you with the implementation of your award, including the 2016 CHP Award Owner's Manual, which specifies the programmatic and financial terms, conditions, and requirements of your award. Please print out a copy of your application and maintain it with your award file records.

As a reminder, all positions awarded under CHP (or an equal number of veteran officers) must initiate or enhance community policing in accordance with the community policing strategy described within Section 6 of your application. If, for any reason, your agency finds that your community policing strategies have significantly changed from those outlined in your application (e.g., because you received fewer officers than originally requested and thus must alter the scope of your community policing strategies), please revise the strategy accordingly and submit it to the COPS Office for review and approval.

As part of 2016 CHP, your agency will be required to submit quarterly Federal Financial Reports (SF-425) as well as quarterly program progress reports. CHP award recipients should be prepared to track and report CHP funding separately from other funding sources (including other COPS Office and federal awards) to ensure accurate financial and programmatic reporting on a timely basis. Your agency should ensure that you have financial internal controls in place to monitor the use of CHP funding and ensure that its use is consistent with the award terms and conditions.

Also, please remember that CHP award recipients must retain all sworn officer positions funded under the 2016 CHP award for a minimum of 12 months following the 36-month federal funding period. The retained CHP-funded position(s) should be added to your law enforcement budget with state and/or local funds, over and above the number of locally-funded positions that would have existed in the absence of the award. In your 2016 CHP application, your agency was required to affirm that it plans to retain the additional officer positions funded following the expiration of the award, and to identify the planned sources of retention funding. If, during the life of the award, you have questions regarding the retention requirement or your retention funding sources, please contact the COPS Office for assistance.

We look forward to working with your agency in a productive partnership to further your community policing efforts. If you have any questions about your award, please do not hesitate to call your Grant Program Specialist through the COPS Office Response Center at 800-421-6770.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Davis", written in a cursive style.

Ronald L. Davis
Director



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21st, 2016

SUBJECT: SR 18 BEAUTIFICATION AND TRAIL PROJECT & TURNER STREET TREE REPLACEMENTS AND ADDITIONS

DEPT. OF ORIGIN: Parks & Recreation Department
DATE SUBMITTED: 11-15-16
SUBMITTED BY: Doug McDaniel, Parks and Recreation Director

Summary:

The Attached CES proposal with Accent Landscaping is a combination of tree replacements on the SR 18 Beautification and Trail Project and tree additions and replacements along Turner Street

SR18 Beautification / Trail: The linear park improvement consists of over 2,000 trees. The attached CES Task Order includes replacing 115 trees (6% of total). Breakdown of trees to be replaced is attached. Scope of work includes the removal, disposal, furnish, install, as necessary for the complete installation. In addition, replacement of drip rings, re-mulching tree wells as needed. No Trees were replaced last year.

Turner Street Replacement / Expansion: There are additional tree replacements along Turner Street, which are included on the attached CES Proposal. In addition, the City purchased the residential structure on Turner and Permian, which has been removed in order to expand the Turner Improvements in this area. A portion of the CES is for new trees for the Turner Pocket Park Expansion (2 - Red Oaks / 6 - Red Buds)

Fiscal Impact:

Reviewed By: [Signature] Finance Department

Total CES Contract: \$157,461.97 (including GRT)
Budget Line: 46-4046-44901-00034 (SR 18 Trail)
Available Budget: \$386,930.58
CES Amount: \$152861.97
Budget Line: 01-0100-44901-00230 (Turner Pocket Park)
Available Budget: \$16,045.37
CES Amount: \$4,600.00

Attachments: CES Proposal / SR 18 Trail Tree breakdown

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Consideration and Approval of CES Contract with Accent Landscaping

Approved For Submittal By:

Department Director
City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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



Job Order Contract

Price Proposal Summary - CSI

www.eziqc.com

Date: November 16, 2016
Contract Number: 2016-002B-ALC-R6
Job Order Number: 031224.00
Job Order Title: City of Hobbs-Tree Demolition and Install
Contractor: Accent Landscape Contractors
Proposal Value: \$157,461.97
Proposal Name: City of Hobbs-Tree Demolition and Install
Detailed Scope: Removing 129 trees and installing 129 new trees

01 - General Requirements:	\$18,666.64
31 - Earthwork:	\$18,715.80
32 - Exterior Improvements:	\$120,079.53
	\$157,461.97

This proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: 100.00%

Job Order Contract

Price Proposal Detail - CSI

Date: November 16, 2016
Contract Number: 2016-002B-ALC-R6
Job Order Number: 031224.00
Job Order Title: City of Hobbs-Tree Demolition and Install
Contractor: Accent Landscape Contractors
Proposal Value: \$157,461.97
Proposal Name: City of Hobbs-Tree Demolition and Install
Adjustment Factor(s) Used: 1.0000-No Adjustment, 1.2400-OTNWH Requiring State Wage Rates (Outside Tribal Lands) > \$60,000

Rec#	CSI Number	Mod.	UOM	Description	Line Total								
01 - General Requirements													
1	01 22 16 00 0004		EA	New Mexico Gross Receipts Tax - Varies by County	\$9,455.43								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>9,455.43</td> <td>\$1.00</td> <td>1.0000 =</td> <td>\$9,455.43</td> </tr> </table>	Quantity	Unit Price	Factor	Total	9,455.43	\$1.00	1.0000 =	\$9,455.43	
Quantity	Unit Price	Factor	Total										
9,455.43	\$1.00	1.0000 =	\$9,455.43										
2	01 22 16 00 0005		EA	Job Order Development Services	\$8,762.15								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>8,762.15</td> <td>\$1.00</td> <td>1.0000 =</td> <td>\$8,762.15</td> </tr> </table>	Quantity	Unit Price	Factor	Total	8,762.15	\$1.00	1.0000 =	\$8,762.15	
Quantity	Unit Price	Factor	Total										
8,762.15	\$1.00	1.0000 =	\$8,762.15										
3	01 22 16 00 0006		EA	New Mexico Gross Receipts Tax - Out of State Vendor	\$449.06								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>449.06</td> <td>\$1.00</td> <td>1.0000 =</td> <td>\$449.06</td> </tr> </table>	Quantity	Unit Price	Factor	Total	449.06	\$1.00	1.0000 =	\$449.06	
Quantity	Unit Price	Factor	Total										
449.06	\$1.00	1.0000 =	\$449.06										

Subtotal for 01 - General Requirements: \$18,666.64

31 - Earthwork													
4	31 11 00 00 0015		CY	Machine Loading Of Cleared And Grubbed Material	\$4,022.99								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>645.00</td> <td>\$5.03</td> <td>1.2400 =</td> <td>\$4,022.99</td> </tr> </table>	Quantity	Unit Price	Factor	Total	645.00	\$5.03	1.2400 =	\$4,022.99	
Quantity	Unit Price	Factor	Total										
645.00	\$5.03	1.2400 =	\$4,022.99										
			User Note: 5 CY per a tree										
5	31 13 13 00 0009		EA	Up To 6" Diameter Stump RemovalIncludes excavation necessary to remove stump and loading.	\$3,791.42								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>56.00</td> <td>\$54.60</td> <td>1.2400 =</td> <td>\$3,791.42</td> </tr> </table>	Quantity	Unit Price	Factor	Total	56.00	\$54.60	1.2400 =	\$3,791.42	
Quantity	Unit Price	Factor	Total										
56.00	\$54.60	1.2400 =	\$3,791.42										
6	31 13 13 00 0010		EA	>6" To 12" Diameter Stump RemovalIncludes excavation necessary to remove stump and loading.	\$10,901.39								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>84.00</td> <td>\$104.66</td> <td>1.2400 =</td> <td>\$10,901.39</td> </tr> </table>	Quantity	Unit Price	Factor	Total	84.00	\$104.66	1.2400 =	\$10,901.39	
Quantity	Unit Price	Factor	Total										
84.00	\$104.66	1.2400 =	\$10,901.39										

Subtotal for 31 - Earthwork: \$18,715.80

32 - Exterior Improvements													
7	32 93 43 00 0066		EA	3" Caliper Cercis - American Redbud	\$4,166.40								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>20.00</td> <td>\$168.00</td> <td>1.2400 =</td> <td>\$4,166.40</td> </tr> </table>	Quantity	Unit Price	Factor	Total	20.00	\$168.00	1.2400 =	\$4,166.40	
Quantity	Unit Price	Factor	Total										
20.00	\$168.00	1.2400 =	\$4,166.40										
			User Note: Oklahoma redbud. Includes tree poles, bark mulch and irrigation reconnection										
8	32 93 43 00 0296		EA	12' Pittosporum phillyraeoides - Willow Pittorporum	\$15,392.53								
			Installation	<table border="0"> <tr> <td>Quantity</td> <td>Unit Price</td> <td>Factor</td> <td>Total</td> </tr> <tr> <td>23.00</td> <td>\$539.71</td> <td>1.2400 =</td> <td>\$15,392.53</td> </tr> </table>	Quantity	Unit Price	Factor	Total	23.00	\$539.71	1.2400 =	\$15,392.53	
Quantity	Unit Price	Factor	Total										
23.00	\$539.71	1.2400 =	\$15,392.53										
			User Note: dessert willow. Includes tree poles, bark mulch and irrigation reconnection										

Price Proposal Detail - CSI Continues..

Job Order Number:

Job Order Title:

Rec#	CSI Number	Mod.	UOM	Description	Line Total
32 - Exterior Improvements					
9	32 93 43 00 0695		EA	6" To 6-1/2" Caliper Quercus virginiana - Live Oak	\$89,676.80
				Quantity	Unit Price
			Installation	64.00	\$1,130.00
				Factor	Total
				1.2400 =	\$89,676.80
			User Note: Red Oaks, Live Oaks and Cedar Elms. Includes tree poles, bark mulch and irrigation reconnection		
10	32 93 43 00 0916		EA	12' Cedrus decurrens - Incense Cedar	\$10,843.80
				Quantity	Unit Price
			Installation	33.00	\$265.00
				Factor	Total
				1.2400 =	\$10,843.80
			User Note: eastern red cedar. Includes tree poles, bark mulch and irrigation reconnection		
Subtotal for 32 - Exterior Improvements:					\$120,079.53
Proposal Total					\$157,461.97

This proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: 100.00%

LOVINGTON TRAIL TREE REPORT

8/30/2016

PHASE	DEAD	EASTERN RED CEDAR	CEDAR ELM	DESERT WILLOW	RED OAK	LIVE OAK	OKLAHOMA REDBUD	WHITEBUD	GOLDEN RAIN	PISTACHIO	TOTAL
											TOTAL
A	5	0	0	1	2	1	0	0	0	0	9
	162	19	19	31	17	33	44	16	0	0	322
	167	19	19	32	19	34	44	16	0	0	331

PHASE	DEAD	EASTERN RED CEDAR	CEDAR ELM	DESERT WILLOW	RED OAK	LIVE OAK	OKLAHOMA REDBUD	WHITEBUD	GOLDEN RAIN	PISTACHIO	TOTAL
											TOTAL
B-EAST	0	0	0	0	0	5	0	0	0	0	5
	50	27	27	45	28	38	0	0	0	0	188
	50	27	27	45	28	43	0	0	0	0	193

PHASE	DEAD	EASTERN RED CEDAR	CEDAR ELM	DESERT WILLOW	RED OAK	LIVE OAK	OKLAHOMA REDBUD	WHITEBUD	GOLDEN RAIN	PISTACHIO	TOTAL
											TOTAL
B-WEST	7	0	0	8	1	8	0	0	0	0	24
	259	39	39	141	59	37	0	0	0	0	535
	266	39	39	149	60	45	0	0	0	0	559

PHASE	DEAD	EASTERN RED CEDAR	CEDAR ELM	DESERT WILLOW	RED OAK	LIVE OAK	OKLAHOMA REDBUD	WHITEBUD	GOLDEN RAIN	PISTACHIO	TOTAL
											TOTAL
C-1	14	2	2	4	14	18	0	0	0	0	52
	239	35	35	76	7	13	0	0	0	0	370
	253	37	37	80	21	31	0	0	0	0	405

PHASE	DEAD	EASTERN RED CEDAR	CEDAR ELM	DESERT WILLOW	RED OAK	LIVE OAK	OKLAHOMA REDBUD	WHITEBUD	GOLDEN RAIN	PISTACHIO	TOTAL
											TOTAL
C-2	9	0	0	8	1	1	0	0	6	1	26
	269	31	31	105	25	30	0	0	13	14	487
	278	31	31	113	26	31	0	0	19	15	513

PHASE	DEAD	EASTERN RED CEDAR	CEDAR ELM	DESERT WILLOW	RED OAK	LIVE OAK	OKLAHOMA REDBUD	WHITEBUD	GOLDEN RAIN	PISTACHIO	TOTAL
											TOTAL
B-EAST	35	2	2	21	18	33	0	0	6	0	115
	979	151	151	398	136	151	44	16	13	15	1903
	1014	153	153	419	154	184	44	16	19	15	2018



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: November 21, 2016

SUBJECT: AWARD CES CONTRACT WITH PETTIGREW & ASSOCIATES – CORE SPECIAL INSPECTION AND MATERIAL TESTING

DEPT. OF ORIGIN: General Services / Engineering Department
DATE SUBMITTED: Nov. 15th, 2016
SUBMITTED BY: Ronny Choate, General Services Director

Summary:

Pettigrew and Associates is providing Material Testing and Special Inspection under a current purchase order with the City of Hobbs (\$50,000). In negotiations, City Staff requested to utilize City Staff to supplement special inspection on rebar, concrete, and structural steel, which the attached proposal includes. Pettigrew & Associates would remain the Principal Coordinator for submission of all required inspection reports to the State Building Inspector and Structural Engineer of Record. The total estimated costs for this CES Task Order are **\$132,309.9 (plus 1% CES Fee)**. The total cost of all Material Testing and Special Inspection is estimated at **\$182,309.9 (includes \$50,000 PO / excludes GRT)**.

Fiscal Impact:

Reviewed By: 

Finance Department

The estimated expenditures for Special Inspection and Material Testing is \$200,000 (excluding GRT).

- **Budget Line Item:**
 - (FUND 01 - PROJ No. 200) HWLC Facility (DESIGN/CONSTRUCTION): \$63.5M (FY 17 Budget)
 - (FUND 44 – PROJ No. 200) HWLC (INFR/UTIL) \$4M
- **SUERTE AGREEMENT (9-2-14 Comm. Meeting):**
 - Roadway / Utilities & RR Crossing: \$2,000,000
 - Drainage Improvements: \$2,000,000
- **ASSOCIATED REVENUE AND FUTURE COST SHARE:**
 - Developer Fair Share assessment: \$1,000,000
 - Drainage Pond Construction: \$250,000 (Est. Value)
 - RR License Agreement (Payment to COH) \$300,000
 - 25+ Acres Deeded or dedicated to COH (12+ acre drainage pond & 13 acres HWLC site)
- **HW&LC FACILITY (Final Programming TBD):**
 - 13+ Acre Site
 - Facility Size: 150,000+ sq. ft.
 - Cost of HWLC Facility: \$63.5M (based on GMP and other Soft Costs)
 - Est. Off-Site Improvement (Noted above) \$4M
 - Est. Revenue (Annual) TBD *
 - Est. Expenditures (Annual) TBD **
 - Est. Net Reoccurring Costs \$1.4M / yr ***

* An estimated **\$1.7M in revenue** is from the May 9, 2014 City of Hobbs Community Recreation Center Feasibility Study by Ballard*King, which is based on 180,000+ sq.ft. Facility. Part of the programming re-alignment will determine new estimated revenue

** An estimated **\$3.5M in expenditures** is from the May 9, 2014 City of Hobbs Community Recreation Center Feasibility Study by Ballard*King, which is based on 180,000+ sq.ft. Facility, which included an ice rink. NOTE: The proposed project does not include an ice rink

*** **\$1.3M in net reoccurring costs** is a goal for this project, which would be shared costs with City of Hobbs, NMJC, Lea County and Hobbs Schools. This was reduced from \$1.4M to \$1.3M to reflect the proposed MOU's with other partners. Final programming and fee schedules for the proposed uses will determine final estimated revenue and expenditure for the on-going operational costs. Ballard King has been authorized to update the Feasibility Study and preliminary line item budget.

Attachments: CORE Budget Breakdown / Pettigrew & Associates Proposal

Legal Review:

Approved As To Form:


City Attorney

Recommendation:

Commission consideration for the approval of CES Task Order with Pettigrew & Associates

Approved For Submittal By:



Department Director



City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

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

CORE - OVERALL COST SUMMARY

Oct-16

TOTAL SUMMARY OF COSTS		BUDGET ORIGINAL	REVISED BUDGET	ACTUAL TO DATE	Notes
Current Construction Budget (CONTRACT GMP)					
<i>Note: Preconstruction services is list separately below</i>					
		\$53,464,234	\$53,464,234	\$2,863,426	
Total Project Budget Recap - Design Development Stage					
Development Soft Costs					
Land Purchase	\$0	\$0	\$0	\$0	
Public Art Allocation	\$50,000	\$50,000	\$50,000	\$0	
Professional Fees (BRS Contract)	\$4,920,415	\$4,920,415	\$4,920,415	\$4,000,000	Estimate - No Update
FFE - Furniture, Fixtures and Equipment	\$1,708,000	\$1,708,000	\$1,708,000	\$0	
Gas Easement Documentation	\$1,200	\$1,200	\$1,200	\$0	
CIMAR Precon Fee	\$250,000	\$250,000	\$250,000	\$250,000	
Plant Investment / Tap Fees	\$25,000	\$25,000	\$25,000	\$0	
Construction Testing and Special Inspections	\$200,000	\$200,000	\$182,310	\$15,000	Estimate - No Update
Reimbursable Expenses (BRS Contract - No GRT on this line item)	\$255,979	\$255,979	\$255,979	\$110,000	Estimate - No Update
Plan Review Fees * (Change Rev 1: 8-18-16)	\$45,000	\$45,000	\$56,269	\$56,269	Based on Actual
Other Soft Costs - Owner Preconstruction / Other Costs (Branding, Video, Studies, Trips)	\$200,000	\$200,000	\$200,000	\$110,000	Estimate - No Update
Total Development Soft Costs		\$7,655,534	\$7,649,113	\$4,541,269	
NIMGRT on Soft Costs	6.8125%	\$504,099	\$503,661	\$301,880	
Subtotal All Project Costs		\$61,623,867	\$61,617,008	\$7,706,575	
Owner Contingency	2.8000%	\$1,725,468	\$1,725,276	\$0	
NIMGRT on Contingency	6.8125%	\$117,548	\$117,534	\$0	
GRAND TOTAL PROJECT COST		\$63,466,882	\$63,459,819	\$7,706,575	
Target Budget		\$63,500,000	\$63,500,000	\$63,500,000	
Current vs Target		(\$33,118)	(\$40,181)		



LETTER FEE PROPOSAL

To: Todd Randall
City of Hobbs

From: Debra P. Hicks, PE/LSI

Date: November 14, 2016

Subject: CORE Special Inspections – Fee Proposal

Thank you for the opportunity to submit a fee proposal for **Special Inspections on the Center of Recreational Excellence**. Our surveying team is confident your needs will be met and exceeded for this project.

For nearly 50 years, **Pettigrew & Associates, P.A. (P&A)** has been a leader in fully integrated surveying, engineering, and materials engineering, serving New Mexico, Texas, Kansas, and Oklahoma. **P&A** is a registered Women-Owned Business (Tx. No. 232933) and Disadvantaged Business Enterprise (NMDOT Certificate No. 04-07-240, DUNS No. 116242926; CAGE/NCAGE No. 3C3WO) wholly prepared to provide Design Services, Construction Materials Testing, Construction Surveying, and Inspection services. With our broad-based experience, detailed knowledge, and commitment to providing exceptional services, **Pettigrew & Associates** will be invaluable to **the City of Hobbs**.

In addition to providing leading edge surveying services, **Pettigrew & Associates** provides comprehensive engineering, materials testing, and construction management services. The firm's success lies in a can-do mentality and roll-up-the-sleeves work ethic. Additionally, all management personnel, from first level supervision to the president, have spent meaningful time in the field, on the job, observing what will work and what will not work in an engineering design. Our vast experience base – county roads, municipal streets, highways, airfields, civil site development, water systems, wastewater systems, parks and recreation, and master planning, materials engineering/testing, and construction surveying - encompasses virtually all areas of civil engineering.

Like many of our clients, you may find the convenience of full integration and potential costs savings of using **Pettigrew & Associates** for other aspects of your project a valuable benefit. Should you require engineering, materials testing, or other related services in the future, **Pettigrew & Associates** would be delighted to provide an additional fee proposal based on your specific needs.



ENGINEERING

In 2015, we performed design engineering, construction engineering, surveying, quality assurance, inspection, materials engineering and testing, on hundreds of projects valued at over \$5.5 billion throughout southeastern New Mexico and Texas. Our site development, infrastructure planning and design experience ranges from sites containing less than one acre to 640 acres. Programs for these projects include mining, electric substation sites, power plants, multi-family housing projects, aquatic facilities, parks, education facilities, small and large-scale subdivisions, and museums, as well as numerous commercial developments. Infrastructure design services for these recent project sites have included roads, parking facilities, water and sewer trunk line extensions, lift station, and water wells, as well as on site gas, water, sewer, electric, and communications.

Pettigrew's in-house professionals are qualified and experienced to offer the desired services to complete entire projects in-house. The engineering services include:

- Feasibility Studies
- Master Plans
- Traffic Studies
- Drainage Studies
- Subsurface Utility Engineering
- Final Design and Construction Documents
- Cost Estimating
- Pre-Bid Meetings

Through strategic partnerships, **Pettigrew & Associates** offers additional services including Environmental Assessments (Phase I and II), Structural Steel Inspections, as well as many other specialty surveying and testing services.

SURVEYING

Pettigrew & Associates offers design, construction, and land surveying. Current surveying staff includes four Professional Surveyors with licenses in Texas, New Mexico, Oklahoma, or Kansas. **Pettigrew's** five field survey crews apply both extensive experience and the latest in surveying technology to perform surveying services in a precise and timely manner. **Pettigrew & Associates** offers the ability to perform surveys with the latest in GPS, Robotic Total Stations, Scanners, and Ground Penetrating Radar technology.

Pettigrew & Associates recognizes the significance of a smooth and efficient site selection process. Our team's streamlined site feasibility process ensures our clients' concepts and desires become reality.

Our vast surveying experience encompasses numerous areas. A significant portion of our surveying work has been for the Systems Engineering Department of Southwestern Public Service Company, a subsidiary of Xcel Energy, Inc., and encompasses thousands of miles of Right of Way, preliminary, and construction layout surveys for power transmission lines and substations. Additionally, **Pettigrew & Associates** completed a 354-mile power transmission line traversing 11 counties, four states, and five State Plane Coordinate system zones.



Construction staking projects include Zia Park and Black Gold Casino, Lea County Detention Facility, Nor-Lea Hospital, Seven Rivers Substation Expansion, Potter County Interchange, Amerada Hess Substation Expansion, and the Eddy County to Seven Rivers 230 kV Transmission Line. ALTA/ACSM Land Surveys include projects such as the Caprock Wind Ranch in Quay County, New Mexico. One of the most significant projects for **Pettigrew & Associates** over the past few years has been with the National Enrichment Facility (NEF)/Louisiana Energy Services (LES) located in Eunice, with **P&A** providing consulting, engineering, and project management services in support of design, construction, testing, and operation of the NEF.

Through strategic partnerships, **Pettigrew & Associates** offers additional surveying services including LiDAR, Aerial photogrammetry, as well as many other specialty engineering and testing services.

MATERIALS TESTING

Throughout the past four decades, **Pettigrew** has earned a reputation as the top choice for quality, independent materials engineering and testing. **Pettigrew & Associates** maintains a fully accredited materials testing laboratory offering comprehensive services for Eastern New Mexico and West Texas. **P&A** mandates laboratory personnel maintain the most up-to-date industry certifications to assure the highest levels of technical competency and professionalism.

P&A is classified as a qualified supplier for Quality Control for Washington TRU Solutions, accredited by the American Association of State Highway and Transportation officials (AASHTO) and the AASHTO Cement and Concrete Research Laboratory (CCRL). In addition, **P&A's** laboratory is accredited by the New Mexico Department of Transportation. **Pettigrew & Associates** actively participates in annual laboratory proficiency testing programs with the NMDOT, AMRL, and CCRL.

As an independent materials laboratory, the firm can be a valuable partner in meeting your quality control needs.

To assure the highest levels of technical competency and professionalism, **Pettigrew's** laboratory personnel maintain certifications from the (a) National Institute for Certification in Engineering Technologies (NICET), (b) American Concrete Institute (ACI), (c) NM Department of Transportation/Associated General Contractors (AGC) Technician Training and Certification Program (TTCP), and (d) Texas Department of Transportation (TxDOT) and the Texas Asphalt Pavement Association (HMA).

Pettigrew & Associates meets the requirements of the ASTM E-329-09 Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction¹. AASHTO accreditation includes verification of all equipment necessary to perform required test methods. Our professional engineering testing services experience includes all aspects of geotechnical evaluations, source feasibility studies, mix design and analysis, as well as constructions materials testing on soils, aggregates, asphaltic mixtures, and concrete.





SCOPE OF SERVICES

1. Special Inspections

Not to Exceed \$83,853.39+NMGRT

- ④ **Reinforced Concrete and Masonry Inspections** \$ 22,835.63 (Estimated)
 - This fee has been reduced with the assumption that City staff will assist P&A with inspections and reporting for Concrete, Steel and Masonry
- ④ **Structural Steel Inspections** \$ 41,1164.91 (Estimated)
 - This fee has been reduced with the assumption that City staff will assist P&A with inspections and reporting for Concrete, Steel and Masonry
- ④ **Soils Inspections (Proof Rolling)** \$ 3,582.15 (Estimated)
 - Estimated number of trips: **6 trips**
- ④ **Engineer Oversight** \$ 16,318.70 (Estimated)

- ④ **Existing PO Deduction** *(\$ 50,000.00)*
 - A PO of this amount has previously been issued to P&A in this amount for starting inspection and testing services during the beginning of construction. This amount shall be deducted from the total fee.

2. Assumptions, Exclusions, and Inclusions

We have listed below the assumptions, inclusions, and exclusions for your consideration:

Assumptions:

- i. Special inspections and materials testing will be conducted in accordance with the IBC section 1704, the approved construction drawings, and the project specifications.
- ii. Specific scope of work for verification and inspection is detailed on sheet S000 of the approved Construction Drawings.
- iii. Contractor shall provide 48 hours of notice to P&A prior to any test or inspection.
- iv. Post Tensioned Inspections are not included as it is not specified in the plans or specifications.
- v. Floor Flatness Testing shall be done in accordance with ASTM E1155 and within 48 hours after slab installation.

3. Additional Services

Time & Materials

Client generated changes to planning and work efforts once work is in progress, including consideration of areas outside of the project limits, or additions to the project scope or budget that causes additional work; will be billed at hourly rates, per change-order proposals approved by the Client or the Client's Representative, until the work is at the same level of completion as it was prior to the change. Any additional work not specifically included in the above scope of services will be accomplished as Additional Services.



Rate Summary	
Description	Rate (\$/hr)
Lab Technician	\$62.72
Inspector	\$121.52
Project Manager	\$164.64
Principal Engineer	\$215.60

All fees are presented without NMGRT. NMGRT will be billed at current rates.

The following is a summary of standard insurance coverage for **Pettigrew & Associates, P.A.**

Commercial General Liability: \$2,000,000 aggregate, \$1,000,000 per occurrence
Automobile: \$1,000,000 combined single limit (any Auto)
Worker's Compensation: Statutory: \$500,000
Employer's Liability: \$500,000 each accident, \$500,000 each employee (disease), \$500,000 policy limit (disease)
Professional Liability: \$2,000,000 per claim, \$2,000,000 annual aggregate
Umbrella Liability: \$5,000,000 per occurrence, \$5,000,000 aggregate

Please note:

- a. Required increases to these policy limits may result in additional fees to the client.
- b. Professional Liability and E&O Conditions are explicitly limited to "Professional Standard of Care".
- c. Signed copy of attached Letter of Intent is required.
- d. Contractual verbiage of indemnification and warranty may negate client's rights to insurance.
- e. Fees presented assume no retainage.

We appreciate the opportunity to present this proposal and look forward to hearing from you.

Sincerely,

Debra P. Hicks, PE/LSI | President & CEO





TERMS, CONDITIONS and STANDARD OF CARE

1. The standard of care for all professional engineering, surveying and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. The Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Interpretations and recommendations by Engineer will be based on information available to or developed by Engineer. Client recognizes that subsurface conditions may vary from those observed at specific locations where surveys, sampling, testing, or other Site explorations are made, and that conditions may change with time.
 2. Neither Client nor Engineer shall be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Client/Owner-furnished information. Engineer will not be responsible for (1) inaccuracies, errors, or omissions in data other than its own or its Consultants', or (2) improper interpretations or use by others of any data.
 3. Subject to the standard of care set forth in Item 3, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
 4. Engineer and Client shall comply with applicable Laws and Regulations. Engineer shall comply with standards mandated by Client and provided to Engineer in writing. This Agreement is based on these requirements as of the Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Client's responsibilities or to Engineer's scope of services, times of performance, or compensation.
 5. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain. Client agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
 6. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work.
 7. Engineer shall not be responsible for the acts or omissions of any Contractor, subcontractor, or supplier, or of any of their agents or employees, or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any of the Work.
 8. In the event of any termination, Engineer will be entitled to invoice Client and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Client shall have the limited right to the use of Documents, at Client's sole risk.
 9. Required increases to standard policy limits may result in additional fees to the client.
 10. Professional Liability and E&O Conditions are explicitly limited to "Professional Standard of Care".
 11. Client signed copy of Fee Proposal is required.
 12. Contractual verbiage of indemnification and warranty may negate client's rights to insurance.
-

LETTER OF INTENT

In order to proceed, please sign and return this Letter of Intent acknowledging the terms of the business as detailed along with the New Client information.

Attention: Debra Hicks dhicks@pettigrew.us
accountsreceivable@pettigrew.us or (fax) 575-393-1543

Project: CORE

Project Location: Hobbs, NM

Description of Work: Special Inspections

Estimated Fees: Special Inspections Not to Exceed \$83,853.39 + NMGRT
 Existing PO Deduction Lump Sum (\$50,000.00)

NET TOTAL: \$33,853.39 + NMGRT

By signing below, we accept the terms and conditions of the Letter of Intent.

Signature: _____ Date: _____

Company Information				
Client Name:				
Owner Name/Title:				
Street Address:				
City:		State:		Zip:
Phone:		Fax:		
E-mail Address:				
Company Website:				
Billing Information (If different than above)				
A/P Contact Name:				
Billing Address:				
City:		State:		Zip:
Phone:		Fax:		
Email Address:				
P.O. Number:		NTTC:	If yes attach copy	
Project Contact				
Contact Name/Title:				
Phone:		Fax:		
Email Address:				



LETTER FEE PROPOSAL

To: Todd Randall
City of Hobbs

From: Debra P. Hicks, PE/LSI

Date: November 8, 2016

Subject: HWLC Materials Testing – Fee Proposal

Thank you for the opportunity to submit a fee proposal for **Construction Services on the Health, Wellness, and Learning Center**. Our surveying team is confident your needs will be met and exceeded for this project.

For nearly 50 years, **Pettigrew & Associates, P.A. (P&A)** has been a leader in fully integrated surveying, engineering, and materials engineering, serving New Mexico, Texas, Kansas, and Oklahoma. **P&A** is a registered Women-Owned Business (Tx. No. 232933) and Disadvantaged Business Enterprise (NMDOT Certificate No. 04-07-240, DUNS No. 116242926; CAGE/NCAGE No. 3C3WO) wholly prepared to provide Design Services, Construction Materials Testing, Construction Surveying, and Inspection services. With our broad-based experience, detailed knowledge, and commitment to providing exceptional services, **Pettigrew & Associates** will be invaluable to **the City of Hobbs**.

In addition to providing leading edge surveying services, **Pettigrew & Associates** provides comprehensive engineering, materials testing, and construction management services. The firm's success lies in a can-do mentality and roll-up-the-sleeves work ethic. Additionally, all management personnel, from first level supervision to the president, have spent meaningful time in the field, on the job, observing what will work and what will not work in an engineering design. Our vast experience base – county roads, municipal streets, highways, airfields, civil site development, water systems, wastewater systems, parks and recreation, and master planning, materials engineering/testing, and construction surveying - encompasses virtually all areas of civil engineering.

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Pettigrew's in-house professionals are qualified and experienced to offer the desired services to complete entire projects in-house. The engineering services include:

- Feasibility Studies
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Through strategic partnerships, **Pettigrew & Associates** offers additional services including Environmental Assessments (Phase I and II), Structural Steel Inspections, as well as many other specialty surveying and testing services.

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P&A is classified as a qualified supplier for Quality Control for Washington TRU Solutions, accredited by the American Association of State Highway and Transportation officials (AASHTO) and the AASHTO Cement and Concrete Research Laboratory (CCRL). In addition, **P&A's** laboratory is accredited by the New Mexico Department of Transportation. **Pettigrew & Associates** actively participates in annual laboratory proficiency testing programs with the NMDOT, AMRL, and CCRL.

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To assure the highest levels of technical competency and professionalism, **Pettigrew's** laboratory personnel maintain certifications from the (a) National Institute for Certification in Engineering Technologies (NICET), (b) American Concrete Institute (ACI), (c) NM Department of Transportation/Associated General Contractors (AGC) Technician Training and Certification Program (TTCP), and (d) Texas Department of Transportation (TxDOT) and the Texas Asphalt Pavement Association (HMA).

Pettigrew & Associates meets the requirements of the ASTM E-329-09 Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction¹. AASHTO accreditation includes verification of all equipment necessary to perform required test methods. Our professional engineering testing services experience includes all aspects of geotechnical evaluations, source feasibility studies, mix design and analysis, as well as constructions materials testing on soils, aggregates, asphaltic mixtures, and concrete.



SCOPE OF SERVICES

1. Construction Materials Testing

Not to Exceed \$98,456.51+NMGR

▼ Standard Concrete Testing	\$ 28,221.75 (Estimated)
• Estimated number of Trips: 115 trips	
▼ Floor Flatness Testing	\$ 3,871.60 (Estimated)
• Estimated number of trips: 8 trips	
▼ Asphalt testing	\$ 4,911.30 (Estimated)
• Estimated number of trips: 4 trips	
▼ Soils Testing	\$ 26,952.50 (Estimated)
• Estimated number of trips: 180 trips	
▼ Standard Grout Testing	\$ 22,425.50 (Estimated)
• Estimated number of trips: 40 trips	
▼ Engineer Oversight	\$ 12,073.86 (Estimated)

2. Assumptions, Exclusions, and Inclusions

We have listed below the assumptions, inclusions, and exclusions for your consideration:

Assumptions:

- i. Special inspections and materials testing will be conducted in accordance with the IBC section 1704, the approved construction drawings, and the project specifications.
- ii. Specific scope of work for verification and inspection is detailed on sheet S000 of the approved Construction Drawings.
- iii. Contractor shall provide 48 hours of notice to P&A prior to any test or inspection.
- iv. Post Tensioned Inspections are not included as it is not mentioned in the plans or specifications.
- v. Floor Flatness Testing shall be done in accordance with ASTM E1155 and within 48 hours after slab installation.

3. Additional Services

Time & Materials

Client generated changes to planning and work efforts once work is in progress, including consideration of areas outside of the project limits, or additions to the project scope or budget that causes additional work; will be billed at hourly rates, per change-order proposals approved by the Client or the Client's Representative, until the work is at the same level of completion as it was prior to the change. Any additional work not specifically included in the above scope of services will be accomplished as Additional Services.

Rate Summary	
Description	Rate (\$/hr)
Lab Technician	\$65.00
Inspector	\$124.00



Project Manager	\$168.00
Principal Engineer	\$220.00

All fees are presented without NMGRT. NMGRT will be billed at current rates.

The following is a summary of standard insurance coverage for **Pettigrew & Associates, P.A.**

Commercial General Liability: \$2,000,000 aggregate, \$1,000,000 per occurrence
Automobile: \$1,000,000 combined single limit (any Auto)
Worker's Compensation: Statutory: \$500,000
Employer's Liability: \$500,000 each accident, \$500,000 each employee (disease), \$500,000 policy limit (disease)
Professional Liability: \$2,000,000 per claim, \$2,000,000 annual aggregate
Umbrella Liability: \$5,000,000 per occurrence, \$5,000,000 aggregate

Please note:

- a. Required increases to these policy limits may result in additional fees to the client.
- b. Professional Liability and E&O Conditions are explicitly limited to "Professional Standard of Care".
- c. Signed copy of attached Letter of Intent is required.
- d. Contractual verbiage of indemnification and warranty may negate client's rights to insurance.
- e. Fees presented assume no retainage.

We appreciate the opportunity to present this proposal and look forward to hearing from you.

Sincerely,

Debra P. Hicks, PE/LSI | President & CEO





TERMS, CONDITIONS and STANDARD OF CARE

1. The standard of care for all professional engineering, surveying and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. The Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Interpretations and recommendations by Engineer will be based on information available to or developed by Engineer. Client recognizes that subsurface conditions may vary from those observed at specific locations where surveys, sampling, testing, or other Site explorations are made, and that conditions may change with time.
 2. Neither Client nor Engineer shall be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Client/Owner-furnished information. Engineer will not be responsible for (1) inaccuracies, errors, or omissions in data other than its own or its Consultants', or (2) improper interpretations or use by others of any data.
 3. Subject to the standard of care set forth in Item 3, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
 4. Engineer and Client shall comply with applicable Laws and Regulations. Engineer shall comply with standards mandated by Client and provided to Engineer in writing. This Agreement is based on these requirements as of the Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Client's responsibilities or to Engineer's scope of services, times of performance, or compensation.
 5. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain. Client agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
 6. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work.
 7. Engineer shall not be responsible for the acts or omissions of any Contractor, subcontractor, or supplier, or of any of their agents or employees, or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any of the Work.
 8. In the event of any termination, Engineer will be entitled to invoice Client and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Client shall have the limited right to the use of Documents, at Client's sole risk.
 9. Required increases to standard policy limits may result in additional fees to the client.
 10. Professional Liability and E&O Conditions are explicitly limited to "Professional Standard of Care".
 11. Client signed copy of Fee Proposal is required.
 12. Contractual verbiage of indemnification and warranty may negate client's rights to insurance.
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LETTER OF INTENT

In order to proceed, please sign and return this Letter of Intent acknowledging the terms of the business as detailed along with the New Client information.

Attention: Debra Hicks dhicks@pettigrew.us
accountsreceivable@pettigrew.us or (fax) 575-393-1543

Project: Health, Wellness, and Learning Center

Project Location: Hobbs, NM

Description of Work: Materials Testing Services

Estimated Fees: Materials Testing Not to Exceed \$98,456.51 + NMGRT

By signing below, we accept the terms and conditions of the Letter of Intent.

Signature: _____ Date: _____

Company Information					
Client Name:					
Owner Name/Title:					
Street Address:					
City:		State:		Zip:	
Phone:		Fax:			
E-mail Address:					
Company Website:					
Billing Information (If different than above)					
A/P Contact Name:					
Billing Address:					
City:		State:		Zip:	
Phone:		Fax:			
Email Address:					
P.O. Number:		NTTC:	If yes attach copy		
Project Contact					
Contact Name/Title:					
Phone:		Fax:			
Email Address:					
