

7a.
Minutes
12.16.2021

Regular Commission Meeting Minutes

### Cibola County Commission Regular Meeting Thursday December 16<sup>th</sup>, 2021

The Cibola County Commission held a Regular Meeting on Thursday December 16<sup>th</sup>,2021 at 5:00 pm in the Cibola County Commission Center

### **Elected Officials Present Staff**

Daniel Torrez, Chairman Martha Garcia , 1<sup>st</sup> Vice Chairman Christina Lowery , 2<sup>nd</sup> Vice Chairman Ralph Lucero, Commissioner Robert Windhorst , Commissioner

Kate Fletcher, County Manager Paul Ludi, Finance Director Natalie Grine, Deputy Clerk Marisa Baca, Recording & Filing Clerk

### 1. CALL TO ORDER

Chairman Torrez, called the meeting to Order at 5:00 pm.

### 2. ROLL CALL

Chairman Torrez does roll call-5-0 all Commissioners in attendance.

### 3. Pledge of Allegiance

Recited by all. Led by Commissioner Lowery

### 4. Prayer

Commissioner Windhorst led us in prayer.

### Approval of Agenda

Motion to approve the agenda made by Commissioner Lucero, second by Commissioner Lowery, remove item 11. Executive Session continue as directed 5-0 affirmative.

### 6. Public Comment - NONE

The Public has the opportunity to provide comment on any subject during the public comment period. Speaker's comments will be limited to three minutes unless the Board of County Commissioners requests more information. The time limit is given in an effort to allow public input but also to move the agenda forward in a prompt yet efficient manner.

7. Minutes

- a. Minutes from November 18th, 2021, Regular Commission Meeting
- b. Minutes from November 22nd, 2021, Special Commission Meeting
   Motion to approve made by Commissioner Windhorst second by Commissioner Garcia
   5-0 affirmative.

### 8. Reports

- a. Budget and Finance Report- Kate Fletcher-County Manager & Paul Ludi-Finance Director
- b. Public Safety Building Scope of Work Update- Kate Fletcher-County Manager

### 9. Public Hearing

a. Ordinance 2021-02 Local Economic Development Act (LEDA)

### 10. New Business

- a. Consideration of Resolution 21-66 Premium Pay For Eligible County Employees Motion to approve made by Commissioner Lucero Second by Commissioner Lowery 5-0 affirmative.
- b. Consideration of Ordinance 2021-02 Local Economic Development Act (LEDA) Motion to approve made by Commissioner Windhorst Second by Commissioner Lucero 5-0 affirmative.
- c. Consideration to use ARPA funds for a County-Wide Broadband Feasibility Motion to approve made by Commissioner Lowery

Second by Commissioner Windhorst

5-0 affirmative.

- d. Consideration of Resolution 21-67 Supporting the 2022 Legislative Priorities of the NM Counties Motion to approve made by Commissioner Garcia Second by Commissioner Windhorst
- 5-0 affirmative. e. Consideration of Resolution 21-68 Requesting Legislature Redraw District 30 To Preserve Voice of Cibola County Motion to approve made by Commissioner Lucero

Second by Commissioner Windhorst

5-0 affirmative.

- f. Consideration to approve requisitions over \$20,000
  - a. Finley Engineering-Broadband Feasibility Study-\$84,530 Motion to approve by Commissioner Lowery Second by Commissioner Windhorst this was approved with item 10. C.

### 11. Executive Session

### **ITEM REMOVED**

Motion and roll call vote to go into executive session and that, pursuant to New Mexico State Statute Section 10-15-1, only the following matters will be discussed in closed session:

Pursuant to Section 10-15-1 (H) the following matters may be discussed in closed session:

- g. Pending or threatened litigation 10-15-1 (H) (7)
  - 1. Cibola County vs. Jaynes, Inc.
  - 2. Cibola County v. Amerisource Bergen, Cardinal Health, McKesson et al
- h. Real Property 10-15-1 (H) (8)
- i. Personnel 10-15-1 (H) (2)
- j. other specific limited topics that are allowed or authorized under the stated statute; Motion and Roll Call Vote to Return to Regular Session

Motion and Roll Call Vote that Matters Discussed In Closed Session Were Limited To Those Specified In Motion For Closure, and That No Final Action Was Taken

### 12. New Business-Action May Be Taken

- a. Direction to Staff Regarding Cibola County v. Jaynes, Inc.
- b. Direction to Staff Regarding Cibola County v. Amerisource Bergen, Cardinal Health, McKesson et al

### 13. Announcements

The Next Commission Meeting will be a Special Commission Meeting which will be held on, Tuesday, January 11th, 2022, at 5:00p.m. The Cibola County Offices will be closed Thursday, December 23rd and Friday, December 24th, 2021, in observation of Christmas Holidays and Thursday, December 30th and Friday, December 31st, 2021, in observation of New Year's Holidays.

### 14. Adjournment

5:40pm

### PASSED, APPROVED, and ADOPTED this 11th of January, 2022

BOARD OF COUNTY COMMISSIONERS		
Daniel Torrez, Commission Chair		
Martha Garcia, 1st Vice Chair		
Christine Lowery, 2 <sup>nd</sup> Vice Chiar		
Ralph Lucero, Commissioner		
Robert Windhorst, Commissioner		
ATTEST:		
Michelle E. Dominguez, Cibola County Clerk	Date:	
SEAL.		



8a.

## Budget and Finance Report

As of December 31st, 2021



8b.

### Cibola General Hospital

**Quarterly Update** 



January 21, 2022

Kate Fletcher County Manager Cibola County 700 East Roosevelt, Suite 50 Grants, NM 87020

Subject: Mill Levy

Dear Kate:

This Letter is to notify you that Cibola General Hospital Corporation's Board of Director approved the designation of the Mill Levy fund towards the Emergency Department (ED) physician compensation.

The ED has about 10,000 visits per year from residents of Cibola County, surrounding counties, and travelers on I-40 and Route 66 who need urgent and emergent medical care. The physicians cover the ED 24 hours per day, 365 days per year. All are Board certified, and most in Emergency Medicine, and they have the experience to address unique medical cases found in the rural setting as well as trauma.

Thomas Whelan, CEO

bola General Hospital

1016 E. Roosevelt, Grants, NM 87020 (505)287-4446 • www.cibolahospital.com Let our family CARE for your family



AGENDA ITEM	DISCUSSION/FINDINGS	CONCLUSIONS/RECOMM.	ACTION/FOLLOWUP/RESP.
New Province (A .:	a. Mill Levy Resolution		PARTY
Business/Action Taken;	b. Psychiatric Nurse Practitioner c. Fiscal Year 2022 Goals		a. Motion to approve Mill Levy Board Resolution, with the revision of designating the entir Mill Levy Funds to offset Emergency Department's Physicians' compensations, mad- by Chase Elkins, Seconded by Robert Branum. Carried by way of acclamation, all in approval.
			b. Motion to approve compensation and benefit package for Cibola General Hospital Psychiatric Nurse Practitioner made by Robert Windhorst, Seconded by Ron Ortiz. Carried by way of acclamation, all in approval.
			<ul> <li>Motion to approve overarching Cibola General Hospital fiscal Year 2022 Goals made by Robert Windhorst, Seconded by Ron Ortiz. Carried by way of</li> </ul>
Innouncements/ leminders	Board and Executive Team Advisory Management Workshop Mr. Whelan		acclamation, all in approval.
djournment:	Motion to adjourn made by Robert Windhorst, Seconded by		
	Ron Ortiz. Motion Carried by way of acclamation, all in approval.	Meeting adjourned at 1934.	The Board of Directors will meet next on Monday, July 27, 2021 at 1730 in the Board Room.

### Cibola General Hospital Grants, New Mexico Report to County of Cibola FYE 6/30/2022

### estimated

	Qtr ende	d 9/30/21	Otr ended	12/31/21	VTD EVE	C (20/20
<u>Financial</u>	Budget	Actual	Budget	Actual	AND THE PERSON OF THE PERSON O	6/30/22
Operating Revenue	9,741,312	10,222,433	10,241,572	10,400,000	Budget 10.002.004	Actual
Operating Expenses	(10,228,720)	(10,096,997)	(10,418,195)	(10,300,000)	19,982,884	20,622,433
Non-Operating Revenue & Expense	118,000	26,675	118,000	250,000	(20,646,915)	(20,396,997)
Excess of Revenue over Expense	(369,408)	152,111	(58,623)	350,000	236,000	276,675
Statistical  Beds in Service Inpatient Days Occupancy Rate Admissions Average Length of Stay Deliveries Outpatient Visits Emergency Department Visits Surgical Procedures Paid FTE's Bad debt % of charges	25 657 28.6% 220 3.0 47 4,609 2,552 315 215.3 3.4%	25 661 28.7% 193 3.4 36 4,103 2,918 193 233.2 12.0%	25 860 37.4% 287 3.0 43 4,265 2,596 315 215.3 3.4%	25 870 37.8% 224 3.9 42 6,125 2,555 220 235.3	(428,031)  25 1,517 33.0% 507 3.0 90 8,874 5,148 630 215.3	25 1,531 33.3% 417 3.7 78 10,228 5,473 413 234.2
Indigent Care County Inmate Care Total - CCCC - Cibola County Sheriff - Grants PD - Milan PD  Mill Levy Funds - Received	150,000	60,500 8,944 28,162 23,394 0	150,000	4.5% 66,625 27,182 27,365 11,691 387	3.3% 300,000 x x x x	8.2% 127,125 36,126 55,527 35,085 387
2,020 2,021 2,022	330,000 390,000 390,000	109,126 94,101 75,369	330,000 390,000 390,000	413,600 23,314 369,539	660,000 780,000 780,000	522,726 117,415 444,908



8z.

### Reports Not Presented

Road Dept.

### Cibola County Road Dept.

700 E. Roosevelt Suite 50 Grants NM 87020 505-285-2570 Phone 505-285 3656 Fax



### Monday January 10, 2022

To: Kate Fletcher - County Manager

Fr: Edward Salazar - Road Superintendent Re: Monthly Report: 12/01/21 - 12/31/21 (December)

### Regular Maintenance

### Blade & Shape

<u>Road</u>	<u>Description</u>	<u>Miles</u>
C41	Pi Town Rd.	5.350
C47	Mesa Ridge Rd.	7.148
C35A	Moreno Hill Rd.	10.419
C35D	W. Homestead Rd.	2.949
C10	N. Castillo Rd.	2.500
C11	Bibo Ranch Rd.	0.567
C12	DeArmond Springs Rd.	0.698
C9	Water Canyon Rd.	4.095
C49	Zuni Canyon Rd.	13,427
C29	Plano Colorado	2,482
	Total Mile	es 49.635

### Special Projects

C48A	Timberlake Rd Haul Millings & base course, repair road, install culvert.
C33	Candy Kitchen Rd Reosion reapir, fix cattle guard & culvert, fix pot holes, haul base course.
C35	E. Homestead Rd Fix culvert.
C1	Marquez Rd clean culverts
C35A	Moreno Hill Rd Fix & put up signs.
C22	Broadview Acres (Thunderbird Rd.) - Fix & put up signs.
C5	Moquino-LaJoya Loop - Add more weight to barrels.
C17	Mt. Taylor Addition - Put up deliniator posts.

C7	Cubero-Village Rds Check on signs.
C8	Encinal Rd Haul dirt, shoulder repair.
C47	Mesa Ridge Rd Clean culverts & cattle guards, remove t-posts from bar ditch.
C41	Pie Town Rd - Raise culvert, add 10ft lift.
C28	Bluewater Village - Put up stop signs.
C23	Ralph Card Rd Repair speed bumps.
	Dig trench at Fencelake Fire Dept.
	Hauling base course from C & E.

### <u>Snow Removal</u>

C58	San Rafael.
C20	San Mateo
C28	Bluewater Village
C29A	Old Bluewater Lake Rd.
C29	Plano Colorado
C49	Zuni Canyon Rd.
	County Complex

County Cattle Guard, Culvert & Bridge Inventory

All County Roads.

### Cibola County Road Dept.

700 E. Roosevelt Suite 50 Grants NM 87020

505-285-2570 Phone Fax 505-287-3656



### December 2021

<u>Department</u>	Unit Number		Parts & Oil	<u>Hours</u> <u>Worked</u>	-	chanic Rate	Tota	l on Repair Order
Road	<u>138</u>	\$	155.89	<u>1</u>	\$	18.40	\$	174.29
Road	<u>148</u>	<u>\$</u>		<u></u>	\$	18.40	\$	18.40
Road	<u>151</u>	<u>\$</u>	90.09	<u>5</u>	\$	18.40	\$	182.09
		•	•		7	OTAL	\$	374.78

### Cibola County Road Dept. 515 W. High Street

515 W. High Street
Grants NM 87020
505-285-2570 Phone 505-287-3656 Fax



### FUEL REPORT - CIBOLA COUNTY ROAD DEPARTMENT December 2021

			UNI	.EADED		
UNIT#	VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL.	TOTAL COST
127	G-18473	#VALUE!	#VALUE!	N/U	0.000	\$ -
128	G-18464	#VALUE!	#VALUE!	N/U	0.000	\$ -
130	G-15638	0.48	6.67	208	31.180	\$ 100.01
131	G-29800	#VALUE!	#VALUE!	N/U	0.000	\$ -
133	G-23696	0.19	17.20	448	26.040	\$ 86.00
138	G-95862	0.22	17.96	887	49.390	\$ 192.49
139	G-57384	#VALUEI	#VALUE!	N/U	0.000	\$ -
140	G-57619	#VALUE!	#VALUE!	N/U	0.000	\$ -
141	G-57618	0.22	14.43	749	51.900	\$ 167.42
146	146	#VALUE!	#VALUE!	N/U	0.000	\$ -
147	G-66164	0.37	8.47	67	7.914	\$ 25.00
148	G-66165	0.19	17.19	1,486	86.450	\$ 279.98
150	G-70482	0.24	13.70	922	67.280	\$ 218.00
151	G-78718	0.21	15.34	2,265	147.700	\$ 484.88
152	G-64239	0.17	18.47	1,569	84.950	\$ 274.0
153	G-86952	0.11	29.50	579	19.630	\$ 63.00
154	G-86953	0.14	23.19	1,529	65.933	\$ 212.30
155	G-86954	#VALUE!	#VALUE!	N/U	0.000	\$ -
156	Diesel Air Copmpressor	#VALUE!	#VALUE!	N/U	0.000	\$ -
157	G-91750	0.12	28.26	427	15.109	\$ 50.00
			TOTAL GAS	3	653.476	\$ 2,153.19

			DIE	SEL FUEL		········	**************************************
UNIT #	VEHICLE #	COST/MILE	MPG	MILES	TOTAL GAL.	7	OTAL COST
137	G-50237	0.49	8.29	94	11.340	\$	46.00
209	G-18476	#VALUE!	#VALUE!	N/U	0.000	\$	•
212	G-30550	#VALUEI	#VALUE!	N/U	0.000	\$	-
213	G-30549	#VALUE!	#VALUE!	N/U	0.000	\$	*
214	G-38441	1.16	3.38	189	55.921	\$	219.71
215	G-67372	#VALUE!	#VALUE!	N/U	0.000	\$	*
216	G-67371	#VALUE!	#VALUE!	N/U	0.000	\$	<u> </u>
217	G-70782	0.81	4.98	492	98.710	\$	399.02
218	Distributor	#VALUE!	#VALUE!	N/U	0.000	\$	× × × × × × ×
219	Water Truck	0.58	7.02	256	36.457	\$	149.44
220	New Transport	0.84	4.76	1,072	225.190	\$	902.77
221	New Dump Truck	0.67	5,90	2,489	421.868	\$	1,672.64
222	New Dump Truck	0.70	5.71	1,461	256.090	\$	1,022.83
305	305	#VALUE!	#VALUE!	N/U	0.000	\$	- 1,VZZ.U3 -
306	306	#VALUEI	#VALUEI	N/U	0.000	\$	
307	307	28.11	0.14	4	28.324	\$	112,42
308	308	4.25	0.94	40	42.570	\$	170.19
309	309	40.14	0.10	2	20.228	\$	80.28
310	310	#VALUE!	#VALUE!	N/U	0.000	\$	00,20
311	311	#VALUE!	#VALUE!	N/U	0.000	\$	<b></b>
312	312	#VALUE!	#VALUE!	N/U	0.000	\$	
313	313	#VALUE!	#VALUEI	N/U	0.000	\$	
314	314	7.14	0.55	21	38.178	\$	4 F.O. O.O.
416	416	#VALUE!	#VALUE!	N/U	0.000	\$	150.00
417	417	13.30	0.30	55	185.830	\$	724 64
418	418	#VALUE!	#VALUE!	N/U	0.000	\$	731.61
419	419	7.67	0.51	49	95.700	\$	ሳንሶ ሳል
420	420	12.53	0.32	86	271.550		376.00
501	501	#DIV/0!	#DIV/0!	0		\$	1,077.51
525	525	#DIV/0!	#DIV/0!	0	0.000	\$	
Extra Fuel	Front Office Truck 13245 G	#DIV/0!	#DIV/0!	0	0.000	\$	*
extra Fuel	Chain Saw	#DIV/01	#DIV/01	0	0.000	\$	M
			TAL DIESE		0.000 <b>1787.956</b>	\$ \$	7,110.42



9a.

### Presentation

**Grants Main Street Project** 

# Grants MainStreet MainStreet Project, Inc. Incubator Project Fund Request Request Grants MainStreet Project, Inc. & Chola Community Economic Development Foundation





## Introduction

- Cibola County unemployment rate in January 2020 was 6.7%
- Due to COVID-19 pandemic, the unemployment rate reached a peak of 14% in July 2021
- In June 2021, the unemployment rate in Cibola County is 9.5%
- Small businesses in Cibola County face the economic challenge of ability to conduct business through an online store front due to lack of broadband connections and online business operational knowledge.







## Grants MainStreet Project, Inc. Proposal

- Creating business trainings for local individuals and business planning needs assistance, counseling, or other services to assist with 19 pandemic, per US Treasury rule of providing technical business to respond to the negative impacts of COVID-
- Trainings will include assistance to small businesses for online sales platform, and COVID-19 safe delivery adoption of safer operating procedures, provision of
- Provision of space for pop-up businesses that would business space storefront, and prepare to create a brick-and-mortar to conduct in person transactions, advertise their online provide COVID-19 safe environment for small businesses





# Program Proposal Components

Rental of Retail Space In the Mainstreet District, the retail space will be the downtown business incubator/accelerator





Provision of copy machine, scanners for online business use, along with cameras or laptops with built-in cameras for virtual meetings

## **Business Trainings**

Offering pertinent business trainings to local businesses





# Program Proposal Components

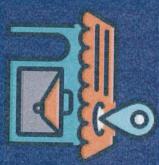
### Focus Areas

- Outdoor recreation and tourism businesses
- Small businesses negatively impacted by COVID-19
- Services to individuals in Qualified Census Tract

High Speed Internet Services Providing this services at the retail/training center for small business development



Space for Pop-Up businesses and mentorship for brick-and-motar business creation







# Prospective Trainings



Creating online shops/stores



Business Plan Development or Modification

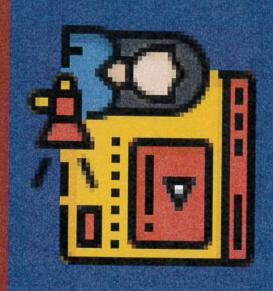


COVID-19 Safe Business Practices





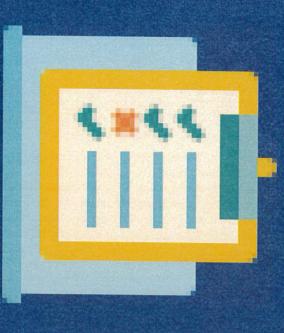
### Online Marketing of Businesses







### State and Local Business Requirements



Business Training for Unemployed Workers







## Technical Assistance to Set Up Home Business







# Qualifications per Treasury Rules

COVID-19 public health emergency. weather periods of closure, or mitigate financial hardship resulting from the small businesses. This can include assistance to adopt safer operating procedures, impacts of the COVID19 public health emergency. In providing assistance to small economic impacts of the COVID-19 public health emergency, including by businesses, recipients must design a program that responds to the negative identifying how the program addresses the identified need or impact faced by technical assistance or other services, to respond to the negative economic may be provided to small businesses, including loans, grants, in-kind assistance, 1. For assistance to small businesses, the Interim Final Rule states that assistance

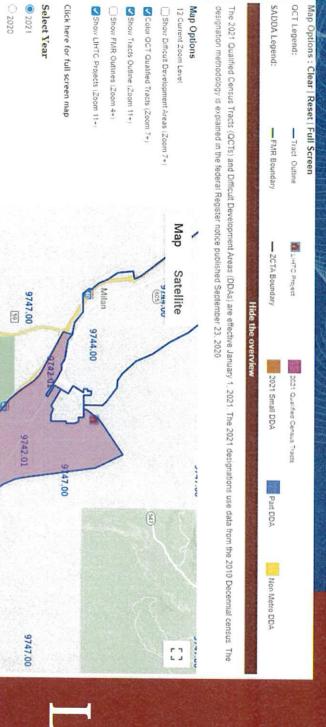




2. Speeding the recovery of the tourism, travel, and hospitality sectors, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.

3. The Interim Final Rule also identifies a set of services that are presumptively eligible when provided in a Qualified Census Tract (QCT); to families and individuals living in QCTs. Per attached map, a portion of Grants Mainstreet District falls within a Qualified Census Tract





## Location



Keyboard shortcuts Map data @2021 Google Terms of Use Report a map error

Google

9747.00

9747.00

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**>** 

San Rafael

(3)

(8)





## Proposal Cost

GRANTS MAINSTREET PROJECT- INCUBATOR

2022

Proposed Budget

	Development Funding (income) 115,000.00 0.00 115	Operating expenses 160,700.00 0.00 160	50,292.00 0.00	Income 213,000.00 0.00 213	Budget area Estimated Actual Dif
A STATE OF THE PARTY OF THE PAR	115,000.00	160,700.00	50,292.00	213,000.00	Difference





213,000.00	0.00	213,000.00	1 OTAI Income
3,000.00	0.00	3,000.00	Space Rental
210,000.00	0.00	210,000.00	DATE ON CHARGE
Difference	Actual	Estimated	ADDA ELINDINA
			Income



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50,292.00	0.00	50,292.00	Total personnel expenses
10,692.00	0.00	10,692.00	Payroll Liabilities
2,400.00	0.00	2,400.00	Travel/Vehicle
1,200.00	0.00	1,200.00	Professional Development/Training
4,000.00	0.00	4,000.00	Employee benefits
32,000.00	0.00	32,000.00	wages
Difference	Actual	Estimated	Expenses
			Personnel expenses



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Operating expenses	nses		
Expenses	Estimated	Actual	Difference
Advertising	6,000.00	0.00	6,000.00
Capital Expenditures	35,000.00	0.00	35,000.00
Administration Fees	30,000.00	0.00	30,000.00
Professional Services	1,200.00	0.00	1,200.00
Security	3,000.00	0.00	3,000.00
Dues and subscriptions	1,200.00	0.00	1,200.00
Insurance	10,000.00	0.00	10,000.00
Internet	2,400.00	0.00	2,400.00
Professional Services	9,000.00	0.00	9,000.00
Maintenance and repairs	1,200.00	0.00	1,200.00
Office supplies	6,000.00	0.00	6,000.00
Postage	600.00	0.00	600.00
Rent or mortgage	18,000.00	0.00	18,000.00
Tenant Training	2,400.00	0.00	2,400.00
Software	2,100.00	0.00	2,100.00
Supplies	0.00	0.00	0.00
Office Equipment	5,000.00	0.00	5,000.00
Telephone	2,400.00	0.00	2,400.00
Utilities	4,800.00	0.00	4,800.00
Meeting Expense	1,800.00	0.00	1,800.00
Licenses & Permits	600.00	0.00	600.00
Tenant Grants	18,000.00	0.00	18,000.00
Total operating expenses	160,700.00	0.00	160,700.00





# Programming

## **Boot Camps**

the pandemic or to new businesses in 2-3 day intensive in-person sessions need of specific assistance. businesses recovering from the impacts of covering topics trainings important to



- reopening a customer facing business during the bootcamp will provide hands-on training on opening or the State - All Together New Mexico as a guide this 1. COVID-19 Safe Training: Using the manual produced by
- make an informed go or no-go decision. give participants the tools to test their business ideas and design, customer discovery/validation, market analysis, competitive landscape, and revenue models this bootcamp will 2. Startup Bootcamp: Covering topics like Value Proposition pandemic recovery period.



### Pivot Accelerator Program

Five-week cohort-based program that will explore hybrid business and revenue models with existing businesses Weekly topics include:

- 1. Beyond brick and mortar business and revenue models
- 2. Setting up an ecommerce site
- 3. Branding and marketing an ecommerce site
- 4. Receiving, shipping, fulfillment warehousing, and distribution
- 5. Payment & processing



# Resource Provider Office Hours

Organizations that specialize in offering assistance to startup and established businesses will be invited to the space to hold open office hours and meet one-on-one with individuals and businesses.

Subleases will be made available to startup businesses in the retail, hospitality, outdoor recreation, and tourism industries. These subleases will be below market rate, renewed yearly, and each business may only occupy a space for a maximum of two years.

Subleases and Pop-ups



# Reporting Requirements

 Quarterly reporting to include financial data, information recipients' use of award funds. on the contractor, and information regarding the

 Performance reports will cover a 12-month period and MainStreet Project, Inc. website. must be posted on the public face of the Grants

 Funding for Project will be on a year-to-year basis after years total per ARP spending requirements evaluation of previous year's success not to exceed 4





# Thank You





10a.

# ARPA Funds Request

**Grants Main Street** 

#### **Grants MainStreet Project, Inc. Incubator Project Funding Request**

#### Introduction:

Cibola County unemployment rate as of January 2020 was 6.7%. As the Covid-19 Pandemic continued, the unemployment rate in July of 2020 reached a peak of 14%. As of June 2021, the unemployment rate has fallen to 9.5%. This number is still higher than the pre-pandemic unemployment rate. Many businesses have closed or limited their staff, and as of July 2021, the number of unemployed continues to exceed the available posted jobs. New Mexico Department of Workforce Solutions numbers indicate there are approximately 1000 unemployed workers and only 400 job postings in Cibola County. One of the economic challenges of Cibola County small businesses is the ability to conduct business through an online storefront. Due to lack of broadband connections and education regarding creating an online presence, small businesses and individual crafters/artisans were unable to conduct business face-to-face as they would have pre-pandemic.

The Grants MainStreet Project, Inc. proposes to implement an incubator project which will conduct business trainings for these individuals and businesses to respond to the negative economic impacts of the public health emergency per the US Treasury rule by providing technical assistance, counseling, or other services to assist with business planning needs. Additionally, these trainings will include assistance to small businesses for adoption of safer operating procedures, providing online sales platforms, and COVID-19 safe shipping or delivery services as an avenue to weather periods of closures.

The provision of the space for pop-up businesses would provide a COVID-safe environment for small businesses to conduct in person transactions, advertise their online storefront, and allow them the opportunity to prepare to create a brick-and mortar business space.

Cibola Communities Economic Development Foundation will be assisting in providing training, technical assistance, and counseling to small businesses and individuals in establishing and strengthening their local businesses to mitigate the negative impacts of COVID-19. Additional aid may be provided to support the safe reopening of businesses in the tourism, travel, and hospitality industries that were either closed due to the public health emergency or had any planned expansions or upgrades that were delayed due to the pandemic.

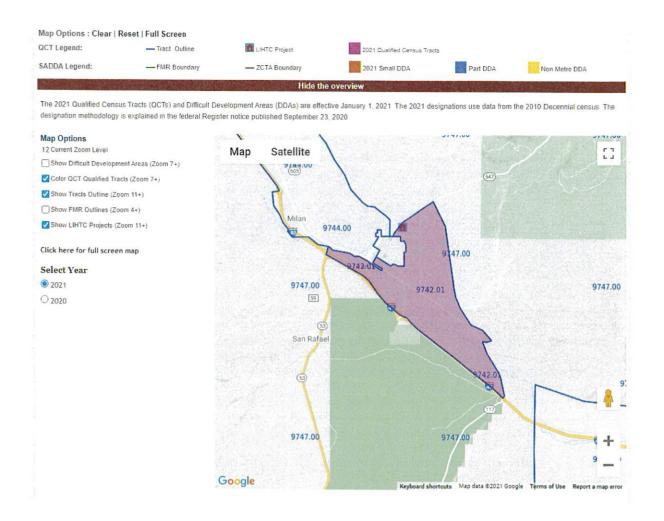
#### Proposal:

- 1. Rent a retail space in the Main Street District to create a downtown business incubator/accelerator.
- 2. Provide a copy machine and scanner for online business use. Cameras or laptops with built-in cameras for virtual meetings.
  - a. Offer business training to include but not limited to:
    - Creating online shops/stores to minimize negative economic impacts of COVID-19 (provide Computers for online shops)

- ii. Business plan development/modification to minimize negative economic impacts of COVID-19
- iii. COVID-Safe Business practices
- iv. Online marketing of business
- v. Shipping practices
- vi. State and local business requirements
- vii. Business training for unemployed workers to accelerate rehiring, or address negative economic impacts experienced due to occupation or level of training
- viii. Technical assistance to set up in home businesses
- b. Provide space for pop-business and mentorship for brick-and-mortar business creation.
- 3. Provide high speed internet services at the retail/training center for small business development.
- 4. Focus on:
  - a. Outdoor recreation and tourism related business as outlined in the Recreation Economy for Rural Communities Plan.
  - b. Small businesses negatively impacted by COVID-19 throughout the county.
  - c. Services to individuals in the Qualified Census tract.

#### **Qualifications per Treasury rules:**

- 1. For assistance to small businesses, the Interim Final Rule states that assistance may be provided to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, to respond to the negative economic impacts of the COVID19 public health emergency. In providing assistance to small businesses, recipients must design a program that responds to the negative economic impacts of the COVID-19 public health emergency, including by identifying how the program addresses the identified need or impact faced by small businesses. This can include assistance to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency.
- 2. Speeding the recovery of the tourism, travel, and hospitality sectors, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- The Interim Final Rule also identifies a set of services that are presumptively eligible when
  provided in a Qualified Census Tract (QCT); to families and individuals living in QCTs. Per
  attached map, a portion of Grants Main Street District falls within a Qualified Census Tract



#### **Proposal Costs:**

GRANTS MAINSTREET PROJECT-	INCUBATOR		2022
Proposed Budget			
Budget area	Estimated	Actual	Difference
Income	213,000.00	0.00	213,000.00
Personnel expenses	50,292.00	0.00	50,292.00
Operating expenses	160,700.00	0.00	160,700.00
New Mexico Economic Development Funding (income)	115,000.00	0.00	115,000.00
Balance (income minus expenses)	117,008.00	0.00	538,992.00

Income			
Income	Estimated	Actual	Difference
ARPA FUNDING	210,000.00	0.00	210,000.00
Space Rental	3,000.00	0.00	3,000.00
Total income	213,000.00	0.00	213,000.00

Personnel expenses			
Expenses	Estimated	Actual	Difference
Wages	32,000.00	0.00	32,000.00
Employee benefits	4,000.00	0.00	4,000.00
Professional Development/Training	1,200.00	0.00	1,200.00
Travel/Vehicle	2,400.00	0.00	2,400.00
Payroll Liabilities	10,692.00	0.00	10,692.00
Total personnel expenses	50,292.00	0.00	50,292.00

Operating ex	penses		
Expenses	Estimated	Actual	Difference
Advertising	6,000.00	0.00	6,000.00
Capital Expenditures	35,000.00	0.00	35,000.00
Administration Fees	30,000.00	0.00	30,000.00
Professional Services	1,200.00	0.00	1,200.00
Security	3,000.00	0.00	3,000.00
Dues and subscriptions	1,200.00	0.00	1,200.00
Insurance	10,000.00	0.00	10,000.00
Internet	2,400.00	0.00	2,400.00
Professional Services	9,000.00	0.00	9,000.00
Maintenance and repairs	1,200.00	0.00	1,200.00
Office supplies	6,000.00	0.00	6,000.00
Postage	600.00	0.00	600.00
Rent or mortgage	18,000.00	0.00	18,000.00
Tenant Training	2,400.00	0.00	2,400.00
Software	2,100.00	0.00	2,100.00
Supplies	0.00	0.00	0.00
Office Equipment	5,000.00	0.00	5,000.00
Telephone	2,400.00	0.00	2,400.00
Utilities	4,800.00	0.00	4,800.00
Meeting Expense	1,800.00	0.00	1,800.00

Licenses & Permits	600.00	0.00	600.00
Tenant Grants	18,000.00	0.00	18,000.00
Total operating expenses	160,700.00	0.00	160,700.00

The project would also seek to partner with New Mexico State University – Grants Small Business Development Center for business trainings and mentorships. In relation, this project seeks to provide computers to small businesses who have completed all their trainings so they will be able to conduct online businesses, provided that they will meet their specific grant reporting and financial impact requirements for grants per ARP Rules.

#### Implementation:

- 1. Hire staff
- 2. Rental of building with year-to-year lease with extension option
- 3. Set up trainings.
- 4. Set policy of priority in pop-up space for individuals enrolled in training.
- 5. Set up policy for use of pop-up space and covid safe practices.
- 6. Recruit Businesses and individuals to enroll for training and use of pop-up spaces.
- 7. Conduct trainings
- 8. Keep records of trainings and reporting requirements
- 9. Promote pop-up business space.

#### **Programming**

To assist businesses that have been negatively impacted by the COVID-19 pandemic and to help in accelerating the growth of startup businesses in the retail, outdoor recreation, tourism, and hospitality industries the **Grants MainStreet Incubator** will offer a suite of programming.

#### **Boot Camps**

Two to three day intensive in person sessions covering topics and trainings important to businesses recovering from the impacts of the pandemic or new business owners in need of specific assistance. Two initial boot camps will be offered.

- Covid Safe Training: Using the manual produced by the State <u>All Together New Mexico</u> as a guide this bootcamp will provide hands-on training on opening or reopening a customer facing business during the pandemic recovery period.
- 2. **Startup Bootcamp**: Covering topics like Value Proposition design, customer discovery/validation, market analysis, competitive landscape, and revenue models this bootcamp will give participants the tools to test their business ideas and make an informed go or no-go decision.

#### **Pivot Accelerator Program**

This five week cohort based program will work with existing businesses to explore hybrid business and revenue models. Up to six businesses will be accepted into the first five week cohort and will meet twice per week for two hours per session. Weekly topics include:

- 1. Beyond brick and mortar business and revenue models
- 2. Setting up an ecommerce site
- 3. Branding and marketing an ecommerce site
- 4. Receiving, shipping, fulfillment, warehousing, and distribution
- 5. Payment & processing

#### **Resource Provider Office Hours**

Organizations that specialize in offering assistance to startup and established businesses will be invited to the space to hold open office hours and meet one-on-one with individuals and businesses. Organizations like the SBDC, WESST, SWCOG, etc. will be invited to hold office hours once or twice per month.

#### **Subleases and Pop-ups**

As part of the core incubator program subleases will be made available to startup businesses in the retail, hospitality, outdoor recreation, and tourism industries. These subleases will be below market rate, renewed yearly, and each business may only occupy a space for a maximum of two years. In addition to the subleased spaces the incubator will offer pop-up spaces for aspiring businesses owners to test their concepts for a week to two weeks at a time.

#### Free online training sources:

https://www.sba.gov/sba-learning-platform - Learning Center Courses Include:

Planning for Businesses Launch your Business Manage your business Market your business Grow your business.

https://www.score.org/take-workshop - Offers: Also offers webinars in Spanish

Live Webinars; Recorded Webinars; Courses on Demand; Local Workshops and events Samples of topics:

Starting an E-Commerce Business from Scratch to Shopify

Year end Tax planning for your business

Simple Changes that can help grow online sales.

Integrating Brick & Mortar and eCommerce.

<u>https://grow.google/smallbusinesses/#?modal\_active=none</u> – Lessons include teaching materials and printable certificates of completion.

Courses from this platform include:

Write a Business Plan
Build your Online Business
Create Your Business Profile on Google.
Estimate Financing for your Business Plan

https://clients.wesst.org/events.aspx - Lessons include:

How to create a social media Strategy: Covid-19 Recovery Create your online Boutique Quickbooks Online Basics Women in Manufacturing Covid Protocols for your Business Food Truck Safety 101 Post Pandemic

#### Reporting Requirements.

Quarterly Reporting to include financial data, Information on the Contractor information regarding recipient's use of the award funds.

#### Performance indicators:

Number of individuals or businesses who participated in training.

Number of participants per training session.

Number of individuals or businesses who utilized space in the pop-up space.

Number of new businesses created.

Number of businesses who created new online presence.

Number of businesses provided assistance. (Grant funding)

Amount of grant per individual.

Performance reports will cover a 12-month period and must be posted on the public face of the Grants MainStreet Project, Inc. website.

Funding for Project will be on a year-to-year basis after evaluation of previous year's success not to exceed 4 years total per ARP spending requirements.



10b.

# Resolution 22-16

FY22 Budget Adjustment No. 3

#### Cibola County

700 E. Roosevelt Ave., Suite 50

Grants, New Mexico 87020 Phone (505) 287-9431 – Fax (505) 285-5434



County Manager

Daniel J. Torrez, Chairman Martha Garcia, 1st Vice-Chair Christine Lowery, 2nd Vice-Chair Ralph Lucero, Commissioner Robert Windhorst, Commissioner

Cibola County Commission

#### Resolution No. 2022-16 BAR #3

#### Fiscal Year 2022

the Board of County Commissioners of the County of Cibola is the duly WHEREAS, constituted governing body of the County and serves ex officio as the County Board of Finance with authority for establishing, monitoring, and adjusting the County's budget; and

WHEREAS. budget adjustments are required to establish correct beginning cash balances; allow for new transfers; to allow for budget increases and decreases to revenues and expenditures to offset any unanticipated revenues and/or expenditures; and to correct amounts when required; and

the budget adjustments and the associated line items with amounts stated on WHEREAS, the attached, Schedule of Budget Adjustments 2022-16A is essential.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS of the COUNTY OF CIBOLA, STATE OF NEW MEXICO, ex officio COUNTY BOARD OF FINANCE that the adjustments included in this document are deemed necessary to the operations of the County for the 2022 fiscal year ending June 30, 2022.

PASSED, APPROVED and ADOPTED by the governing body at a regular meeting on the 27th day of January, 2022.

#### THE BOARD OF COUNTY COMMISSIONERS:

	Daniel Torrez, Chairman
	Martha Garcia, 1st Vice-Chair
ATTEST:	Dr. Christina Lowery, 2 <sup>nd</sup> Vice-Chair
Michelle E Dominguez, County Clerk	Robert Windhorst, Commissioner
	Ralph Lucero, Commissioner

Department of Finance and Administration Local Government Division Budget Finance Bureau SCHEDULE OF BUDGET ADJUSTMENTS

> Cibola County FY 2021-22 2022-16 2022-16A

ENTITY NAME: FISCAL YEAR: RESOLUTION #: BAR SCHEDULE:

Realign budget authority to cover display ad not budgeted for.

Realign budget authority to cover display ad Realign budget authority to cover physical not budgeted for.

\$144.25 not budgeted for.

Realign budget authority to cover physical not budgeted for.

Realign budget authority to cover physical not budgeted for.

Realign budget authority to cover physical sealign budget authority to cover physical year but invoices came in during new fiscal \$6,244.50 year,
\$0.00
\$3,779.00 Increase for New Grant
\$3,779.00 Increase for New Grant
\$100,000.00 Awarded \$70,000 more than applied for,
\$300,00 Received 2 unanticipated refunds
To pay for screeening from outside year. Had PO's for expenditures from prior fiscal year but invoices came in during new fiscal year but invoices came in during new fiscal 1513.800.000 Higher payment than budgeted
538.200.00 Higher payment than budgeted
513.800.00 Higher payment than budgeted
5745.00 To fix deficit for physical.
Physical for new employee came in high due
to additional checks on employee who lived grant, Had PO's for expenditures from prior fiscal \$12,000.00 | companies | \$140,572.00 | Hired new employee | \$50.00 | Hirde new employee | \$8.016.00 | Realign budget authority to fix deficits | \$750.00 | Did not bud for GFOA membership Fees | Did not budget for new computer for Risk when dog was hurt in the line of duty using year. Plus an increase of 964.21 to finish \$9,000.00 | Manager/ Procurement \$5,000.00 | New funding grant for overtime \$5,000.00 | New funding grant for overtime | Increase Off. Equip. & supplies to cover deficit and get through rest of year using \$365.00 in multiple states.
\$50,000.00 Revaluated needed accounts. Realign.
\$15,000.00 Revaluated needed accounts. Realign.
\$0.00 Revaluated needed accounts. Realign.
\$10.00 Increase Transfer in to cover match.
\$452,500,00 Increase Transfer in to cover match.
\$40.00 Realign budget authority to fix deficits.
\$100.00 Realign budget authority to fix deficits. ncrease canine expenses due to vet bill \$3,000.00 salary budget.
\$873,101.00 Realign authority for office...& canine...
\$2,946.00 NMFA Intercept for loan
\$25,000.00 Received \$50,000 more than expected
(\$38,200.00 Higher payment than budgeted Reimbursements based on this year's \$6,000.00 salary budget Increase Sheriff's Various DWI actuals. \$460.00 \$19,525.68 \$10,000.00 ADJUSTED \$3,779.00 \$3,779.00 \$3,779.00 \$70,000.00 \$300.00 (\$95.00) \$95.00 (\$55.75) \$55.75 \$460.00 \$60.00 \$19,525.68 \$6,244.60 \$12,000.00 \$2,000.00 (\$4,500.00) \$2,946.00 \$50,000.00 \$50.00 \$1,000.00 \$5,000.00 \$5,000.00 \$200.00) \$200.00 \$50.00 \$50.00 ADJUSTMENT \$2,500.00 \$5,000.00 \$100.00 \$255.00 \$768,500.00 \$62,500.00 \$25,770.28 \$0.00 \$0.00 \$30,000.00 \$30,000.00 \$0.00 \$200.00 \$0.00 \$140,632.00 \$0.00 \$9,366.00 \$700.00 \$150.00 \$0.00 \$0.00 \$283,000.00
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Construction
From 401 to 648
From 401 to 648
Protective Clothing Equipment
SAFETY EQUIPMENT
Refunds Equipment
Professional Services - Match
Labor - Match
Materials - Match Election Admin, Equip.
Reversion of Grant Balance
CDWI Program Grant
Education / Prevention DESCRIPTION OF ACCOUNT Screening Full Time Salaries Physicals Equip, Maint. & Repair Licenses, Fees, & Permits Office Equipment & Supplies Canine Expenses
FULL TIME SALARIES
State Fire Allorment
State Fire Morent of 575
From 418 to 575
From 424 to 575 Printing & Publishing Physicals Professional Services Materials Vehicle Expense DWI Grant Miscellaneous Computers Physicals CIBOLA COUNTY ACCOUNT# 609-018-442-12008 609-018-442-12009 440-60-400-80500 440-070-441-00122 438-60-300-26200 401-004-412-00006 401-004-412-00008 401-004-412-00011 500-065-440-00029 439-060-437-00002 439-060-437-00259 401-004-402-00012 401-004-402-07124 401-004-402-00009 401-005-408-00058 401-22-350-20002 401-004-412-00259 401-005-408-00083 401-005-408-00002 409-30-300-56000 418-018-429-00586 418-020-499-09575 609-018-442-12007 439-060-437-00017 424-020-499-09575 575-111-499-09418 575-111-499-09424 401-004-406-00259
607-045-456-00101
607-045-456-00302
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607-045-456-10101
607-045-456-10301
607-045-456-10302
607-045-456-10302 401-011-499-00401 648-201-499-00401 605-035-455-00038 605-035-455-00082 620-40-300-26100 401-005-408-00009 439-61-300-38100 401-004-406-00005 401-22-350-2000 ACCOUNT # DFA 22300-0001-57999 22300-0001-57999 22300-0001-47071 22300-0001-46900 11000-2011-54040 22300-3006-51020 22300-3006-57999 11000-2001-54050 11000-2001-57999 11000-2011-57080 11000-2011-57090 11000-2011-57999 11000-1005-57999
11000-1005-57999
20900-0001-47090
20900-0001-61200
20900-0001-61200
40400-0001-61100
41000-0001-61100 22500-1004-56040 21800-2002-57999 21800-2002-57999 21800-2002-57999
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20300-0011-6690 22300-0001-57999 21800-2002-55030 21800-2002-56999 21800-2002-51900 21800-2002-58020 11000-2001-56020 11000-1005-57999 11000-1005-56020 11000-0001-46060 11000-1006-57999 EXPENDITURE TRANSFER (TO REVENUE or FROM) Expenditure xpenditure xpenditure penditure Revenue
Expenditure
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Expenditure xpenditure kpenditure Revenue Revenue Revenue Expenditu Quartz Hill Trail Project
Quartz Hill Trail Project Clerk
CDWI - NMDOT Grant
CDWI - NMDOT Grant
DWI Grant
LDWI Distribution General Fund
TPF - County Road 1
LEPF
LEPF
1% Reappraisal Fund DEPARTMENT Lobo Canyon VFD
Candy Kitchen VFD
Candy Kitchen VFD
Cubero VFD
NMFA Loans COUNTY LDWI Distribution LDWI Distribution LDWI Distribution Manager Sheriff Sheriff Manager Treasurer Sheriff Sheriff Sheriff Clerk Clerk Clerk LOCAL (L) OR STATE (S) TYPE OF BAR S

Department of Finance and Administration Local Government Division Budget Finance Bureau SCHEDULE OF BUDGET ADJUSTMENTS

ENTITY NAME: FISCAL YEAR: RESOLUTION #: BAR SCHEDULE:	Cip   Cip	Cibola County FY 2021-22 2022-16 2022-16A							Page 2 of 2
		REVENUE							
OCAL (L) OR STATE (S)	COUNTY EX	EXPENDITURE TRANSFER (TO or FROM)	DFA ACCOUNT#	CIBOLA COUNTY ACCOUNT#	DESCRIPTION OF ACCOUNT	APPROVED	ADJUSTMENT	ADJUSTED	abound
L 1% Reapp	1% Reappraisal Fund	Evnanditura	20300 4003 57000						- ONLOSE
L 1% Reapp		T	20300-1003-5/339	620-025-459-00070	Eagle View - Pictometry	\$114,187.00	\$1.00	\$114,188.00	Realign budget authority to fix deficits
S E-911			20202-1003-31020	425 070 405 00044	FULL TIME SALARIES	\$29,411.00	(\$1.00)	\$29,410.00	\$29,410.00 Realign budget authority to fix deficits
S E-911	Exp		20700-3005-57160	435-010-433-00011	Vehicle Expense	\$1,793.00	\$250.00	\$2,043.00	\$2,043.00 Had a break in not budgeted for.
			001000000000000000000000000000000000000	10000-051-010-054	lelecommunications	\$10,000.00	\$6,000.00	\$16,000.00	\$16,000.00 Back up cell phones not budgeted for
S E-911	EXD	Expenditure	20700-3005-55030	435-070-435-00124	Contractual Services	\$133,000.00	\$5.400.00	\$138 400 00	S138 400 00 year but is a recurring cost
	CVD	T	07090-2005-0010	435-070-435-00009	E911 System Equip. & Maint.	\$5,000.00	\$3,840.00		Increased for FMD Maintenance
S E-911	Expi	Expenditure 2	20700-3005-51020	435-070-435-00002	Full Time Salaries	\$475,489.00	(\$15,490.00)	\$459,999.00	
S Road	Reve	Revenue 2	20400-0001-46900	402.28.382.31400	0		100		Did not budget to recycle scrap metal and application fees for burials. Did budget for 2
				000000000000000000000000000000000000000	Onier Revenue	\$300.00	\$200.00	\$500.00	\$500.00 burials at \$150 a piece.
S Road	Reve	Revenue 2	20400-0001-47050	402-30-300-26100	Refunds	\$0.00	\$600.00	\$600.00	Refunds - Did not budget for a refund from \$600.00 Caternillar rentals. It was unforecon
S Road	Reve	Revenue 2	20400-0001-46091	402-30-300-34000	Sale of County Property	\$0.00	\$16,000.00	\$16,000.00	Did not know of additional disposition of property
L Road	Expe	Expenditure 2	20400-5001-57999	402-014-416-33000	Infastructure Perform Bond Deposit Refu	\$1,500.00	\$6,000.00	\$7,500.00	City of Grants was refunded 3 times at \$1,500 each time. They paid for permits in prior year, Add \$1,500 additional to get \$7,500.00 fthrough year.
L Road	Expe	Expenditure 2	20400-5001-58999	402-015-416-00028	Capital Outlay	\$200,000.00	(\$6.000.00)	\$194,000.00	Realign budget authority to fix deficit in S194,000.00 infra Per honds
ATTEST:									
County Clerk				Date	ī				



10c.

### Resolution 22-17

FY22 Second Qtr. Report

#### Cibola County

700 E. Roosevelt Ave., Suite 50

Grants, New Mexico 87020

Phone (505) 287-9431 - Fax (505) 285-5434



County Manager

#### Daniel J. Torrez, Chairman Martha Garcia, 1st Vice-Chair Christine Lowery, 2<sup>nd</sup> Vice-Chair

Cibola County Commission

Ralph Lucero, Commissioner Robert Windhorst, Commissioner

#### Resolution No. 2022-17

#### FISCAL YEAR 2021-2022 SECOND QUARTER FINANCIAL REPORT

WHEREAS, the Board of County Commissioners of the County of Cibola is the duly constituted governing body of the County and serves ex officio as the County Board of Finance with authority for establishing, monitoring, and adjusting the County's budget; and

WHEREAS. the first quarterly report has been reviewed and approved to ensure the reconciliation of cash balances & activity on this report to the County's internal financial reports; and

it is hereby certified that the contents in this report are true and correct to the WHEREAS. best of our knowledge and that this report depicts all funds for fiscal year 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS of the COUNTY OF CIBOLA, STATE OF NEW MEXICO, ex officio COUNTY BOARD OF hereby approves the first quarter report for FY 2022 hereinafter described as Attachment "2022-17A" and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

PASSED, APPROVED and ADOPTED by the governing body at its regular meeting on the 27th day of January in 2022.

#### THE BOARD OF COUNTY COMMISSIONERS:

	Daniel J. Torrez, Chairman
	Martha Garcia, 1st Vice-Chair
ATTEST:	Christine Lowery, 2 <sup>nd</sup> Vice-Chair
Michelle E Dominguez, County Clerk	Ralph Lucero, Commissioner
	Robert Windhorst, Commissioner

	Beginning Cash	Beginning Cash Beginning						CIT	
Active Funds		Investments as of					Ending Cash &	Bond A, Bond B,	Available Adjusted
101 - INVESTMENT FUND		\$5.269.769.14	Y I D Kevenues	YTD Transfers	YTD Expenditures	YTD Adjustments	Investment Balances	Reserves	Ending Cash &
401 - GENERAL FUND	D \$6,095,825.92	\$0.00	\$3,423.78	\$0.00	\$0.00	\$0.00	\$5,273,192.92	163	myestillerit balances
402 - ROAD		\$0.00	\$2,284,545.69	(\$1,205,892.73)	(\$3,855,832.97)	\$2,715,944.12	\$6,034,590.03	ζουνος (οργασία)	\$1,565,622.74
403 - FARM & RANGE		\$0.00	\$377,132.b8	\$100,000.00	(\$572,839.11)	\$0.00	\$224,620.41	00.05	\$6,034,590.03
406 - INDIGENT	T \$97,455.34	\$0.00	00.05	\$8,000.00	(\$7,104.12)	\$0.00	\$895.88	00.00	\$224,520.41
407 - SAN RAFAEL VFD		00.05	\$325,772.43	\$0.00	(\$131,431.38)	\$0.00	\$291 796 39	\$0.00	\$895.88
408 - BLUEWATER VFD		00.05	\$92,942.00	(\$39,471.00)	(\$53,825.47)	\$0.00	\$166 895 7A	\$0.00	\$291,796.39
409 - LOBO CANYON VFD		00.00	\$60,051.00	(\$18,687.00)	(\$7,496.05)	\$0.00	C200 C7E 47	20.00	\$166,895.74
413 - LAGUNA EMS		\$0.00	\$2,946.00	\$43,525.00	(\$5,443.51)	\$0.00	\$204,575.47	\$0.00	\$284,575.47
415 - PINEHILL EMS	Ü	20.00	\$13,521.00	\$0.00	\$0.00	\$0.00	01.710,717.00	\$0.00	\$212,617.16
416 - FENCE LAKE VED		\$0.00	\$11,014.00	\$0.00	\$0.00	\$0.00	\$13,521.00	\$0.00	\$13,521.00
418 - CANDY KITCHEN VED		\$0.00	\$258,475.50	\$7,000.00	(\$87.684.15)	00.00	519,792.78	\$0.00	\$19,792.78
419-1 AGIINA VED		\$0.00	\$326,791.00	(\$31,189.00)	(\$9 979 22)	\$0.00	\$492,341.94	\$0.00	\$492,341.94
424 Cinera Vin		\$0.00	\$170,844.00	\$0.00	(60,510,53)	50.00	\$334,609.00	\$0.00	\$334,609.00
AZT CUBERO VFL	"	\$0.00	\$49,604.50	(46 787 00)	(70.000,000)	\$0.00	\$507,536.68	\$0.00	\$507,536.68
425 - CUBERO EMS		\$0.00	\$5.000.00	(00.00000	(\$42,360.59)	\$0.00	\$139,101.03	\$0.00	\$139 101 02
427 - EL MORRO VFD	\$226,848.60	\$0.00	\$28.475.50	00.00	(\$100.00)	\$0.00	\$7,819.51	\$0.00	67 010 11
428 - SUPERIOR AMBULANCE	\$176.53	\$0.00	610 250 00	57,000.00	(\$74,411.63)	\$0.00	\$187,912.47	ÇOV	10.610,76
435 - CONSOLIDATED DISPATCH	\$165,152.67	\$0.00	\$21,233.00 \$517.445.40	\$0.00	\$0.00	\$0.00	\$10.435.53	00.05	\$187,912.47
438 - DWI GRANT	\$0.00	\$0.00	\$017,445.48	(\$4,000.00)	(\$472,974.57)	\$0.00	\$305,623,58	20.00	\$10,435.53
439 - DWI DISTRIBUTION	\$16	00.00	\$0.00	\$1,967.87	(\$1,967.87)	\$0.00	\$0.620,000	\$0.00	\$305,623.58
475 - COUNTY FIRE PROTECTION		20.00	\$163,676.60	(\$1,967.87)	(\$184,553.51)	\$0.00	00.00	\$0.00	\$0.00
500 - CLERK RECORDING/FILING	\$66 393 78	20.00	\$168,803.20	(\$42,000.00)	(\$5,812.28)	\$0.00	\$172,324.49	\$0.00	\$172,324.49
569 - 2014A BOND INCOME FLIND	00.000	\$0.00	\$23,026.00	\$0.00	(\$22.984.92)	00.00	5914,799.18	\$0.00	\$914,799.18
570 - 2014B BOND INCOME ELIND	20.00	\$0.00	\$651,394.32	\$0.00	(\$110 731 07)	20.00	\$66,434.86	\$0.00	\$66,434.86
S75 - NMEA LOANS	\$0.00	\$0.00	\$1,469,081.50	\$0.00	(4721 340 03)	\$0.00	\$540,662.35	\$0.00	\$540,662.35
603 - EMERGENCY MANAGEMENT	00.00	\$66,602.04	\$261.59	\$100,608.00	156 531 001	\$0.00	\$1,237,832.58	\$0.00	\$1,237,832.58
SOA EIDE MADELLE	5/85.00	\$0.00	\$0.00	\$0.00	(00.325.00)	\$0.00	\$160,940.63	\$0.00	\$160,940.63
605 - LAW ENEOBCEMENT BEOTECTION	>42,808.95	\$0.00	\$82,408.92	\$4.000.00	מסימה שבטן	\$0.00	\$785.00	\$0.00	\$785.00
606 - NMDOTIOCAL GOV, TRANS COLOR	\$164.98	\$0.00	\$29,000.00	(\$19 999 00)	(373,208.57)	\$0.00	\$54,009.30	\$0.00	\$54.009.30
607 Ollabra IIII Spore	\$902,500.00	\$0.00	\$0.00	\$0.00	20.00	\$0.00	\$9,165.98	\$0.00	\$9.165.98
CARTE COLLEGE	\$0.00	\$0.00	\$221.973.14	0000	(532,452.53)	\$0.00	\$870,047.47	\$0.00	CO-000 0000
COS - CARES ACI ELECTION'S GRANT	\$25,770.28	\$0.00	\$0.00	00.00	(\$164,170.54)	\$0.00	\$57,802.60	\$0.00	\$57.802.60
GIO - CENSOS BUREAU	\$0.00	\$0.00	\$0.00	00.00	(>74,806.07)	\$0.00	\$964.21	80.00	0000000
614 - DETENTION CENTER	\$116,577.75	\$0.00	¢1 572 074 74	00.00	\$0.00	\$0.00	\$0.00	\$0.00	17.4066
615 - COMPLIANCE PROGRAM	\$0.00	\$0.00	47.4.6(2.6(2)	51,100,000.00	(\$2,431,150.70)	(\$67,477.77)	\$290,923.52	50.00	\$0.00
620 - 1% REAPPRAISAL FUND	\$255,988.03	\$0.00	20:00	\$0.00	\$0.00	\$0.00	\$0.00	20.00	\$290,923.52
649 - AMERICAN RESCUE PLAN ACT	\$2,590,653.00	\$0.00	\$10,135.66	\$0.00	(\$134,864.82)	\$0.00	\$137 759 07	\$0.00	\$0.00
650 - NMFA COMP. & LEDA GRANT	\$0.00	00.05	\$0.00	\$0.00	(\$242,526.97)	\$0.00	(2) 2/0 12/ 02	\$0.00	\$137,258.87
651 - CAPITAL OUTLAY PROJECTS	\$32,787,65	30.00	\$0.00	\$8,566.00	(\$8,566.00)	\$0.00	\$2,348,125.03	\$0.00	\$2,348,126.03
TOTALS=	\$13.750.961.99	\$0.00	\$10,614.91	(\$10,673.27)	(\$26,537,26)	00.05	20.00	\$0.00	\$0.00
	99.100,002,024	\$5,336,371.18	\$9,247,593.64	00 00		00:00	\$6,192.03	\$0.00	\$6 103 03
				20.00	(59.107.146.42)	C3 C40 ACC 25		2000	50'T35'05

Date

Date

Clerk



10d.

# Professional Services Contract

SCRAM Systems For DWI Dept.



1241 West Mineral Avenue, Suite 200 Littleton, CO 80120

#### MASTER AGENCY AGREEMENT

AGENCY:	CIBOLA COUNTY DWI PROGRAM	INITIAL CONTRACT TERM:	36 months
ADDRESS:	700 E. Roosevelt, Suite 40	The state of the s	30 1110111115
	Grants, NM 87020		

This MASTER AGENCY AGREEMENT (the "Agreement"), is entered into as of the Effective Date by and between ALCOHOL MONITORING SYSTEMS, INC. ("AMS"), a Delaware corporation located at 1241 West Mineral Avenue, Suite 200, Littleton, Colorado 80120, and the Agency listed above. This Agreement incorporates by reference any and all Schedules executed by the parties. Capitalized terms not otherwise defined in this Agreement are those as defined in the attached Schedule(s). Should there be a conflict between the terms in this Agreement and those of any Schedule, the terms in the Schedule will prevail. The effective date of the Agreement is the date last signed by AMS (Effective Date"). This Agreement supersedes any prior written or oral agreement and understandings with respect to the subject matter herein.

1 GENERAL SCOPE OF AGREEMENT. AMS sells and rents Equipment and provides supporting Services specific to monitoring Clients who are required to or opt to wear such Equipment. AMS desires to sell or rent and Agency desires to order such Equipment and the supporting Services as specified in this Agreement and the attached Schedules in the Territory described on the applicable Schedule.

#### 2 DEFINITIONS

- "Clients" means individuals who are required or choose to wear the Equipment.
- "Effective Date" means the date this Agreement is signed by AMS.
- "Equipment" means the hardware identified in the applicable Schedule.
- "Mobile Application" means any applications listed in this Agreement which are provided by AMS or its third-party supplier and designed to complement the Services, but which run on mobile devices such as smart phones or tablets.
- "Monitoring Services" means the remote collection, compilation and reporting of data from the Equipment.
- "Monitoring Software" means AMS' proprietary, web-based software applications, depending on the Equipment or Service contracted for, which track and store Client data and other features as may be added from time to time.
- "Parts" means peripheral hardware necessary for the support of the Equipment such as, but not limited, to batteries, straps and back-plates.
- "Products" means collectively the Equipment and the Parts.
- "Rental Equipment" means Equipment rented by AMS to Agency.
- "RMA" means a Return Material Authorization issued by AMS.
- "Services" means collectively the; (i) the Monitoring Services; (ii) provision of training and certification necessary for Agency to use Products; (ii) provision of technical support and telephone assistance; (iii) scheduled Equipment (vi) maintenance; (iv) disaster recovery and backup services for Client data stored using the Monitoring Software; and (v) provision of such other Services and support functions as may be agreed to in writing by the parties and made part of this Agreement.
- "Territory" means the geographic area type as defined on each Schedule in which Agency may provide the Products and Services to Clients.

"Third Party Contractor" means Agency's third-party subcontractors to whom Agency is subcontracting any of Agency's work or responsibilities under this Agreement.

#### 3 GENERAL BUSINESS TERMS

#### 3.1 Payment Terms.

- **3.1.1** Purchased Products. Products will be invoiced at the time of shipment. The price of the Products does not include applicable taxes and is due and payable in U.S. dollars within ten (10) days of date of invoice.
- **3.1.2** Rental Equipment. Rental Equipment Fees will be invoiced monthly to Agency by AMS based on the specific pricing option for the Rental Equipment on or before the tenth (10<sup>th</sup>) day of each month and shall be paid by Agency to AMS within thirty (30) days from the date of such invoice.
- 3.1.3 Monitoring Service and Other Fees. Service fees will be invoiced by AMS on a monthly basis as incurred and shall be paid by Agency within thirty (30) days from the date of such invoice. Other fees include, but are not limited to, fees for the following: Court appearances whereby AMS is requested by Agency to be a witness in a court case; manual check-in for inactive Equipment; repair or replacement not covered by the Maintenance and Repair Policy under Section 7 and Equipment returned to AMS without an RMA. Unless set forth on an applicable Schedule, fees will be charged at AMS' then prevailing rates.
- **3.1.4** <u>Currency; Invoiced Taxes</u>. All fees are payable in U.S. Dollars. In addition, Agency is responsible for the timely payment of all taxes invoiced by AMS related to the purchase price for Products, Rental Equipment Fees, Services and any other fees set forth on the Schedule(s).

#### 3.2. Ordering; Freight Terms; Order Cancellation and Reschedule.

- 3.2.1 Orders. AMS may provide Agency with AMS' standard order form to use for when Agency places orders under this Agreement. Agency may use its own purchase order form in addition to the AMS order form. All terms on any Agency purchase order shall not alter or amend the terms of this Agreement and any additional or varying terms contained in such instrument are expressly rejected.
- 3.2.2 Freight Terms. Products ordered by Agency shall be shipped to Agency's designated facility, AMS paying ground freight, and AMS bearing the risk of loss of damage until Products are delivered to Agency's dock, at which time any visible damage to the outermost packaging must be noted on the Bill of Lading. AMS shall determine the type of packaging, mode of transportation for all shipments including for returns. Any returns must be accompanied by an RMA. Orders expedited at Agency's request will be shipped FOB Origin, with all freight costs to be paid by the Agency.
- **3.2.3** Order Cancellation and Reschedule. Orders for Products, once accepted by AMS, are non-cancelable, and Products are non-returnable, except in accordance with the Maintenance and Repair Policy set forth in this Agreement or the terms, if any, in the applicable Schedule. Upon AMS agreement, Agency can reschedule orders one time upon thirty (30) days written notice prior to the shipment date. Any such rescheduled delivery date must be within thirty (30 days of the original delivery date.
- 3.3 Taxes. Agency shall be solely responsible for all taxes related to Products or Services provided to it by AMS under this Agreement including, by way of example and not limitation, sales, use, property, excise, value added, and gross receipts irrespective of whether the Products are purchased or rented. If Agency is exempt from taxes of any kind Agency will provide appropriate exemption documentation for all such taxes applicable to the transactions contemplated by this Agreement.
- 3.4 <u>Failure to Make Payments and Suspension of Services</u>. Late paid invoices will be subject to interest, accruing from the due date at the rate of either one-and-one-half percent (1.5%) per month or the highest rate specified by applicable statute, whichever is lower. In addition, if Agency fails to pay any amount when due under this Agreement, AMS will provide written notice to Agency of such failure. If Agency does not pay any outstanding amount due within five (5) business days of the date of such notice, AMS may do any of the following; (i) reject orders from Agency for additional Products or withhold delivery of Products already ordered but not yet shipped; (ii) suspend access to the Services until Agency pays all outstanding amounts in full; and (iii) proceed with termination of this Agreement and any applicable Schedules in accordance with the terms in Section 9.3 of this Agreement.

#### 3.5 <u>Title to Equipment; Rental Equipment.</u>

- 3.5.1 <u>Title to Equipment.</u> Title to purchased Equipment transfers to Agency upon delivery to the freight carrier. Title to any Rental Equipment shall remain with AMS, unless such Equipment is later purchased by the Agency.
- Rental Equipment. Agency may rent Equipment from AMS in quantities agreed to by the parties. Agency will not encumber or dispose of any Rental Equipment. Agency will inventory Rental Equipment in a location that is used and operated by Agency authorized personnel only. All Rental Equipment maintained in Agency's inventory location will be handled in accordance with industry standard practices for prevention of loss or physical damage, including that which may be caused by electronic static discharge and environmental concerns. Agency will be responsible to and reimburse AMS for all loss to AMS resulting from damage, theft, destruction or any other loss whatsoever of Rental Equipment received by Agency. In the event of the loss or damage to any of the Rental Equipment, Agency agrees to pay AMS the Replacement Fee amounts specified on the relevant Schedule. AMS reserves the right, at its sole option, to reduce Agency's inventory of Rental Equipment, if Agency does not remit the Replacement Fee within thirty (30) days from the date of receipt of AMS' invoice. Agency will cooperate with AMS in the preparation and filing of any documents considered necessary by AMS to preserve AMS' title and ownership rights to the Rental Equipment. Upon reasonable notice, AMS reserves the right to audit Rental Equipment inventory on a quarterly basis. At all times throughout the Term, Agency will procure and maintain risk insurance to specifically cover loss or damage to Rental Equipment while in Agency's possession up to the equivalent of the Replacement Fee for the Rental Equipment. At the end of the rental period, Agency must obtain an RMA and ship returned Rental Equipment to AMS with freight to be paid by Agency and risk of loss or damage to remain with Agency until delivery to AMS.

#### 4 USE RESTRICTIONS; FIRMWARE LICENSE; OWNERSHIP; LIMITED LICENSE; DISCLAIMER

- Use Restrictions; No Modification. Agency shall not do any of the following acts: (i) wilfully tamper with the security of the Monitoring Software, Mobile Application or Equipment; (ii) access data on the Monitoring Software not intended for Agency; (iii) log into an unauthorized server or account on the Monitoring Software; (iv) attempt to probe, scan or test the vulnerability of the Monitoring Software or Mobile Application or to breach the security or authentication measures without proper authorization; (v) wilfully render any part of Monitoring Software or Mobile Application unusable; (vi) reverse engineer, de-compile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Monitoring Software or Mobile Application; (vii) modify, translate, or create derivative works based on the Monitoring Software or Mobile Application; (viii) rent, lease, distribute, license, sublicense, sell, resell, assign, or otherwise commercially exploit the Monitoring Software or make the Monitoring Software or Mobile Application available to a third party other than as contemplated in this Agreement; (ix) use the Monitoring Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; (x) publish or disclose to third parties any evaluation of the Monitoring Software or Mobile Application without AMS' or its third party supplier's prior written consent; (xi) remove, modify, obscure any copyright, trademark, patent or other proprietary notice that appears on the Monitoring Software or Mobile Application; or (xii) create any link to the Monitoring Software or frame or mirror any content contained or accessible from the Monitoring Software. Except as expressly provided in this Agreement, no right or license is granted hereunder, by implication, estoppel or otherwise.
- **4.2** Firmware License. The Products contain firmware developed and owned by AMS or its third-party supplier. Agency is hereby granted a limited, non-exclusive, non-transferable, royalty-free license, for the Term, as defined in Section 9.1 below, to use the firmware in the Products. Use of the Parts may be subject to third party license agreements. AMS and its third-party suppliers shall retain all rights to the firmware contained in the Products. Any applicable license shall be deemed to be in effect upon delivery of the Products.
- Application or firmware provided under this Agreement and all modifications and enhancements thereof, including all rights under copyright and patent and other intellectual property rights, belong to and are retained solely by AMS or its third-party suppliers. This Agreement provides Agency only the rights expressly granted in this Agreement. Further, if Agency suggests any new features or functionality for the Equipment, Monitoring Software or Parts that AMS or its third party suppliers subsequently incorporate into the Products or Monitoring Software, any such new features or functionality shall be the sole and exclusive property of AMS or its third party suppliers and shall be free from any confidentiality restrictions that might otherwise be imposed upon AMS pursuant to Section 8 below.

4.4 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND TO THE EXTENT ALLOWED BY APPLICABLE LAW, AMS DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. AMS SHALL HAVE NO LIABILITY WHATSOEVER AS A RESULT OF THE EQUIPMENT BEING LOCATED IN AN AREA NOT COVERED BY APPROPRIATE WIRELESS COVERAGE (IF APPLICABLE), OR IF THE EQUIPMENT FAILS TO ESTABLISH A CONNECTION WITH THE MONITORING SOFTWARE OR THE MONITORING SERVICES ARE DISABLED DUE TO NETWORK RELATED ISSUES. Without limiting the express warranties set forth in this Agreement, AMS does not warrant that the Services will meet Agency's requirements or that access to and use of the Monitoring Services will be uninterrupted or free of errors. AMS cannot and does not guarantee the privacy, security, authenticity and non-corruption of any information transmitted through, or stored in any system connected to, the Internet. Neither AMS nor its third-party suppliers shall be responsible for any delays, errors, failures to perform, or disruptions in the Monitoring Services caused by or resulting from any act, omission or condition beyond AMS' or its third party supplier's reasonable control.

#### 5 SERVICE TERMS

- **5.1** Service Scope. AMS will provide Agency with the Services and support functions per the terms in this Agreement. Unless otherwise expressly agreed to by the parties, AMS is not obligated to and will not provide Services for any Equipment not obtained directly from AMS.
- Services available for twenty-four (24) hours a day, seven (7) days a week. Agency agrees that from time to time the Monitoring Services may be inaccessible or inoperable for reasons beyond the reasonable control of AMS, including: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which AMS may undertake; or (iii) interruption or failure of telecommunication or digital transmission links, hostile network attacks, network congestion or other similar failures. Agency will not be entitled to any setoff, discount, refund or other credit as a result of unavailability of the Monitoring Services unless expressly provided in this Agreement.
- 5.3 Monitoring Software Security. AMS shall use commercially reasonable efforts to prevent unauthorized access to restricted areas of the Monitoring Software and any databases or other sensitive material. AMS reserves the right to deactivate or suspend access to the Monitoring Software by a user if such user is found or reasonably suspected to be using his/her access to facilitate illegal, abusive or unethical activities. Such activities include pornography, obscenity, violations of law or privacy, hacking, computer viruses, or any harassing or harmful materials or uses. Agency agrees to hold AMS harmless from any claims resulting from such use.
- 5.4 Access to Monitoring Software. Agency agrees to limit requests for access to the Monitoring Software to Agency personnel who are authorized to enroll Clients, set notification options and otherwise access the information residing within the Monitoring Software. AMS will provide to Agency usernames, passwords and other information necessary to access the Monitoring Software. Agency is responsible for keeping its usernames and passwords protected as Confidential Information as defined in and per the terms of Section 8 of this Agreement and for any communications or transactions made using its user names and passwords. Agency personnel are responsible for changing their respective usernames and passwords if they believe that either have been stolen or might otherwise be misused. Agency shall provide written notice to AMS within ten (10) days if any previously authorized personnel status changes such that access should no longer be allowed, including but not limited to termination or resignation of any Agency personnel who had access to the Monitoring Software. These requirements are subject to change based on periodic review by AMS of its information security needs.
- 5.5 Equipment and Utilities. Agency is responsible and shall bear the costs associated with providing and maintaining internet access and all necessary telecommunications equipment, software and other materials necessary for accessing the Monitoring Software. Agency agrees to notify AMS of any changes in the foregoing, including any system configuration changes or any hardware or software upgrades, which may affect Agency's ability to access the Monitoring Software.
- 5.6 Equipment Maintenance. AMS and Agency shall establish a routine maintenance program designed to keep the Equipment in good repair, working order and condition in accordance with AMS' then-published specifications, including establishing a schedule that will ensure the return of the Equipment to AMS at approximately annual intervals. Unless otherwise agreed, Agency shall be responsible for (i) collecting any Equipment from Clients that is scheduled for maintenance and (ii) shipping it to AMS having first obtained a RMA

number from AMS. Such maintenance program shall not cover Equipment damaged or rendered inoperative for any cause not due to defects covered by the service and repair policy in the Agreement. Agency shall not, without prior approval from AMS, send to AMS for maintenance any Equipment not then scheduled for maintenance. Equipment returned to AMS for any reason, including rental returns, damages, and scheduled repairs, that are not accompanied with a properly issued RMA may be assessed a returned administrative charge.

- 5.7 <u>Training and Certification</u>. AMS will provide Agency personnel with on-line training and certification in the use of the Products at AMS' current training rates as quoted by AMS to Agency.
- 5.8 Additional or Changes to Services. From time-to-time, AMS may revise the scope of the Services, subcontract or delegate to a third party some or all of the provision of the Services, or make substitutions, additions, modifications and improvements to Monitoring Software and/or Services. Additionally, as a part of these changed Services, AMS also may determine, at its sole option, to discontinue providing Services hereunder for specific versions of the Products upon a minimum of one (1) year prior notice to Agency.

#### 6. AGENCY RESPONSIBLITIES.

- **Equipment**. Agency shall be solely responsible for the management and supervision of the Equipment and any personnel or Clients using the Equipment and the Monitoring Software, as well as the selection and implementation of the Client enrollment, monitoring and notification options provided for the Monitoring Software. For avoidance of doubt, Agency is solely responsible for the management of the Clients, including the response to any Client violations reported by AMS or its third-party providers. AMS is not responsible or liable for Agency's failure to properly fulfill its foregoing responsibilities.
- 6.2 Agreements with Clients. Agency shall obtain the necessary written consent from any Client authorizing the tracking and/or monitoring of the Equipment by AMS or its subcontractors. Agency is solely responsible for notifying Clients in writing of any restrictions or limitations on the use of the Equipment of which it is made aware by AMS. These mandatory restrictions and prohibitions to be communicated to Clients are available on the Monitoring Software platform in the form of a "Participant Agreement". This Participant Agreement is not intended to cover all possible requirements of the relationship between Agency and its Clients and should be reviewed by Agency's legal advisors prior to use. Agency agrees to indemnify and hold AMS harmless from any claim resulting from the failure of Agency to notify Clients of the restrictions and prohibitions on use of the Equipment and to obtain Client's written consent authorizing the tracking and or monitoring of the Equipment by AMS or its subcontractors.
- 6.3 Third Party Call Center Support. If Agency determines that it will establish and use a third-party call center to monitor and receive alerts from the Monitoring Software, then Agency will notify AMS and shall ensure that personnel certified by AMS will operate the call center. Agency shall be responsible for all acts and omissions of the third-party call center personnel granted access to Monitoring Software as if they were employees of Agency.
- Research Studies. Agency agrees that prior to using the Equipment for a research study or publishing any results from such a study, the Agency will obtain AMS' prior written approval of the study and additional written approval of any intent to publish the research results. AMS may, at its sole discretion, withhold any such approval. Agency's breach of this Section 6.4 will be a material breach of the Agreement.

#### 7 MAINTENANCE AND REPAIR

- Maintenance and Repair Policy. Provided Agency; (i) pays to AMS the Service fee(s) for Equipment; and (ii) installs the Equipment in accordance with AMS' instructions, for all Equipment manufactured by and ordered directly from AMS, AMS will provide the necessary maintenance and repair for such Equipment at AMS' expense to enable it to function with the Monitoring Software in a manner substantially in accordance with the performance parameters specified in the documentation for the specific Equipment. For any Parts manufactured by third parties and sold by AMS, any service or repair commitment for that Part shall be solely as described in the relevant Schedule for that Part. Products returned to AMS under warranty must be returned within thirty (30) days of issuance of the RMA. Agency must return damaged or defective Products to AMS using the label or freight carrier information provided by AMS to Agency at the time of RMA issuance.
- 7.2 <u>Maintenance and Repair Policy Exclusions</u>. The above policy does not cover Equipment that is obtained from sources outside of AMS or is defective due to (i) improper use or installation, damage, accident, abuse or alteration; (ii) failure to comply with the operating and maintenance instructions set forth in the documentation for

the specific Equipment; (iii) servicing of the Equipment by anyone not authorized by AMS; (iv) failure of Agency to obtain reasonable and necessary maintenance of the Equipment as contemplated under the Agreement; (v) use of Parts in the repair of the Equipment that have not been approved in writing by AMS for use in the Equipment; or (vi) use in connection with a third party product other than that as approved in writing by AMS.

- **7.3** Sole Remedy. In the event of a breach of the above Maintenance and Repair policy, Agency's sole remedy shall be, at AMS' option, the repair or replacement of the defective Equipment or Part by AMS.
- Product Changes; Retrofit Activities. AMS shall have the right at any time (i) to change the design or specifications of any Equipment without notice and without obligation to make the same or any similar change on any Equipment previously purchased by Agency; and (ii) to retrofit or replace (during routine maintenance or otherwise) any Equipment to incorporate any upgrades or updates then available. However, nothing herein shall obligate AMS to provide Agency with all new models of Equipment at no additional cost, and AMS may charge a fee for Equipment model upgrades in certain circumstances including, but not limited to, a new line of products or a change in underlying technology or technological advancements requiring significant changes to an existing Equipment model. Regarding the foregoing, in any case where AMS charges a fee for an Equipment model upgrade, it will provide no less than six (6) months' notice to Agency prior to discontinuing the sale or rental of the discontinued Equipment model. In addition, AMS will continue to repair the Equipment for the shorter of three years or date of termination of third-party technology services integral to the performance and functionality of the discontinued Equipment.

#### 8 CONFIDENTIAL INFORMATION

- each agree to treat this Agreement, including all exhibits hereto, as Confidential Information of each party agrees not to disclose to the other party agrees to treat this Agreement, including all exhibits hereto, as Confidential Information of each party.
- 8.2 <u>Mondisclosure</u>. It is agreed that, after receipt of Confidential Information of the other party, Recipient shall: (i) restrict the dissemination of such Confidential Information to those employees who need to use the Confidential Information in the performance of this Agreement, and (ii) to use no less than a reasonable standard of care in safeguarding against unauthorized disclosure of such Confidential Information. Recipient agrees to have an appropriate nondisclosure agreement signed by each of its employees, agents and contractors who may be exposed to Discloser's Confidential Information.
- **8.3** Exceptions from Confidential Information. Confidential Information shall not include information that: (i) is or becomes part of the public domain without violation of this Agreement by Recipient, (ii) is already in Recipient's possession free of any restriction on use or disclosure, (iii) becomes available to Recipient from a third party provided that such party was free from restriction on disclosure of the information or (iv) has been independently developed by Recipient.
- **Required Disclosures.** If Recipient is required by legal proceeding discovery request, "open records" or equivalent request, investigative demand, subpoena, court or government order to disclose Confidential Information, Recipient may disclose such Confidential Information provided that: (i) the disclosure is limited to the extent and purpose legally required; and (ii) prior to any disclosure, Recipient shall immediately notify Discloser in writing of the existence, terms and conditions of the required disclosure and, at Discloser's request and expense, cooperate in obtaining a protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information.

#### 9 TERM AND TERMINATION

9.1 Term. This Agreement shall commence from the Effective Date and shall continue for the period specified on page one (the "Initial Term") unless earlier terminated in accordance with the provisions of this Agreement. After

the Initial Term expires, this Agreement can be extended by mutual written agreement of the parities for additional terms (each a "Renewal Term"). The Initial Term, together with any Renewal Term, is referred to as the "Term".

- **9.2** Termination for Convenience. This Agreement may be terminated for convenience at any time upon thirty (30) days prior written notice by one party to the other.
- **Termination for Breach**. Either party may terminate this Agreement; (i) if a voluntary or involuntary petition in bankruptcy, receivership, assignment for the benefit of creditors or other similar insolvency action is filed or levied against the other party and not discharged within sixty (60) days after the filing or levy thereof; (ii) by written notice by the non-breaching party, if the other party fails to cure any nonpayment of money owed to the other party under this Agreement within thirty (30) days of such notice; (iii) by written notice by the non-breaching party, if the other party fails to cure any material breach of this Agreement (other than non-payments described in clause (ii) above) within sixty (60) days of such notice (it is understood; however, that a violation of law, breach of confidentiality or misuse of access grants that cannot be cured shall be grounds for immediate termination); or (iv) immediately, by written notice by the non-breaching party, upon the second commission of a previously remedied material breach under clause (iii) above.
- **9.4** Termination for Non-Appropriation of Funds. In the event that Agency is unable to continue to make payments required hereunder due to a failure of the responsible governmental entity to make available funding to the level and in the amount required to remain in compliance with Agency's financial obligations hereunder, then upon the occurrence of such a non-appropriation event and on the date that the requisite funding ceases to be available to the Agency, Agency may terminate this Agreement, without further financial obligation or liability to AMS other than to pay for Products and Services previously delivered to Agency or performed for Agency.
- **9.5** Survival. This Section, any indemnity obligations of either party, and Sections 4.3, 4.4, 6, 8, 11, 12.1 and 12.2 shall survive termination of this Agreement.

#### 10 EFFECT OF TERMINATION

10.1 Payments; Return of Equipment. Upon any termination of this Agreement or any Schedule incorporated by reference herein, Agency shall provide AMS with all outstanding payments due and, within ten (10) days of the termination, return to AMS all Equipment not owned by Agency or, if so directed by AMS, to AMS' third party supplier. Upon termination of this Agreement, each party shall deliver or destroy all Confidential Information of the other party which is in its possession, care or control within thirty (30) days of termination except for backup and archived Client data.

#### 11 ALLOCATION OF LIABILITY

Each party agrees, to the extent allowed by law, to defend, indemnify and hold the other party and its officers, directors, shareholders, employees and third party suppliers (collectively, the "Indemnified Parties") harmless from and against all losses, damages and expenses, including reasonable attorneys' fees, in connection with any claims against the Indemnified Parties arising out of or related to the negligence or willful misconduct of the other party's employees or agents. Further, Agency shall indemnify and hold harmless AMS and its officers, directors, shareholders, employees and third-party suppliers against the acts of any Client assigned to wear the Equipment, including claims for personal, injury property damage or death. An indemnifying party shall have the foregoing obligation only if the other party provides: (i) a prompt written request for indemnification and defense in such claim or action; (ii) sole control of the defense and settlement thereof; and (iii) all available information, assistance and authority reasonably necessary to settle and defend any such claim or action.

EXCEPT AS ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL A PARTY TO THIS AGREEMENT BE LIABLE TO THE OTHER PARTY OR ANY OTHER THIRD PARTY FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, PROFITS, DATA, (OR USE THEREOF), OR BUSINESS INTERRUPTION ARISING OUT OF ANY ACTS OR FAILURES TO ACT, WHETHER SUCH DAMAGES ARE LABELED IN STRICT LIABILITY, TORT, CONTRACT OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

AMS HAS NO RESPONSIBILITY OR LIABILITY FOR ACTS THAT MAY BE COMMITTED BY INDIVIDUALS WHILE THEY ARE CLIENTS. EXCEPT AS LIMITED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL THE TOTAL LIABILITY OF AMS FOR ALL CLAIMS OF ANY KIND WHATSOEVER, AND UNDER ANY

THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY AGENCY TO AMS DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EARLIEST EVENT GIVING RISE TO THE CLAIM.

The limitations set forth in this Section 11 shall apply even if any exclusive remedy in this Agreement fails of its essential purpose. The allocation of liability in this Section 11 represents the agreed and bargained for understanding of the parties and each party's compensation hereunder reflects such allocations.

#### 12 MISCELLANEOUS PROVISIONS

- **12.1** Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado without regard to its conflicts of laws provisions. AMS and Agency hereby irrevocably consent to jurisdiction, service of process and venue in the City and County of Denver, Colorado.
- 12.2 <u>Arbitration.</u> Disputes arising under this Agreement that cannot be resolved informally by the parties through good faith negotiations shall be resolved by arbitration before a sole arbitrator appointed and operating pursuant to the Federal Arbitration Act and Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted in the City and County of Denver, Colorado. The written decision of the arbitrator shall be final, binding and convertible to a court judgment in any appropriate jurisdiction. Each party shall bear its own expenses with respect to such arbitration and shall share equally in the expenses of the arbitrator and the fees of the American Arbitration Association.
- 12.3 <u>Injunctive Relief.</u> Notwithstanding anything above to the contrary, either party at any time may apply to a court having jurisdiction thereof for a temporary restraining order, preliminary injunction or other appropriate order where such relief may be necessary to protect its interests (including, without limitation, any breach of the obligations under Sections 4 and/or 8), without any showing or proving of any actual damages and without posting a bond or other security.

#### 12.4 Non-Discrimination and Business Code of Conduct.

- 12.4.1 Non-discrimination. To the extent not exempt, the parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.
- 12.5 Records Retention and Audit Rights. Agency will retain all records relating to the Agreement or any Schedule for a period of seven (7) years after termination of the Agreement or applicable Schedule. During the Term, upon ten (10) days prior written notice, and not more than once per year (unless circumstances warrant additional audits as described below), AMS may audit Agency's procedures and records that relate to the obligations under this Agreement. Notwithstanding the foregoing, the parties agree that AMS may conduct an audit at any time, in the event of (i) audits required by governmental or regulatory authorities or (ii) investigations of a breach of this Agreement.
- **12.6** Assignment. Except as expressly permitted herein, neither party may transfer or assign this Agreement, in whole or in part, without the written consent of the other party and any such attempt at transfer or assignment shall be void. Notwithstanding the foregoing, AMS may transfer or assign this Agreement to an entity that is an affiliate of AMS or, in the event of a sale of all or substantially all of its assets or equity, each without the consent of Agency. This Agreement shall extend to and be binding upon any successors and permitted assigns of the parties.
- 12.7 <u>No Agency: Independent Contractor</u>. The use of the term "Agency" in this Agreement is solely for convenience and is not intended to make either party an agent of the other party. This Agreement does not constitute and shall not be construed as constituting an agency, distributorship or joint venture business arrangement between the parties. AMS is to be and shall remain an independent contractor with respect to Products provided or Services performed under this Agreement. AMS may subcontract the performance of any of its obligations under this Agreement. However, such subcontracting will not relieve AMS of its obligations under this Agreement.

- **12.8** Force Majeure. Except for the obligation to make payments as provided herein, neither party shall be in default under this Agreement by reason of its delay in the performance of, or failure to perform, any of its obligations under this Agreement, if, and to the extent that, such delay or failure is caused by strikes, wars, natural disasters, acts of the public enemy, government restrictions or acts of terrorism. Upon claiming any excuse or delay under this Section, such party shall promptly notify the other party, use reasonable efforts to remove the cause and continue its performance under this Agreement whenever the cause is removed.
- 12.9 <u>Notices</u>. All notices, requests, demands or communications required or permitted hereunder shall be in writing, delivered personally or by electronic mail, facsimile or overnight delivery service at the respective addresses set forth herein (or at such other addresses as shall be given in writing by either party to the other). All notices, requests, demands or communications shall be deemed effective upon receipt for personal delivery, or on the business day following the date of sending by electronic mail, facsimile or overnight delivery service.
- **12.10 Waiver; Severability.** Any waiver of any default or breach of this Agreement shall be effective only if in writing and signed by an authorized representative of the party providing the waiver. No such waiver shall be deemed to be a waiver of any other or subsequent breach or default. If any provision of this Agreement is held to be invalid, the remaining portions of this Agreement shall remain in full force.
- **12.11** <u>Publicity.</u> AMS shall have the right to issue news releases, press releases or other communications regarding this Agreement to potential investors and customers. However, AMS shall not disclose any names of Clients without the prior written approval of the Client and Agency.
- **12.12** <u>Headings</u>. Headings used in this Agreement are for convenience of reference only and shall not be construed as altering the meaning of this Agreement or any of its parts.
- **12.13** Execution. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The parties agree that signatures on this Agreement, as well as any other documents to be executed under this Agreement, may be delivered by facsimile or email and signed using a portable document format or an electronic signature in lieu of an original signature, and the parties agree to treat such signatures as original signatures and agree to be bound by this provision.
- **12.14** Entire Agreement. This Agreement constitutes the entire understanding of the parties and supersedes all prior or contemporaneous written and oral agreements, representations or negotiations with respect to the subject matter hereof. This Agreement may not be modified or amended except in writing and signed by both parties.

**IN WITNESS WHEREOF**, the parties' hereto have caused this Agreement to be executed by their dully authorized representatives as of the date last signed by AMS.

CIBOLA	COUNTY DWI PROGRAM	ALC	COHOL MONITORING SYSTEMS, INC.
Ву:		Ву:	
Name:	Kate Fletcher	Name:	John Hennessey
Title:	City Manager	Title:	Chief Revenue Officer
Date:			
Ву:			
Name:			
Title:			
Date:			
Attest:			
	Clerk of Agency	<del></del> .	
	Signed by AMS a	nd effective as	s of:
			Effective Date

#### PRODUCT AND SERVICE SCHEDULE TO MASTER AGENCY AGREEMENT

AGENCY: CIBOLA COUNTY DWI PROGRAM	
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This PRODUCT AND SERVICES SCHEDULE ("Schedule") to the MASTER AGENCY AGREEMENT (the "Agreement") is entered into on the date last signed by AMS by and between Alcohol Monitoring Systems, Inc. ("AMS") and the Agency identified above. This Schedule is incorporated by reference into the Agreement effective \_\_\_\_\_\_ executed by the parties. Unless otherwise defined herein, capitalized terms in this Schedule are those as defined in the Agreement. This Schedule is effective on the date signed by AMS.

AMS hereby desires to provide Agency with Equipment and sell the Agency supporting Services and Agency desires to order such Equipment and purchase such Services as defined in this Schedule during the Term.

#### 1. DEFINITIONS

- a. "Active Equipment" means any Equipment unit actively using the Monitoring Software.
- b. "Additional Monitoring Services" means, if Agency is purchasing such services, the additional Monitoring Services provided by AMS and as further defined on Attachment 1, at the pricing set forth in Attachment 1, Schedule A.
- **c.** "CAM Equipment" means, if applicable per the pricing table below, an ankle bracelet device that continuously monitors alcohol levels and if configured as a kit, the base station.
- d. "Service Fee" as used on the Schedule(s) means the Monitoring Service fee charged by AMS to Agency per each Equipment unit, per day using the Monitoring Services.
- e. "Equipment" means collectively the GPS equipment, CAM equipment, various base stations, the Remote Breath Analyzer, the Radio Frequency House Arrest bracelet, Wireless Multi-connect devices and various base stations if sold separately rather than in kit configuration.
- f. "GPS Equipment" means, if applicable per the pricing table below, a device that monitors Client's geophysical location based on exclusion and inclusion zones and includes the base station if configured as a kit.
- **g.** "House Arrest Equipment" means, if applicable per the pricing table below, an electronic ankle device that monitors Client's adherence to a home arrest curfew schedule and includes the base station if configured as a kit.
- h. "Remote Breath Equipment" means, if applicable per the pricing table below, a device that measures alcohol levels in the breath and may have facial recognition capabilities,
- i. "SLA" means the Service Level Agreement Information document, which is attached to this Schedule as Attachment 1 and is only applicable if Agency is purchasing or renting Equipment with Additional Monitoring Services. Specific SLA protocols will be agreed to in a separate SLA document signed by Agency.
- **j.** "Wireless Base Station" means, if applicable per the pricing table below, an AMS device that uses cellular transmission to connect with another device, such as a House Arrest or CAM bracelet.
- k. "Wireless Multi-connect Device" means, if applicable per the pricing table below, a third-party wireless device that connects multiple electronic hardware devices, such a CAM bracelet to a base station.

#### 2. TERRITORY: NA

#### 3. EQUIPMENT AND SERVICE LIMITATIONS AND SPECIAL REQUIREMENTS

#### 3.1 GENERAL EQUIPMENT LIMITATIONS

- 3.1.1 Alcohol Detection. The CAM Equipment is not designed to give immediate notification of alcohol detection.
- 3.1.2 <u>Tamper Efforts.</u> AMS makes no assurances that the any Equipment worn by a Client will detect all tamper efforts.
- **3.1.3** Submergence in Water or Other Liquid. Equipment is not designed for submergence in liquids. Certain Equipment can tolerate limited water exposure such as that encountered when showering.

3.1.4 <u>Failure by Agency to Adhere to Maintenance Schedules.</u> AMS bears no liability for Agency's failure to adhere to Equipment maintenance notifications and/or schedules related to equipment and calibration.

#### 3.2 REMOTE BREATH EQUIPMENT LIMITATIONS

- 3.2.1 Set Up. Agency is responsible for entering and updating schedules for each Client and setting up all relevant notifications, including all methods and events. Further, Agency is responsible for establishing a program providing the necessary criteria to interpret all testing results provided by AMS. The Equipment is intended to be used to determine if a Client has consumed alcohol. It is a professional device designed to be used by trained Agency personnel in conjunction with a routine Agency-run equipment maintenance and calibration oversight program. Use by untrained personnel or without periodic maintenance or calibration may result in invalid results or incorrect interpretation of results.
- 3.2.2 <u>Breath Test Results.</u> AMS will not analyze or interpret testing results, reporting histories, or provide an opinion as to whether the Client has consumed alcohol. The concentration of alcohol in the blood of the Client cannot be exactly determined by using a breath alcohol-screening device. Blood alcohol concentration depends on a number of variables including, but not limited to, the amount of alcohol consumed, the rate at which it was consumed, body size, age, physical health and the rate of which the Client metabolizes alcohol. No vehicle or machinery should ever be operated after alcohol consumption, regardless of the breath test result as even small quantities of alcohol can result in driving impairment.
- **3.2.3** Other Limitations. The SCRAM Remote Breath Equipment is not waterproof and should not be immersed in or exposed in any way to liquids. Equipment damaged by Clients or by exposure to water will not be repaired and is subject to the lost/damaged Equipment unit replacement fee.
- 3.3 ADDITIONAL MONITORING SERVICES 24/7 REQUIREMENTS. Additional Monitoring Services are supported by a separate SLA document, which must be completed for each Client. Each SLA specifies, among other things, the type, description and price of the Monitoring Services to be provided. Any modifications of the terms of the SLA shall be made solely in writing and mutually executed by the parties and any other attempt to modify the terms of the SLA shall be void. AMS is not liable for; (i) the actions or inactions of Agency or its employees, contractors and agents that result in delay or error in the Services; (ii) failure to report Client non-compliant activities to appropriate supervising authorities when potential bond, parole or probation violations have occurred; or (iii) inaccurate information provided or input into the Monitoring Software, including Client or other contact information, GPS inclusion/exclusion zone set up and offender schedule information and associated protocols.
- 3.4 WIRELESS EQUIPMENT AND NETWORK LIMITATIONS. AMS provides a choice of data network providers as a part of its Services for the Wireless Multi-connect Device and other Equipment. AMS accepts no responsibility or liability for wireless data coverage or lack thereof. No data will be transmitted when a data network that is supporting the Equipment is not available. Wireless Multi-connect Devices do not provide caller location or caller identification.

#### 4 EQUIPMENT AND SERVICE PRICING:

#### 4.1 <u>Purchased Equipment</u>

Equipment Type	Quantity	Price per Unit	Service Fee per Unit, per Day
CAM Kit Landline Base Station	1+	\$1500	\$4.40
CAM Bracelet	1+	\$1200	\$4.40
CAM Kit Wireless Base Station	1+	\$1735	\$4.40
GPS Bracelet	1+	\$600	\$2.60
GPS Beacon	1+	\$400	\$0.60
GPS On-body Charger	1+	\$125	NA
House Arrest Kit Landline Base Station	1+	\$600	\$1.30
House Arrest Bracelet	1+	\$240	\$1.30
House Arrest Kit Wireless Base Station	1+	\$835	\$1.30

CAM/HA Landline Base Station	1+	\$400	NA
CAM/HA <b>Wireless</b> Base Station	1+	\$650	\$1.00
Remote Breath Kit	1+	\$850	\$2.60

#### 4.2 Rental Equipment Price

Equipment Type	Quantity	Service Fee per Unit, per Day	Rental Equipment Fee, per Unit, per Day	Daily Service Fee per Unit (includes Rental Equipment Fee)	Shelf Fee
				100000000000000000000000000000000000000	
CAM <b>Set Landline</b> Base Station	1+	\$4.40	\$2.17	\$6.57	\$2.17
CAM Bracelet	1+	\$4.40	\$1.73	\$6.13	<u> </u>
CAM <b>Set Wireless</b> Base Station	1+	\$4.40	\$2.51	\$7.91	\$1.73 \$2.51
	1 12 4				
GPS Bracelet	1+	\$2.60	\$0.97	\$3.57	<b>#4.40</b>
GPS Beacon	1+	\$0.60	\$0.59	\$1.19	\$1.12
Mark a lington and	1 41 44		Ψ0.00		\$1.20
House Arrest <b>Set Landline</b> Base Station	1+	\$1.30	\$0.87	\$2.17	\$0.87
House Arrest Bracelet	1+	\$1.30	\$0.35	\$1.65	\$0.35
House Arrest Set Wireless Base Station	1+	\$1.30	\$2.16	\$3.36	\$1.21
Remote Breath Equipment	1+	\$2.60	\$2.45	\$5.05	\$2.45
	Jan Artin				
CAM/HA Landline Base Station Standalone	1+	NA	NA	NA	NA
CAM/HA <b>Wireless</b> Base Station Standalone	1+	\$1.00	\$0.94	\$1.94	0.94

**Note 1:** If purchasing/renting the Wireless Base Station kitted with CAM or HA Equipment, the Service Fee will be invoiced at the amount for CAM or HA Kit listed above, plus the Service Fee amount listed above for the CAM or HA Wireless Base station as if it were purchased/rented as a standalone unit. The same concept applies to Daily Rental GPS Beacons.

#### 5. ADDITIONAL SERVICES

**Training:** AMS will provide Agency personnel with training in the use of the Products. Any such training will be at no charge to Agency.

Ethernet Communication: \$0.50 per Equipment unit, per day

RB Associated Consumables: AMS will provide 1 calibration kit for each order with a quantity of 25 Remote Breath Equipment units.

RB Calibration Fee: AMS will calibrate Remote Breath Equipment for a charge of \$50 per Equipment unit.

Consumables: AMS electronic monitoring devices require the use of certain consumable items for proper operation. Consumables are provided at no additional charge up to the amount of the customer's normal expected usage for a particular product, usually based on monitored days. Consumables in excess of normal expected usage are available for purchase. A complete listing of consumables for AMS electronic monitoring devices, including current purchase price, is located under that Help tab in SCRAMnet. In addition, AMS offers for sale certain accessories that assist customers in their normal operations. A complete listing of accessories available for purchase, including current purchase prices, is located under the Help tab in SCRAMnet.

Consumable Calculation Example:
90 CAM units on for a 30 day/monthly period
Results in 2700 monitored days
Using a normal expected usage of 90 days for battery/faceplate kits
Allocated 30 battery faceplate kits for the month.

#### 6 MOBILE APPLICATIONS:

**TouchPoint Overview:** TouchPoint is an AMS proprietary mobile application designed for use by Clients who are using AMS or other electronic monitoring devices under the Agency's supervision. AMS will provide the Agency with TouchPoint training. Clients will download TouchPoint to their cell phone and upon first use agree to the TouchPoint Mobile Application Terms and Conditions of User. The Agency will provide TouchPoint training to the Clients.

#### TouchPoint Price/Billing:

<u>Price</u>: TouchPoint Client Users wearing AMS Equipment: No charge TouchPoint Client Users not wearing AMS Equipment: \$0.50 per TouchPoint Client User, per day when active

<u>Billing</u>: AMS will invoice the Agency monthly in arrears. Payment terms will be those as set forth in the Agreement. TouchPoint price is subject to change upon availability of additional features/function. AMS will contact Agency if the price changes and if the new price cannot be agreed on by Amendment on this Agreement, TouchPoint will become unavailable with 30 days prior notice.

Ally Overview: The Ally Mobile Application is an AMS proprietary mobile application designed for Victim notification used to alert a Victim when a Client wearing an AMS GPS Bracelet is in geographic proximity of the Victim's phone. AMS will provide the Agency with Ally Mobile Application training. Victims will download the Ally Mobile Application to their cell phone and upon first use agree to the Ally Mobile application terms and Conditions of Use. The Agency will provide Ally Mobile Application training to the Victim. The alert geographic boundary is set by the Agency in the Monitoring Software. The Client must be on a 1x1 rate plan if they are paired with a Victim. The term "Victim" means a person who is a participant in a victim notification program managed by Customer and who is authorized by Customer to download and activate the Ally Mobile Application on his/her personal mobile device so that the Victim can receive alerts related to the Client based on parameters set up by Customer in the Monitoring Software.

#### Required Actions by Customer, Client and Victim:

It is understood and agreed by the parties that the Ally Mobile Application is to be used as a part of a written victim notification program managed by Customer whereby the Client is enrolled in a GPS monitoring program requiring the wearing of a SCRAM GPS Ankle Monitor Bracelet.

The Ally Mobile Application is not a substitute for the Victim remaining vigilant to protect his/her personal safety and cannot be relied upon as the sole means of maintaining the Victim's personal safety. Each Victim must comply is all respects with the detailed requirements listed in the Ally Mobile Application Terms and Conditions which are available via a link in the Ally Mobile Application. In addition, the timely receipt and/or accuracy of alerts from the Ally Mobile Applications are dependent upon: (i) the Victim's full compliance with the requirements of the Ally Mobile Application Terms and Conditions; (ii) full compliance of the Client with the requirements of his/her GPS location monitoring program, including but not limited to, the Client not tampering with or removing his/her device; (iii) the proper set up and maintenance in the Monitoring Software by Customer of all zones, schedules and victim information for the relevant Client; and (iv) the Client's SCRAM GPS Ankle Monitor Bracelet being "active" so that notifications can be sent to the Ally Mobile Application. Customer shall be solely responsible for the management and supervision of any Client, Victims or Customer personnel using the Monitoring Software. In addition, Customer is solely responsible for (i) the development of a Victim notification program, (ii) the maintenance of a separately contracted GPS monitoring program requiring the wearing by Clients of SCRAM GPS Ankle Monitor Bracelets, (iii) the selection and implementation of the Victim enrollment process, (iv) the set up and maintenance of the monitoring and notification options available in the Monitoring Software (including maintenance of all zones, schedules and victim information) and (v) the training of Victims in the set up and use of the Ally Mobile Application. AMS is not responsible or liable for Customer's failure to properly fulfill its foregoing responsibilities AMS IS NOT RESPONSIBLE OR LIABLE TO CUSTOMER, CLIENT OR VICTIM IF THE ALLY MOBILE APPLICATION DOES NOT PROVIDE TIMELY OR ACCURATE NOTIFICATIONS OR ALERTS DUE TO A FAILURE OF CUSTOMER, CLIENT OR VICTIM TO COMPLY WITH ANY OF THE FOREGOING.

Price: \$1 per day, per Victim per Ally user.

<u>Billing:</u> AMS will invoice the Agency monthly in arrears. Payment terms will be those as set forth in the Agreement. Ally price is subject to change upon availability of additional features/function. AMS will contact Agency if the price changes and if the new price cannot be agreed on by Amendment on this Agreement, Ally will become unavailable with 30 days prior notice.

#### 7 SHELF FEE; SHELF ALLOWANCE; LOSS AND DAMAGE ALLOWANCE; LOST AND DAMAGE FEE:

**Shelf Fee:** A Shelf Fee is only charged if there is an amount in the Rental Equipment Fee column `in the table above and there is a Shelf Allowance percentage listed below.

Shelf Allowance: 20%

Loss and Damage Allowance: 5%

Loss and Damage Fee: The replacement fee for Rental Equipment lost or damage beyond repair will be the purchase price, per unit, listed above or as follows. For Parts it will be the current replacement cost from the manufacturer. GPS refurbishment fee will be \$365.50, CAM refurbishment fee will be \$600 for those units that can be repaired.

#### 8 SPECIAL TERMS: NA

**IN WITNESS WHEREOF,** the parties' hereto have caused this Agreement to be executed by their dully authorized representatives as of the date last signed by AMS.

THIS SCHEDULE, AND THE AGREEMENT OF WHICH IT IS A PART, IS A COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES, WHICH SUPERSEDES ALL PRIOR SCHEDULE AND ANY PROPOSALS AND UNDERSTANDINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS SCHEDULE. By execution, both signers certify that each is authorized to execute the Schedule on behalf of their respective companies.

CIBOLA C	COUNTY DWI PROGRAM	ALCOHO	L MONITORING SYSTEMS, INC.
Ву:		Ву:	
Name:	Kate Fletcher	Name:	John Hennessey
Title:	City Manager	Title:	Chief Revenue Officer
Date:			
	Signed by A	MS and effective as of:	,
			Effective Date

# ATTACHMENT 1 – MONITORING SERVICE LEVEL AGREEMENT INFORMATION TO PRODUCT AND SERVICE SCHEDULE TO MASTER AGENCY AGREEMENT

#### 1 OVERVIEW

The following information details the alert and notification protocols that AMS will provide to Agency for those Clients using Equipment that requires Additional Monitoring Services and is incorporated by reference into the Product and Services Schedule to the Master Agency Agreement between the parties.

#### 1.1 SERVICES

- 1.1.1 Additional Monitoring Services. AMS will provide Additional Monitoring Services on a 24/7, 365 day basis. The Monitoring Services are provided by AMS and not a third party. Services generally consist of outbound calls made by AMS to Probation Officers, law enforcement or Clients, telephone calling or customized Monitoring Services based on alert protocol specifications entered into the Monitoring Software.
- 1.1.2 <u>Contact Information and Monitoring Service Level Agreement Form.</u> Agency will contract AMS to configure the Monitoring Software to maintain all alert protocols and contact information.
- 1.1.3 Alert Protocols. Agency will contact AMS to set up alert protocols that will documented in a separate SLA for each Customer.
- 1.1.4 Alert Response Time. AMS will respond to outbound alerts within 30 minutes of receiving notification of alert and will follow the protocols as configured for Agency.
- 1.1.5 <u>Recording.</u> The Monitoring Software will record inbound and outbound requests made by telephone. For quality purposes AMS will provide individual recordings of the telephone transactions upon written request.
- 1.1.6 Reporting. Upon written request, AMS will provide Agency with the following information:
  - Number of alerts received for a specific period of time
  - Average time to respond to alerts
  - Results/notes of calls
- 1.2 PRICE AND PAYMENT. Additional Monitoring Service standard fees are identified on Schedule A hereto, but will be formally agreed to in the SLA, and will be invoiced by AMS on a monthly basis as incurred and shall be paid by Agency the payment terms set forth in the Agreement from the date of such invoice and the remedies under the Agreement shall apply to any non-payment.

# SCHEDULE A – ADDITIONAL MONITORING SERVICE FEES TO ATTACHMENT 1 –SERVICE LEVEL AGREEMENT TO PRODUCT AND SERVICE SCHEDULE TO MASTER AGENCY AGREEMENT

SERVICE LEVEL CHOOSEN:	PREMIER	
SERVICE APPLICABLE PRODUCT(s): Check the	e box for the Product(s) y	ou are purchasing the Additional Services for
CAM   REMOTE BREATH	HOUSE ARR	EST □ GPS ⊠
ADDITIONAL MONITORING SERVICES	CAM	REMOTE BREATH, HOUSE ARREST, GPS ( Per Day, Per
Standard (Included in Services Fee)		
24/7/365 monitoring services     Online training and certifications	No Additional Charge	No Additional Charge

ADDITIONAL MONITORING SERVICES	САМ	REMOTE BREATH, HOUSE ARREST, GPS ( Per Day, Per	
Standard (Included in Services Fee)			
<ul> <li>24/7/365 monitoring services</li> <li>Online training and certifications</li> <li>Automated alert notifications delivered via text, email or page</li> <li>Daily summary reports</li> <li>24/7 alert generation and analysis</li> </ul>	No Additional Charge	No Additional Charge	
Premier			
<ul> <li>Standard, plus:</li> <li>High priority alert investigation/ handling/ resolution</li> <li>Manual outbound officer and offender calls</li> <li>Closed loop documentation of alert handling/ resolution (1-3 calls per alert)</li> </ul>	Not Available	\$1.00	
Premier Plus			
<ul> <li>Premier, plus:</li> <li>Outbound offender and officer calls based on defined protocols and escalation procedures per SLA</li> <li>Escalated alert notifications to officers and/or supervisors (e.g. highest authority for notification) (&gt;3 calls per alert)</li> </ul>	Not Available	\$1.25/day/Client	
Customized Services			
For data entry, schedule changes, on-site training, operational assessments, agency and court reporting packages	Priced for each service in the SLA	Priced for each service in the SLA	

### **Tammy Morgan**

From:

Brett Wilday <BWilday@scramsystems.com>

Sent:

Wednesday, August 25, 2021 1:47 PM

To:

Joanna Pena

Cc:

**Brett Wilday** 

Subject:

SCRAM quote

Hello and good afternoon Ms. Pena,

Thanks for the time on the phone this afternoon. Per the conversation here is a price quote for purchased vs rented SCRAM products.

**Purchase** 

**Daily Fee** 

CAM Bracelet: \$1,200.00

\$4.40

Wireless Base Station: \$650.00

\$1.00

Standard Base Station: \$400.00

\$.50 Ethernet \$0.00 analog phone

GPS bracelet: \$600.00

CAM Bracelet Refurbish: \$600.00

\$2.60

### Daily When on Rental

CAM Bracelet: \$6.28

Wireless Base Station:\$2.02 Standard Base Station:\$.63

GPS bracelet: \$3.57

### **Victim Notification App**

This is a smart phone App the victim downloads and is paired with SCRAM GPS device to alert the victim if GPS bracelet is close by.

Daily Fee when active \$1.00

Please let me know if you have any questions!

Brett



10e.

## Resolution 22-14

Auth. The Auction/Disposal of Computer Equipment

### Cibola County Commission

Daniel J. Torrez, Chairman
Martha Garcia, 1<sup>st</sup> Vice-Chair
Christine Lowery, 2<sup>nd</sup> Vice-Chair
Robert Windhorst, Commissioner
Ralph Lucero, Commissioner

### Cibola County Cibola County 700 E. Roosevelt Ave., Suite 50

Grants, New Mexico 87020 Phone (505) 287-9431 – Fax (505) 285-5434



Kate Fletcher County Manager County Manager

### Resolution No. 2022-14

#### Fiscal Year 2022

### Resolution Authorizing Auction and Disposal of Cibola County Computer Equipment

**WHEREAS**, pursuant to NMSA 1978 Section 4-38-1 the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and,

**WHEREAS**, NMSA 1978, Section 4-38-13 provides that board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

**WHEREAS**, NMSA 1978, Section 13-6-2 provides that the County give notification at least thirty days prior to its action making the deletion by sending a copy of its official finding and the proposed disposition of the property to the state auditor and the appropriate approval authority designated in Section 13-6-2 NMSA 1978, duly sworn and subscribed under oath by each member of the authority approving the action.; and,

**WHEREAS,** NMSA 1978, Section 13-6-2 provides, in pertinent part, that the "sale or disposition of real or tangible personal property having a current resale value of more than five thousand dollars (\$5,000) may be made by a . . . local public body. . . if the sale or disposition has been approved by . . . the local government division of the department of finance and administration for local public bodies; and,

**WHEREAS**, the County is in possession of 149 desktops, 8 Servers, 115 Monitors, 66 Printers, 28 UPS, & 22 Switches that were utilized by various departments and are now obsolete, have reached end of life, or are unsupported; and,

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Cibola County that it authorizes the sale of the vehicles and equipment, contingent upon securing the approval of the local government division of the department of finance and administration and sending notification to the office of the state auditor; and,

WHEREAS, the disposition of property descriptions and information stated on the attachment labeled "Auction and Disposal of Cibola County Computer Equipment."

### Cibola County Commission

Daniel J. Torrez, Chairman
Martha Garcia, 1<sup>st</sup> Vice-Chair
Christine Lowery, 2<sup>nd</sup> Vice-Chair
Robert Windhorst, Commissioner
Ralph Lucero, Commissioner

## Cibola County Cibola County 700 E. Roosevelt Ave., Suite 50 Grants, New Mexico 87020

Phone (505) 287-9431 – Fax (505) 285-5434



Kate Fletcher County Manager County Manager

**PASSED, APPROVED and ADOPTED** by the governing body at its regular meeting on the  $27^{\rm th}$  day of January 2022.

# THE BOARD OF COUNTY COMMISSIONERS: Daniel J. Torrez, Chairman Martha Garcia, 1st Vice-Chair ATTEST: Christine Lowery, 2nd Vice-Chair Michelle E Dominguez, County Clerk Ralph Lucero, Commissioner Robert Windhorst, Commissioner



10f.

## RFP 2022-01

Selection of Consulting Services for Multi-Hazard Mitigation Plan

	ZARD MITIGATION PLAN
SHEET	IULTI-HA
<b>BID TABULATION SHEET</b>	ULTING SERVICES FOR N
	O. 2022-001 CONSUL
ADMINISTRATION CARREST OF CARREST OF TAXABLE PARTY.	RFP NC

375 100 DISQUALIFIED DISQUALIFIED  290 50 90	Member: 2 PROPOSALS POINTS	PROFESSINAL QUALIFICATIONS - Identify and describe the consultant's qualifications to provide these types of services solicited herein. Identify the support staff who would be assigned to with the consultant on this project. Define the capacity in which each person supporting he consultant would be working, and describe the qualifications each holds to perform the ork required. Provide Copies of any certifications and awards that would further demonstrate offeror's ability to complete the required work.	EXPERIENCE - Offeror must describe the consultant's experience in providing these types of services solicited herein, especially with other government entities. Offeror must provide a Project Plan with their proposal that at a minimum, outlines how the consultant's team intends to approach this project completion dates. Identifies the support staff who would be assigned to work with the consultant on this project. Describes how you will fullfill the scope of work as identified in this RFP	REFERENCES - Offeror must provide names and current contact information for at least three public entity references for which your firm has provided similar services. Offeror must also describe the type of service provided to each and when the service was performed	Total Points (1,000 Possible)
375         100           DISQUALIFIED         DISQUALIFIED           290         50           380         90		CINIO LOCA	400 POINTS	150 POINTS	TOTALS
DISQUALIFIED         DISQUALIFIED           290         50           380         90		390	375	100	865
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		410	380	06	880

CRITERIA/FACTORS	PROFESSINAL QUALIFICATIONS - identify and describe the consultant's qualifications to provide these types of services solicited herein. Identify the support staff who would be assigned to with the consultant on this project. Define the capacity in which each person supporting the consultant would be working, and describe the qualifications each holds to perform the ork required. Provide of any certifications and awards that would further demonstrate offeror's ability to complete the required work,	450 POINTS		360 350 820 820 820 820 820 820 820 820 820 82	DISQUALIFIED		200	440	350
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ESP ASSOCIATES, INC	450	400	150 POINTS 150	TOTALS
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MY FREEDOM LIVING LLC	our.		בובתסקרובה	0
	300	200	75	575
AARC CONSULTANTS	450	400	150	1000

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	REFERENCES - Offeror must provide names and current contact information for at least three public entity references for which your firm has provided similar services. Offeror must also describe the type of service provided to each and when the service was performed		150 POINTS	661	TOO	DISQUALIFIED		П	125	C7T
CRITERIA/FACTORS	with with rt's rtifies as usultantrk as		400 POINTS	400		DISQUALIFIED	200	007	400	
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Committie Member: 5	PROPOSALS	POINTS	ESP ASSOCIATES INC	)	UNIS COMPLEXITY SOLUTIONS	AV EDE	MIT PREEDOM LIVING LLC	AARC CONSULTANTS		

GRAND TOTAL	4600	0	C 2841	4745
COMPANY	ESP ASSOCIATES, INC	UNIS COMPLEXITY SOLUTIONS	MY FREEDOM LIVING LLC	AARC CONSULTANTS

GRAND TOTAL	4600	0	2841	4745
COMPANY GRA	ESP ASSOCIATES, INC	UNIS COMPLEXITY SOLUTIONS	MY FREEDOM LIVING LLC	AARC CONSULTANTS



10g.

## Resolution 22-15

Designating the Location of Election Polling Places 2022/2023

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioners designates the election day polling locations for any Statewide Election to be conducted in 2022 and 2023 as follows:

Voting Location	Precinct Name	Precinct Address	Precinct #'s that can vote at Voting Locations
1	Fence Lake Community Center	2125 Hwy 36, Fence Lake NM 87315	1
2	Seboyeta Elementary School	State Road 279, Seboyeta NM 87014	2
3	San Mateo Fire Station	110 San Mateo Main Street, San Mateo NM 87020	3
20	Laguna Tribal Building	22 Capital Drive, Laguna NM 87026	20
21	Mesita Facility	1 Industrial Parkway Loop, Mesita, NM 87026	21
	Paguate Community Center	60 Paguate Day School Road, Paguate, NM 87040	22
23	Encinal Recreation Hall	5 Flagstone Road, Encinal, NM 87038	23
24	Paraje Recreation Hall	31 Paraje Road, Paraje, NM 87007	24
25	Seama Recreation Hall	13 Sacred Shield Road, Seama, NM 87007	25
VCC Site	Old County Complex	515 W. High St, Grants. NM 87020	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site	County Clerk's Office	700 E. Roosevelt Suite 50, Grants, NM 87020	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site	Milan Parks and Recreation	407 Airport Rd, Milan, NM 87021	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site	Acoma Community Center	25 Pinsbarri Drive, Acoma, NM 87034	17,29 ONLY
VCC Site	Ramah Training Center	422 BIA 125, Pinehill, NM 87357	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site	Bluewater Senior Center	5 Pinon Street, Bluewater NM 87005	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site	Bluewater Acres Fire Station	9 Cod Drive, Thoreau NM 87323	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site	San Rafael Elementary School	27 Mesa View St, San Rafael, NM 87051	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29
VCC Site 10	Cubero Elementary School	100 Main Street, Cubero NM 87014	4,5,6,7,8,9,10,11,12,13,14,15 ,16,17,18,19,26,27, 28,29



## CIBOLA COUNTY BOARD OF COUNTY COMMISSIONERS RESOLUTION NO. 2022-15 DESIGNATING THE LOCATION OF ELECTION DAY POLLING PLACES FOR ALL STATEWIDE ELECTIONS CONDUCTED IN 2022 AND 2023

**WHEREAS,** the Cibola County Board of Commissioners met upon notice of a regular meeting duly published at the Cibola County Administration Building, 700 East Roosevelt, Suite 50, Grants, New Mexico 87020 on February,17<sup>th</sup> 2022, at 5 p.m. as required by law; *and*,

**WHEREAS,** pursuant to the New Mexico Statutes Annotated 1978, Section 1-3-2 (2019) the Board of County Commissioners by resolution shall designate the location of election day polling places in the county for the conduct of any statewide election conducted in calendar years 2022 and 2023; *and*,

**WHEREAS**, the Board of County Commissioners finds that each polling place designated in this resolution complies with the provisions of NMSA 1978, Section 1-3-7 (2019), titled Polling Places; *and*,

WHEREAS, the Board of County Commissioners finds that the Voting Convenience Centers created by this resolution will make voting more convenient and accessible to voters of the consolidated precinct, will not result in delays in the voting process, and are centrally located within each consolidated precinct; and further that the Voter Convenience Centers created by this Resolution along with any Early Voting locations which the County Clerk determines to maintain open on Election Day as additional Voter Convenience Centers all meet the requirements of Subsections B and C of NMSA 1978, Section 1-3-4 (2019) and will be available to voters of any precinct in the county to cast a vote at the Voting Convenience Center; and

WHEREAS, the Board of County Commissioners finds that the voters of those precincts which pursuant to NMSA 1978, Section 1-3-4(B)(7) (2019) the board of county commissioners has exempted "certain precincts [] from operating as a voter convenience center or being a part of a consolidated precinct; provided that if the precinct is not designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 and the polling place for that precinct does not have real-time access to the voter registration electronic management system, [] and,

**WHEREAS**, the Board of County Commissioners finds that that each polling place provides individuals with physical mobility limitations unobstructed access to at least one voting machine; and,

**BE IT FURTHER RESOLVED** that this resolution repeals and replaces Resolution 2021-47 and all other conflicting resolutions.

### APPROVED, ADOPTED, AND PASSED on this 17th day February 2022.

### BOARD OF COUNTY COMMISSIONERS

Daniel J. Torrez, Chair	Martha Garcia, 1st Vice-Chair
Christine Lowery, 2 <sup>nd</sup> Vice Chair	Ralph Lucero, Member
Robert V	Windhorst, Member
ATTEST BY:	
Michelle E. Dominguez, County Clerk	



10h. (a)

## Requisitions Over \$20,000

2021 Durango-Melloy Dodge-Manager's Dept.

### **REQUISITION ORDER**

January 18, 2022		. 0	7 19	ONDEN								
VENDOR NAME:   Melloy Dodge		DLAI	WIII.	DATE :		DEPARTMENT:		QU	OTE OBTAINED	RV.		
VENDOR NAME:	5	*	1	January 18, 2022		Manager						
CONTACT NAME   James Class	-	7 11	The same			UOTE #1	Q	UOTE #2	QUO	TE #3		
PHONE   S05-922-2557	77	1 4	The same of the sa	VENDOR NAME	Mel	loy Dodge						
PHONE   S05-922-2557	,	trust		CONTACT NAME	james Casse	1						
NO.   DESCRIPTION   UNIT COST   EXTENSION   UNIT COST   UNIT COS		. Ch.	Der - y -									
Durango, Item 4   33355.00   33,355.00	**	SM WEXTCO	157, 1961									
Durango, Item 4   33355.00   33,355.00	NO.		DES	CRIPTION					_			
Linging 3.6 V-6, Item D							UNIT COST	EXTENSION	UNIT COST	EXTENSION		
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PLEASE REMEMBER ANY REQUISITIONS OVER \$500.00 NOW REQUIRE 3 HAND QUOTES. MAY REQUISTION \$10,000.00 OR MORE WILL NEED TO GO ON THE AGENDA FOR COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE



## BID/QUOTE

### 2021 Dodge Durango SXT

State contract # 00-00000-20-00121

<b>T</b> .	Durango Engine 3.6 V-6 Interior Upgrade Special Service Delete Window Tint	\$33,355.00 -\$1,600.00 \$1,470.00 -\$995.00
Item AD	window lint	\$250.00

**SXT Durango Total** 

\$32,480.00

James Cassell
Fleet Sales
Melloy Dodge
(505)922-2557 direct
(505)922-2580 fax
(505)239-2811 cell
jcassell@melloydodge.com



### State of New Mexico General Services Department Purchasing Division

### Statewide Price Agreement Amendment

Awarded Vendor: 8 Awarded Vendors	Number: <u>00-0000-20-00121</u> Amendment No.: <u>One</u> Term: <u>November 13, 2020 - November 12, 2022</u>
Ship To: All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.  Invoice: As requested	Procurement Specialist: <u>Tami Concha</u> <u>IC</u> Telephone No.: <u>505-660-3671</u> Email: <u>Tami.Concha@state.nm.us</u>

Title: Police Pursuit

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from November 13, 2021 to November 12, 2022 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Valerie Paulk

Mark Hayden, New Mexico State Purchasing Agent

Date: 10/25/2021

X This Agreement was signed on behalf of the State Purchasing Agent

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

MU

### DocuSign

### **Certificate Of Completion**

Envelope Id: 34107C7E9BE146D5BAFBA6D0A05FABFB

Subject: Please DocuSign: SPD SPA

Source Envelope:

Document Pages: 1

Certificate Pages: 5

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Completed

Envelope Originator:

Tami Concha

13 Bataan Blvd

Santa Fe, NM 87508 taml.concha@state.nm.us

IP Address: 75,161,69,164

Record Tracking

Status: Original

10/22/2021 8:53:51 AM

Security Appliance Status: Connected

Storage Appliance Status: Connected

Holder: Taml Concha

tami.concha@state.nm.us

Pool: StateLocal

Signature

Signatures: 1

Initials: 2

Pool: GSD

20

Location: DocuSign

Location: DocuSign

Signer Events

Tami Concha

tami.concha@state.nm.us

Procurement Officer-A

New Mexico General Services, State Purchasing

Division

Security Level: Email, Account Authentication

(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Natalle Martinez

natalle.martinez1@state.nm.us

Security Level: Email, Account Authentication

Not Offered via DocuSign

Signature Adoption: Pre-selected Style

Timestamp

Sent: 10/22/2021 8:56:14 AM

Viewed: 10/22/2021 8:56:29 AM Signed: 10/22/2021 8:56:38 AM

Signature Adoption: Pre-selected Style Using IP Address: 75.161.69,164

New Mexico General Services

(None)

Electronic Record and Signature Disclosure:

Valerie Paulk

Valerie.Paulk@state.nm.us

Signed of Behalf of State Purchasing Agent

New Mexico General Services

Security Level: Email, Account Authentication

(None)

Electronic Record and Signature Disclosure: Accepted: 5/29/2020 9:40:59 AM

Mr.

Valerie Paulk

Signed using mobile

Using IP Address: 173.191.144.245

Signature Adoption: Pre-selected Style

Using IP Address: 97.123.127.51

Sent: 10/22/2021 8:57:46 AM

Sent: 10/22/2021 8:56:13 AM

Viewed: 10/22/2021 8:57:34 AM

Signed: 10/22/2021 8:57:45 AM

Resent: 10/25/2021 8:58:07 AM

Viewed: 10/25/2021 10:05:43 AM

Signed: 10/25/2021 10:05:59 AM

ID: f12ca6d0-7cba-4de4-b58f-8180244887ff

**Signature** 

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Editor Delivery Events

Status

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Agent Delivery Events

In Person Signer Events

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**Intermediary Delivery Events** 

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**Certified Delivery Events** 

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Carbon Copy Events Status Timestamp
Witness Events Signature Timestamp
Notary Events Signature Timestamp

Envelope Summary EventsStatusTimestampsEnvelope SentHashed/Encrypted10/22/2021 8:56:14 AMCertified DeliveredSecurity Checked10/25/2021 10:05:43 AMSigning CompleteSecurity Checked10/25/2021 10:05:59 AMCompletedSecurity Checked10/25/2021 10:05:59 AM

Payment Events Status Timestamps
Electronic Record and Signature Disclosure

### ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

### A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

### B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a \$1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

### C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

### D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

### State of New Mexico General Services Department Purchasing Division

Statewide Price Agreement #: 00-00000-20-00121

Page-23

### Item 4: (AA) Albuquerque Motor Co. dba Melloy Dodge

	Utility Vehicle, Mid-Size, Four Door, All-Wheel I	rive. P	olice Pursuit	Rated
Engine	A.V.			
Shall h	have a minimum of three hundred and fifty (350) horsepower an	d three h	undred and fif	ty (350) pound/feet
of torq <b>Wheel</b>	uc.			,
	e no less than one hundred and ten (110) inches.			
Make (	Offered	DODO	TE.	
	Offered			,
TYACTICE.	OHDIOG	<u>DURA</u>	<u>NGO</u>	•
Engine	Offered	5.7L	una material productiva de la compansa de la compa	
HP/To	orque	360 /	390	
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	Parameter and the second secon	33,355.09	Nazional de Carine de Compositor de Albrey Carine Compositor de Carine de Carine de Carine de Carine de Carine	
Bid as	s Options:			
A)	All / Four Wheel Drive Delete		Deduct:	\$2,200.00
B)	Dark Car Feature Delete		Deduct:	N/A
C)	Dual Battery		Add:	N/A
D)	Engine, Other: 3.6L V-6		Add/Deduct:	\$1,600.00
E)	Floor Covering, Carpet with Mats, Front Only		Add:	N/A
F)	Floor Covering, Carpet with Mats, Front and Rear		Add:	\$395.00
G)	Floor Covering, Rubber Mat Front and Rear		Add:	\$295,00
H)	Four Re-Mappable Switches on Steering Wheel (Requires SYNC	)	Add:	N/A
I)	Four Re-Mappable Switches on Steering Wheel (Less SYNC)		Add:	N/A
J)	Front License Plate Bracket, Delete		Deduct:	N/A
K)	Interior Upgrade Package		Add:	\$7,700.00
L)	Hybrid		Add:	N/A
M)	Lockable Gas Cap and/or Door		Add:	N/A
N)	Marked Police Package		Add:	\$25,500.00
	The C		43441	中心シャンググ・ググ

1)	Four Re-Mappable Switches on Steering Wheel (Less SYNC)	Add:	N/A
J)	Front License Plate Bracket, Delete	Deduct:	N/A
K)	Interior Upgrade Package	Add:	\$7,700.00
L)	Hybrid	Add:	N/A
M)	Lockable Gas Cap and/or Door	Add:	N/A
N)	Marked Police Package	Add:	\$25,500.00
O)	Marked Police K-9 Package	Add:	\$26,000.00
P)	Police Wiring Harness	Add;	\$1,150.00
Q)	Power Adjustable Pedals	Add:	<u>N/A</u>
R)	Rear Door Interior Handles Rendered Inoperable Delete	Deduct:	N/A
S)	Remote Keyless Entry and Starting (If Available)	Add:	\$550.00
T)	Skid Plates	Add:	\$395.00
U)	Special Service Package Delete	Deduct:	\$995.00
V)	Spot Light, Delete	Deduct:	
W)	Spot Light on Passenger Side	Add:	\$325,00
X)	Trailer Brakes		<u>\$545.00</u>
Y)	Trailer Tow Package, Less Trailer Brakes	Add:	\$399.00
- )	The same of the same states of the same states	Add;	<u>\$950.00</u>

## State of New Mexico General Services Department Purchasing Division Statewide Price Agreement #: 00-0000-20-00121

Item 4 (AA) Options Continued:

Page-24

Z) AA) AB) AC) AD) AE) AF) AG) AH) AJ) AK)	Tires, Other: ALL TERRAIN Unmarked Police Package Window Tinting Darker than MFG Standard Tech Group Blind Spot 10" Display Ballistic Door Each Power Lift-gate Aluminum Wheels Side Steps 3rd Row Seat Black Top Package Transport per Mile	Add: Add: Add: Add: Add: Add: Add: Add:	\$1,200,00 \$16,500,00 \$250,00 \$2,495,00 \$525,00 \$975,00 \$2,425,00 \$395,00 \$449,00 \$725,00 \$1,095,00 \$1,595,00
AK) AL) AM)	Black Top Package Transport per Mile Light Bar 15" LED	Add: Add: Add:	

## State of New Mexico General Services Department Purchasing Division Statewide Price Agreement #: 00-00000-20-00121

**Awarded Vendors:** 

Page-6

(AA) 0000047770

Albuquerque Motor Company

dba Melloy Dodge

9621 Coors Blvd NW

Albuquerque, NM 87114

(505) 239-2811

Jcassell@melloydodge.com

(AB) 0000049896

**Bob Turner's Ford Country** 

dba Power Ford

1101 Montano Rd NE

Albuquerque, NM 87107

(505) 449-1268

Mbeltran@myforddealer.com

(AC) 0000051541

**Don Chalmers Ford** 

dba MHQ of NM

2500 Rio Rancho Blvd SE

Rio Rancho, NM 87124

(505) 890-2153

Tcullen@chalmersford.com

(AD) 0000137865

MCLL, Inc.

dba Melloy Chevrolet

377 Emilio Lopez Rd

Los Lunas, NM 87031

(505) 866-3005

Randy@melloyfleet.com

(AE) 0000062888

Melloy Nissan

7707 Lomas Blvd

Albuquerque, NM 87110

(505) 265-8721

Rbeavis@melloynissan.com

Delivery:

90-180 Days

Delivery:

Albuquerque and Santa Fe

As requested

Delivery:

70-120 Days depending on Ford

Delivery:

Approx. 90-120 Days

(Chevy Tahoe production beings Feb. 2021)

Delivery:

12 to 14 weeks



10h. (b)

## Requisitions Over \$20,000

2021 Durango-Melloy Dodge-Sheriff's Office

### REQUISITION ORDER

	Ain	Can.	DATE:	-	DEPARTMEN	T.	The second second second second		
January 21, 2022			Sheriffs Office		QUOTE OBTAINED BY:  Delaney G				
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		TOTALS	HIPPING/ FREIGHT COSTS			·  -		. [	
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וושכאסבוו		goods/services re	equested are necessary to	obtained the	gnatures are not purchase cannot	401-005-408-00028		\$	
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		policies approve	according to purchasing	DEDARE					
		Board of Commis	by the Cibola County	DEPARTMENT	HEAD SIGNATURE	DESIGNEE S	IGNATURE	FINANCE SIG	NATURE
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TARIS MINI	may list K	HINT REQUISITION	IS OVER \$500.00 NOW REQU TATE CONTRACT PLEASE LIST	RE 3 HARD QL	OTES, ANY REOLIS	TION \$10 000 pc a	2505-2502/60000000000000000000000000000000000		

COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE
SENT BACK



### BID/QUOTE

### 2021 Dodge Durango Pursuit

State contract 00-00000-20-00121

Item 4Durango\$33,355.00Item TSkid Plate\$395.00Item ADBlind Spot\$525.00Item NMarked Police package\$13,041.00

Total for Dodge Durango Pursuit \$47,316.00

Dominic Gonzales
Fleet Sales
Melloy Dodge
(505)379-8052 direct
(505)922-2580 fax
dgonzales@melloydodge.com



### State of New Mexico General Services Department Purchasing Division

### Statewide Price Agreement Amendment

Awarded Vendor: 8 Awarded Vendors	Number: <u>00-00000-20-00121</u> Amendment No.: <u>One</u> Term: <u>November 13, 2020 - November 12, 2022</u>
Ship To: All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.  Invoice: As requested	Procurement Specialist: <u>Tami Concha</u> <u>C</u> Telephone No.: <u>505-660-3671</u> Email: <u>Tami.Concha@state.nm.us</u>

Title: Police Pursuit

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from November 13, 2021 to November 12, 2022 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force

Accepted for the State of New Mexico

Valerie Paulk

Mark Hayden, New Mexico State Purchasing Agent

Date: 10/25/2021

X This Agreement was signed on behalf of the State Purchasing Agent

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

### **DocuSign**

### Certificate Of Completion

Envelope Id: 34107C7E9BE146D5BAFBA6D0A05FABFB

Subject: Please DocuSign: SPD SPA

Source Envelope:

Document Pages: 1

Certificate Pages: 5 AutoNav: Enabled

**Record Tracking** Status: Original

Envelopeld Stamping: Enabled

10/22/2021 8:53:51 AM

Security Appliance Status: Connected

Storage Appliance Status: Connected

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Signatures: 1 Initials: 2

Holder: Tami Concha

tami.concha@state.nm.us

Pool: StateLocal

Pool: GSD

20

Signer Events **Signature** 

Tami Concha taml.concha@state.nm.us

Procurement Officer-A

New Mexico General Services, State Purchasing

Division

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure: Not Offered via DocuSign

Natalie Martinez

natalie.martinez1@state.nm.us

New Mexico General Services

Security Level: Email, Account Authentication

Electronic Record and Signature Disclosure:

(None)

Signature Adoption: Pre-selected Style

Using IP Address: 75.161.69.164

ML.

Signature Adoption: Pre-selected Style Using IP Address: 173.191.144.245

Valerie Paulk

Signature Adoption: Pre-selected Style

Using IP Address: 97.123.127.51

Signed using mobile

Valerie Paulk

Not Offered via DocuSign

Valerie Paulk@state.nm.us

Signed of Behalf of State Purchasing Agent

New Mexico General Services

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Accepted: 5/29/2020 9:40:59 AM

ID: f12ca6d0-7cba-4de4-b58f-8180244887ff

In Person Signer Events

**Editor Delivery Events** 

**Agent Delivery Events** 

Intermediary Delivery Events

**Certified Delivery Events** 

Signature

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Status: Completed

Envelope Originator:

Taml Concha 13 Bataan Blvd

Santa Fe, NM 87508

tami.concha@state.nm.us

IP Address: 75.161.69.164

Location: DocuSign

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Timestamp

Sent: 10/22/2021 8:56:14 AM Viewed: 10/22/2021 8:56:29 AM

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### ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

### A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

### B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a \$1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

### C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

## D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

## State of New Mexico General Services Department Purchasing Division Statewide Price Agreement #: 00-00000-20-00121

Awarded Vendors:

Page-6

(AA) 0000047770

Albuquerque Motor Company

dba Melloy Dodge 9621 Coors Blvd NW Albuquerque, NM 87114

(505) 239-2811

Jcassell@melloydodge.com

(AB) 0000049896

**Bob Turner's Ford Country** 

dba Power Ford 1101 Montano Rd NE Albuquerque, NM 87107 (505) 449-1268

Mbeltran@myforddealer.com

(AC) 0000051541

Don Chalmers Ford

dba MHQ of NM

2500 Rio Rancho Blvd SE

Rio Rancho, NM 87124

(505) 890-2153

Tcullen@chalmersford.com

(AD) 0000137865

MCLL, Inc.

dba Melloy Chevrolet

377 Emilio Lopez Rd

Los Lunas, NM 87031

(505) 866-3005

Randy@melloyfleet.com

(AE) 0000062888

Melloy Nissan

7707 Lomas Blvd

Albuquerque, NM 87110

(505) 265-8721

Rbeavis@melloynissan.com

Delivery:

90-180 Days

Delivery:

Albuquerque and Santa Fe

As requested

Delivery:

70-120 Days depending on Ford

Delivery:

Approx. 90-120 Days

(Chevy Tahoe production beings Feb. 2021)

Delivery:

12 to 14 weeks

O)

P)

Q)

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S)

T)

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V)

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X)

Y)

Marked Police K-9 Package

Special Service Package Delete

Spot Light on Passenger Side

Trailer Tow Package, Less Trailer Brakes

Rear Door Interior Handles Rendered Inoperable Delete

Remote Keyless Entry and Starting (If Available)

Police Wiring Harness

Skid Plates

Spot Light, Delete

Trailer Brakes

Power Adjustable Pedals

### State of New Mexico General Services Department **Purchasing Division** Statewide Price Agreement #: 00-00000-20-00121

Page-23

### Item 4: (AA) Albuquerque Motor Co. dba Melloy Dodge Utility Vehicle, Mid-Size, Four Door, All-Wheel Drive, Police Pursuit Rated

#### Engine: Shall have a minimum of three hundred and fifty (350) horsepower and three hundred and fifty (350) pound/feet Wheel Base: Must be no less than one hundred and ten (110) inches. Make Offered.... DODGE Model Offered..... DURANGO Engine Offered.... 5.7L Bid as Options: A) All / Four Wheel Drive Delete Deduct: \$2,200.00 B) Dark Car Feature Delete Deduct: N/A C) **Dual Battery** Add: D) Engine, Other: 3.6L V-6 N/A Add/Deduct: E) Floor Covering, Carpet with Mats, Front Only \$1,600.00 Add: Floor Covering, Carpet with Mats, Front and Rear N/A F) Add: Floor Covering, Rubber Mat Front and Rear <u>\$395,00</u> G) Add: Four Re-Mappable Switches on Steering Wheel (Requires SYNC) \$295.00 H) Add: Four Re-Mappable Switches on Steering Wheel (Less SYNC) N/A I) Add: N/A J) Front License Plate Bracket, Delete Deduct: N/A K) Interior Upgrade Package Add: L) \$7,700.00 Hybrid Add: N/A Lockable Gas Cap and/or Door M) Add: N/A N) Marked Police Package

Add:

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<u>\$25,500.00</u>

\$26,000.00

\$1,150.00

<u>N/A</u>

N/A

**\$550.00** 

\$395.00

\$995,00

<u>\$325.00</u>

\$545.00

<u>\$</u>399.00

\$950.00

### State of New Mexico General Services Department Purchasing Division

Statewide Price Agreement #: 00-00000-20-00121

### Item 4 (AA) Options Continued:

Page-24

Z)	Tires, Other: ALL TERRAIN		
AA)	Unmarked Police Package	Add:	\$1,200.00
AB)	Window Tinting Darker than MFG Standard	Add:	\$16,500.00
AC)	Tech Group	Add:	\$250.00
AD)	Blind Spot	Add:	\$2,495.00
AE)	10" Display	Add:	\$525.00
AF)	Ballistic Door Each	Add:	\$975.00
AG)	Power Lift-gate	Add;	\$2,425,00
AH)	Aluminum Wheels	Add:	\$395,00
AI)	Side Steps	Add:	\$449.00
AJ)	3rd Row Seat	Add:	\$725.00
AK)	Black Top Package	Add:	\$1,095.00
AL)	Transport per Mile	Add:	\$1,595.00
AM)	Light Bar 15" LED	Add:	\$2.00
	5 · · · · · · · · · · · · · · · · · · ·	Add:	<u>\$2,815.00</u>



10h. (c)

## Requisitions Over \$20,000

Data Communication Network Switches
SHI International

### **REQUISITION ORDER**

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2	January 21, 2022		Data Processing				Jessie Carwile  QUOTE #3		
5				JOTE #1	QUOTE #2				
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,	house		CONTACT NAME:	Matthew Ke	emp				
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			GRAND TOTAL		28,429.66	l	-		<u> </u>
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	ADDRESS		merset, NJ 08873		MATED DELIVERY  RCHASE ORDER #				
PURCH		30		P.	MCHASE OKDEK #	FIND			
AGENT ENDOR	SEMENT	With my sign	ature, I hereby certify that all	If all three s	ignatures are not		E & LINE ITEM #	AMO	
		goods/service	es requested are necessary to	obtained the purchase cannot		649-200-400-00105		\$	28,429.66
			duct the operations of this and that all procurement has	mov	e forward	Public Safety			
			ted according to purchasing				The second section of the second seco		
		policies appro Board of Com	oved by the Cibola County nmissioners.	DEPARTMENT HEAD SIGNATURE		DESIGNEE SIGNATURE		FINANCE SIGNATURE	
PLEASE	REMEMBER	ANY REOLUSI	TIONS OVER \$500.00 NOW REQ	LIBE 3 HARD O	LIOTES ANY REQUIS	TION 610 000 0	0 00 MODE WWW. 1-		

PLEASE REMEMBER ANY REQUISITIONS OVER \$500.00 NOW REQUIRE 3 HARD QUOTES. ANY REQUISTION \$10,000.00 OR MORE WILL NEED TO GO ON THE AGENDA FOR COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE SENT BACK



Pricing Proposal

Quotation #: 21365110

Reference #: Public Safety Building

Valid Until: 1/31/2022

### Cibola County

Jessie Carwile

700 East Roosevelt Avenue

Suite 50

Grants, NM 87020

**United States** 

Phone: (505) 287-9431

Fax:

Email: jessie.carwile@co.cibola.nm.us

### **Inside Account Executive**

### Matthew Kemp

300 Davidson Ave, Somerset, NJ 08873

Phone: 732-652-0838

Fax:

Email:

Matthew\_Kemp@shi.com

### All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	HPE Aruba 6000 48G Class4 PoE 4SFP 370W Switch - Switch - managed - 48 x 10/100/1000 (PoE+) + 4 x Gigabit SFP - side to side airflow - rack-mountable - PoE (370 W)  Hewlett Packard Enterprise - Part#: R8N85A#ABA	14	\$1,676.49	\$23,470.86
2	HPE Foundation Care Next Business Day Exchange Service - Extended service agreement - replacement - 3 years - shipment - 9x5 - response time: NBD - for P/N: R8N85A Hewlett Packard Enterprise - Part#: H53A1E	14	\$354.20	\$4,958.80
			Subtotal Total	\$28,429.66 \$28,429.66

### **Additional Comments**

Please Note: Hewlett Packard Enterprise has a zero returns policy on custom build machines.

### SHI SPIN: #143012572

SHI-GS SPIN (For Texas customers ONLY): #143028315

For E-rate SPI orders, applicant shall be responsible for payment of any outstanding or ineligible costs if USAC rejects reimbursement claim in whole or in part.

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The Products offered under this proposal are resold in accordance with the SHI Online Customer Resale Terms and Conditions,



### State of New Mexico **General Services Department Purchasing Division**

### Statewide Price Agreement Amendment

Awarded Vendor: 0000013840

CDW Government LLC 75 Remittance Drive Chicago, IL 60675-1515

Contact: John Armijo

Email: John.Armijo@cdw.com Telephone No.: (312) 547-2495

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested

Title: Software VAR

Price Agreement Number: 60-000-15-00020AB

Price Agreement Amendment No.: Five

Term: June 30, 2017 - April 7, 2022

NASPO ValuePoint Master Agreement Award

Number: <u>ADSPO16-130652</u>

NASPO ValuePoint Link:

https://www.naspovaluepoint.org/portfolio/soft

ware-yar-2016-2022/cdw-g/

Procurement Specialist: Vanessa LeBlanc VL

Telephone No.: (505) 629-9525

Email: Yanessa.LeBlanc@state.nm.us

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from January 8, 2022 to April 7, 2022 at the same price, terms and conditions.

Also, update Award Vendor Contact information to: John Armijo

Email: John.Armijo@cdw.com

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force

Accepted for the State of New Mexico

Valerie Paulk

Date: 1/4/2022

Mark Hayden, New Mexico State Purchasing Agent

X This Agreement was signed on behalf of the State Purchasing Agent

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

### **DocuSign**

### Certificate Of Completion

Envelope Id: 78C9D2158C6D492BB2BFA9224A866530 Subject: Please DocuSign: 60-000-15-00020AB A005

Source Envelope: Document Pages: 1 Certificate Pages: 5

Signatures: 1 Initials: 2

AutoNav: Enabled Envelopeld Stamping: Enabled

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Completed

Envelope Originator: Vanessa LeBlanc 13 Bataan Blvd Santa Fe, NM 87508

Vanessa.LeBlanc@state.nm.us IP Address: 76.127.41.204

**Record Tracking** 

Status: Original

1/4/2022 8:18:55 AM

Security Appliance Status: Connected Storage Appliance Status: Connected

Holder: Vanessa LeBlanc

Vanessa.LeBlanc@state.nm.us

Pool: StateLocal Pool: GSD

Signature

Location: DocuSign

Location: DocuSign

Signer Events

Travis Dutton- Leyda Travis.Dutton-Leyda@state.nm.us IT & Construction Bureau Chief

New Mexico General Services, State Purchasing Division

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure: Not Offered via DocuSign

SKIC

Signature Adoption: Pre-selected Style Using IP Address: 73.127.219.222

Timestamp

Sent: 1/4/2022 8:20:32 AM Viewed: 1/4/2022 8:49:39 AM Signed: 1/4/2022 8:49:45 AM

Vanessa LeBiano

vanessa.leblanc@state.nm.us New Mexico General Services

Security Level: Email, Account Authentication

11

Sent: 1/4/2022 8:49:46 AM Viewed: 1/4/2022 8:54:50 AM Signed: 1/4/2022 8:54:52 AM

Signature Adoption: Pre-selected Style

Electronic Record and Signature Disclosure:

Accepted: 6/2/2020 7:02:26 AM ID: 174ce339-a45c-4eb9-8489-b3f5ced3d8e4

Using IP Address: 76.127.41.204

Valorie Paulk

valerie.paulk@state.nm.us Signed of Behalf of State Purchasing Agent New Mexico General Services

Signing Group: 35000 - State Purchasing Agent Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure: Accepted: 5/29/2020 9:40:59 AM ID: f12ca6d0-7cba-4de4-b58f-8180244887ff

Valerie Paulle

Sent: 1/4/2022 8:54:53 AM Viewed: 1/4/2022 9:08:40 AM Signed: 1/4/2022 9:08:52 AM

Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10

In Person Signer Events

Signature

**Timestamp** 

**Editor Delivery Events** 

Status

Timestamp

**Agent Delivery Events** 

Status

Timestamp

**Intermediary Delivery Events** 

Status

Timestamp

**Certified Delivery Events** Status Timestamp **Carbon Copy Events** Status Timestamp **Witness Events** Signature Timestamp **Notary Events** Signature Timestamp **Envelope Summary Events** Status **Timestamps** Envelope Sent Hashed/Encrypted 1/4/2022 8:20:32 AM Certified Delivered Security Checked 1/4/2022 9:08:40 AM Signing Complete Security Checked 1/4/2022 9:08:52 AM Completed Security Checked 1/4/2022 9:08:52 AM **Payment Events** Status

Electronic Record and Signature Disclosure

**Timestamps** 

### ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

### A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

### B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a \$1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

### C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

### D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

## My Detail vs Budget Report Account Summary Date Range: 07/01/2021 - 01/21/2022

ILA CUUM, Cibola County, NM

% Remaining			48.35 %	48.35 %	48.35 %
Ending Balance Budget Remaining % Remaining			96,701.86	96,701.86	96,701.86
			00:00	0.00	0.00
Total Activity			0.00	0.00	0.00
Fiscal Budget Beginning Balance			00:00	0.00	0.00
Fiscal Budget			200,000.00	200,000.00	200,000.00
Encumbrances			103,298.14		103,298,14
				Expense Totals:	649 - AMERICAN RESCUE PLAN ACT Totals:
Name	PLAN ACT		Public Safety		- 649 -
Account	649 - AMERICAN RESCUE PLAN ACT	Expense	649-200-400-00105		

48.35 %

96,701.86

0.00

0.00

0.00

200,000.00

103,298.14

Report Total:



### 10h. (d)

### Requisitions Over \$20,000

Battery Backup System- SHI International

### **REQUISITION ORDER**

4	BLALD	Ulla	DATE :		DEPARTMENT:		Qu	ote Obtained B	v:
2	30	1/2	January 21, 2022		Data Processing			Jessie Carwile	
		DO.	The state of the s		JOTE #2	QUO	OTE #3		
777	1-8		VENDOR NAME:		ternational				
	1 Cant	ALC: N	CONTACT NAME:	Matthew Ke	mp				
	· ODIXEN WE	Care way -	PHONE:	732-652-083	18				
		757. (951	FAX:						
NO. 3	Anc Sma		CRIPTION	UNIT COST	EXTENSION	UNIT COST	EXTENSION	UNIT COST	EXTENSION
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30	APC Sma	rt-UPS SRT 96	SV 3VVA PM Batton	070.07	-		-		-
	30 APC Smart-UPS SRT 96V 3kVA F Pack - Part No. SRT96RMBP		RMBP	978.87	29,366.10		-		
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3	APC Netv	vork Manage	ment Card 3 w/ Power	249.24	747.72				-
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	Part No.	AP9640			-			-	
					-			1	<del>  -</del>
30	APC Exte	nded Warran	ty Service Pack	96.48	2,894.40				-
	Part No.	WBEXTWAR1	YR-SP-04		-		-	<del> </del>	<del>                                     </del>
3	ADC Euto	- d - d 144					-		<del>                                     </del>
	Part No. 1	WBEXTWAR1	ty Service Pack	195.12	585.36		-		-
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		Т	OTAL GROSS RECEIPTS TAX	F			-	]	•
		TOTAL	SHIPPING/ FREIGHT COSTS	F		F	-	4	
			GRAND TOTAL	-	40,950.33	F	*	4	-
VENDOR		NDOR SHI International		RE	ASON SELECTED	STATE CONTRACT		$\Diamond$	
				CONT	DA 67 /DUD /				
ADDRESS 300 Davidson Ave		CONTRACT/BID/RFP # 60-000-15-15-0002		5-00020AB					
PURCHASING Somerset, N		nerset, NJ 08873		ATED DELIVERY					
				PUR	CHASE ORDER #				
		With my signa	With my signature, I hereby certify that all		natures are not		& LINE ITEM #	AMO	UNT
		goods/services requested are necessary to		If all three signatures are not obtained the purchase cannot		649-200-	400-00105	\$	40,950.33
		department a	uct the operations of this nd that all procurement has		forward	Public	Safety		
		been conducte	d according to purchasing						
		policies approv	ved by the Cibola County	DEPARTMENT H	IEAD SIGNATURE	DESIGNEE	SIGNATURE	FINANCE SI	GNATURE
		Board of Comn	ons over \$500.00 Now Requ						

COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE
SENT BACK



Pricing Proposal

Quotation #: 21457041 Created On: 1/11/2022

Valid Until: 1/31/2022

### Cibola County

Jessie Carwile

700 East Roosevelt Avenue

Suite 50

Grants, NM 87020

**United States** 

Phone: (505) 285-2952

Fax:

Email: jessie.carwile@co.cibola.nm.us

### Inside Account Executive

Matthew Kemp

300 Davidson Ave, Somerset, NJ

08873

Phone: 732-652-0838

Fax:

Email: Matthew\_Kemp@shi.com

All Prices	are	in (	JS	Dollar	(USD)
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	Product	Qty	Your Price	Tota
1	Apc Smart-Ups Srt 3000Va Rm 120V APC by Schneider Electric - Part#: SRT3000RMXLA Contract Name: Open Market Contract #: Open Market	3	\$2,452.25	\$7,356.75
2	APC Smart-UPS SRT 96V 3kVA RM Battery Pack - Battery enclosure (rack-mountable) - 2 x Lead Acid - 2U - black APC by Schneider Electric - Part#: SRT96RMBP Contract Name: Open Market Contract #: Open Market	30	\$978.87	\$29,366.10
3	APC Network Management Card 3 with PowerChute Network Shutdo APC by Schneider Electric - Part#: AP9640 Contract Name: Open Market Contract #: Open Market	3	\$249.24	\$747.72
4	APC Extended Warranty Service Pack - Technical support - phone consulting - 1 year - 24x7 - for P/N: SRT1500XLJ, SRT192BP2J, SRT192BP2US, SRT192BPUS, SRT96BPJ, SRT96RMBPUS, XU2K0LLXXRCC  APC by Schneider Electric - Part#: WBEXTWAR1YR-SP-04  Contract Name: Open Market  Contract #: Open Market	30	\$96.48	\$2,894.40
5	APC Extended Warranty Service Pack - Technical support - phone consulting - 1 year - 24x7 - for P/N: SRT2400XLJ, SRT3000XLA-TW, SRT3000XLTW, SRT5KRMXLW-TW, SRT6KXLTUS, SRT6KXLTW  APC by Schneider Electric - Part#: WBEXTWAR1YR-SP-05  Contract Name: Open Market  Contract #: Open Market	3	\$195.12	\$585.36
			Subtotal Shipping Total	\$40,950.33 \$0.00 \$40,950.33

### **Additional Comments**

Please Note: APC has a zero returns policy.

SHI SPIN: #143012572

SHI-GS SPIN (For Texas customers ONLY): #143028315

For E-rate SPI orders, applicant shall be responsible for payment of any outstanding or ineligible costs if USAC rejects reimbursement claim in whole or in part.

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are Open Market and resold in accordance with the terms and conditions at <u>SHI Online</u> <u>Customer Resale Terms and Conditions</u>.



### Statewide Price Agreement Amendment

Awarded Vendor: 0000013840 CDW Government LLC 75 Remittance Drive Chicago, IL 60675-1515

Contact: John Armijo

Email: John.Armijo@cdw.com Telephone No.: (312) 547-2495

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested

Title: Software VAR

Price Agreement Number: 60-000-15-00020AB

Price Agreement Amendment No.: Five

Term: June 30, 2017 - April 7, 2022

NASPO ValuePoint Master Agreement Award

Number: <u>ADSPO16-130652</u>

NASPO ValuePoint Link:

https://www.naspovaluepoint.org/portfolio/soft

ware-var-2016-2022/cdw-g/

Procurement Specialist: Vanessa LeBlanc 1/1

Telephone No.: (505) 629-9525

Email: Vanessa.LeBlanc@state.nm.us

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from January 8, 2022 to April 7, 2022 at the same price, terms and conditions.

Also, update Award Vendor Contact information to: John Armijo

Email: John.Armijo@cdw.com

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Valerie Paulk

Date: 1/4/2022

Mark Hayden, New Mexico State Purchasing Agent

× This Agreement was signed on behalf of the State Purchasing Agent

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

SUC

### DocuSian

### **Certificate Of Completion**

Envelope ld: 78C9D2158C6D492BB2BFA9224A866530

Subject: Please DocuSign: 60-000-15-00020AB A005

Source Envelope:

Document Pages: 1

Certificate Pages: 5

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Completed

Envelope Orlginator:

Vanessa LeBlanc 13 Bataan Blvd

Senta Fe. NM 87508

Vanessa.LeBlanc@state.nm.us

IP Address: 76,127.41.204

### Record Tracking

Status: Original

1/4/2022 8:18:55 AM

Security Appliance Status: Connected

Storage Appllance Status: Connected

Holder: Vanessa LeBlanc

Vanessa.LeBlanc@state.nm.us

Signatures: 1

Initials: 2

Pool: GSD

Location: DocuSign

Location: DocuSign

### Signer Events

Travis Dutton- Leyda

Travis.Dutton-Leyda@state.nm.us

IT & Construction Bureau Chief

New Mexico General Services, State Purchasing

Division

Security Level: Email, Account Authentication

(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

New Mexico General Services

Pool: StateLocal

Signature

XUC

Signature Adoption: Pre-selected Style

Using IP Address: 73.127.219.222

Timestamp

Sent: 1/4/2022 8:20:32 AM

Viewed: 1/4/2022 8:49:39 AM

Signed: 1/4/2022 8:49:45 AM

Vanessa LeBlanc

vanessa.lebianc@state.nm.us

Security Level: Email, Account Authentication

111

Sent: 1/4/2022 8:49:46 AM

Viewed: 1/4/2022 8:54:50 AM Signed: 1/4/2022 8:54:52 AM

Signature Adoption: Pre-selected Style

Using IP Address: 76.127.41.204

Electronic Record and Signature Disclosure: Accepted: 6/2/2020 7:02:26 AM

ID: 174ce339-a45c-4eb9-8489-b3f5ced3d8e4

Valerie Paulk

valerie.paulk@state.nm.us

Signed of Behalf of State Purchasing Agent

New Mexico General Services

Signing Group: 36000 - State Purchasing Agent Security Level: Email, Account Authentication

Electronic Record and Signature Disclosure:

Accepted: 5/29/2020 9:40:59 AM

ID: f12ca6d0-7cba-4de4-b58f-8180244887ff

Valerie Paulk

Sent: 1/4/2022 8:54:53 AM

Viewed: 1/4/2022 9:08:40 AM Signed: 1/4/2022 9:08:52 AM

Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10

In Person Signer Events

Signature

Timestamp

**Editor Delivery Events** 

Status

Timestamp

**Agent Delivery Events** 

Status

Timestamp

**Intermediary Delivery Events** 

**Status** 

Timestamp

**Certified Delivery Events** Status Timestamp **Carbon Copy Events** Status Timestamp Witness Events Signature Timestamp **Notary Events** Signature **Timestamp Envelope Summary Events** Status **Timestamps** Envelope Sent Hashed/Encrypted 1/4/2022 8:20:32 AM Certified Delivered Security Checked 1/4/2022 9:08:40 AM Signing Complete Security Checked 1/4/2022 9:08:52 AM Completed Security Checked 1/4/2022 9:08:52 AM **Payment Events** Status Timestamps

**Electronic Record and Signature Disclosure** 

### ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

### A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

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## JULA COUNTY, NM Cibola County, NM

My Detail vs Budget Report
Account Summary
Date Range: 07/01/2021 - 01/21/2022

# 649 - AMERICAN RESCUE PLA **Expense** 649-200-400-00105

Public Safety         Expense Totals:         Expense Totals:         Total Activity         Total Activity         Ending Balance         Budget Remaining           Public Safety         Expense Totals:         103,298.14         200,000.00         0.00         0.00         0.00         96,701.86           649-AMERICAN RESCUE PLAN ACT Totals:         103,298.14         200,000.00         0.00         0.00         0.00         96,701.86           Report Total:         103,298.14         200,000.00         0.00         0.00         0.00         96,701.86	% Remaining	48.35 %	48.35 %	48.35 %	48.35 %
ic Safety	Budget Remaining	96,701.86	96,701.86	96,701.86	96,701.86
ic Safety	Ending Balance	0.00	0.00	0.00	0.00
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ic Safety E 649 - AMERICAN RESCUE PI	Encumbrances	103,298.14	103,298.14	103,298.14	
Na PLAN ACT	Name N ACT	Public Safety	Expense Totals:	649 - AMERICAN RESCUE PLAN ACT Totals:	Report Total:

## CINITA CUM. Cibola County, NM

My Detail vs Budget Report
Account Summary
Date Range: 07/01/2021 - 01/21/2022

	% Remaining			48.35 %	48.35 %	48.35 %	48.35 %
	Ending Balance Budget Remaining % Remaining			96,701.86	96,701.86	96,701.86	96,701.86
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	Name	E PLAN ACT		Public Safety		649	
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### **REQUISITION ORDER**

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4	SAIR	Ula	DATE:		DEPARTMENT:		Quote Obtained By:			
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, 4	Mile		CONTACT NAME:	Matthew Ke	mp					
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	APC Smart-UPS SRT 96V 3kVA RM Battery Pack - Part No. SRT96RMBP		370.67	29,366.10		-		-		
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3	APC Netw	ork Manage	ement Card 3 w/ Power	240.24	747.70		-		-	
	Chute Net	work Shutde	O	249.24	747.72		-			
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30	APC Exten	ded Warran	nty Service Pack	96.48	2 004 40		•	<b>_</b>	-	
	Part No. V	VBEXTWAR1	YR-SP-04	20,40	2,894.40		<u> </u>		-	
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3	APC Exten	ded Warran	nty Service Pack	195.12	585.36				-	
	Part No. V	VBEXTWAR1	YR-SP-05	155.12	- 363.36		-			
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			GRAND TOTAL		40,950.33		-	L	•	
VENDOR				R	REASON SELECTED		STATE CONTRACT	•	$\Diamond$	
		٥	GHI International				STATE CONTRACT			
				CON	TRACT/BID/RFP#	60-000-15-15-00020AB				
ADDRESS		3	00 Davidson Ave		MATED DELIVERY					
		So	merset, NJ 08873	PU	RCHASE ORDER #					
PURCH, AGENT						FUND NAM	E & LINE ITEM #	AMO	LINT	
AGENT ENDORSEMENT		With my signature, I hereby certify that all			gnatures are not		-400-00105	\$	40,950.33	
			goods/services requested are necessary to		purchase cannot			3	40,950.33	
			duct the operations of this and that all procurement has	move	e forward	Public Safety				
			ted according to purchasing							
		policies appro	oved by the Cibola County	DEPARTMENT	HEAD SIGNATURE	DESIGNE	SIGNATURE	FINANCE S	IGNATURE	
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DIEACE	REMEMBER	ANY REOLUSI	TIONS OVER \$500.00 NOW REQ	HIDE 2 HARD O	LICE AND DECLUS	Mul				

COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE SENT BACK



Pricing Proposal

Quotation #: 21457041 Created On: 1/11/2022 Valid Until: 1/31/2022

### **Cibola County**

Jessie Carwile

700 East Roosevelt Avenue Suite 50 Grants, NM 87020 United States Phone: (505) 285-2952

Fax:

Email: jessie.carwile@co.cibola.nm.us

### Inside Account Executive

**Matthew Kemp** 

300 Davidson Ave, Somerset, NJ

08873

Phone: 732-652-0838

Fax:

Email: Matthew\_Kemp@shi.com

	All	Prices	are in	US	Dollar	(USD)
--	-----	--------	--------	----	--------	-------

Pro	oduct	Qty	Your Price	Tota
AF Co	c Smart-Ups Srt 3000Va Rm 120V PC by Schneider Electric - Part#: SRT3000RMXLA contract Name: Open Market contract #: Open Market	3	\$2,452.25	\$7,356.75
MOU AF	C Smart-UPS SRT 96V 3kVA RM Battery Pack - Battery enclosure (rack- untable) - 2 x Lead Acid - 2U - black PC by Schneider Electric - Part#: SRT96RMBP ontract Name: Open Market ontract #: Open Market	30	\$978.87	\$29,366.10
AF Co	C Network Management Card 3 with PowerChute Network Shutdo PC by Schneider Electric - Part#: AP9640 ontract Name: Open Market ontract #: Open Market	3	\$249.24	\$747.72
year SRT AF Co	C Extended Warranty Service Pack - Technical support - phone consulting - 1 r - 24x7 - for P/N: SRT1500XLJ, SRT192BP2J, SRT192BP2US, SRT192BPUS, T96BPJ, SRT96RMBPUS, XU2K0LLXXRCC PC by Schneider Electric - Part#: WBEXTWAR1YR-SP-04 ontract Name: Open Market ontract #: Open Market	30	\$96.48	\$2,894.40
year - 24x7 - for P/N: SRT2400XLJ, SRT3000XLA-TW SRT5KRMXLW-TW, SRT6KXLTUS, SRT6KXLTW	PC by Schneider Electric - Part#: WBEXTWAR1YR-SP-05 ontract Name: Open Market	3	\$195.12	\$585,36
			Subtotal Shipping Total	\$40,950.33 \$0.00 \$40,950.33

### **Additional Comments**

Please Note: APC has a zero returns policy.

SHI SPIN: #143012572

SHI-GS SPIN (For Texas customers ONLY): #143028315

For E-rate SPI orders, applicant shall be responsible for payment of any outstanding or ineligible costs if USAC rejects reimbursement claim in whole or in part.

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corpl The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are Open Market and resold in accordance with the terms and conditions at <u>SHI Online</u> <u>Customer Resale Terms and Conditions</u>.



### Statewide Price Agreement Amendment

Awarded Vendor: 0000013840 CDW Government LLC 75 Remittance Drive Chicago, IL 60675-1515

Contact: John Armijo

Email: John.Armijo@cdw.com Telephone No.: (312) 547-2495 Price Agreement Number: 60-000-15-00020AB

Price Agreement Amendment No.: Five

Term: June 30, 2017 - April 7, 2022

NASPO ValuePoint Master Agreement Award

Number: <u>ADSPO16-130652</u>

NASPO ValuePoint Link:

https://www.naspovaluepoint.org/portfolio/soft

ware-var-2016-2022/cdw-g/

Procurement Specialist: Vanessa LeBlanc 1/4

Telephone No.: (505) 629-9525

Email: Vanessa.LeBlanc@state.nm.us

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested

Title: Software VAR

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from January 8, 2022 to April 7, 2022 at the same price, terms and conditions.

Also, update Award Vendor Contact information to: John Armijo

Email: John.Armijo@cdw.com

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Valerie Paulk

Date: 1/4/2022

Mark Hayden, New Mexico State Purchasing Agent

× This Agreement was signed on behalf of the State Purchasing Agent

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

SUC

### **DocuSign**

### **Certificate Of Completion**

Envelope Id: 78C9D2158C6D492BB2BFA9224A866530 Subject: Please DocuSign: 60-000-15-00020AB A005

Source Envelope:

Document Pages: 1 Certificate Pages: 5

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Status: Completed

Envelope Originator:

Vanessa LeBland 13 Bataan Blvd

Santa Fe, NM 87508

Vanessa.LeBlanc@state.nm.us IP Address: 76,127,41,204

### **Record Tracking**

Status: Original

1/4/2022 8:18:55 AM

Security Appliance Status: Connected Storage Appllance Status: Connected

Holder: Vanessa LeBlanc

Vanessa.LeBlanc@state.nm.us

Pool: StateLocal Pool: GSD

Signatures: 1

Initials: 2

Location: DocuSign

Location: DocuSign

### Signer Events

Travis Dutton- Leyda

Travis.Dutton-Leyda@state.nm.us IT & Construction Bureau Chief

New Mexico General Services, State Purchasing

Division

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure: Not Offered via DocuSign

vanessa.leblanc@state.nm.us

(None)

XUC

Signature

Timestamo

Sent: 1/4/2022 8:20:32 AM Viewed: 1/4/2022 8:49:39 AM Signed: 1/4/2022 8:49:45 AM

Signature Adoption: Pre-selected Style Using IP Address: 73.127.219.222

Vanessa LeBlanc

New Mexico General Services

Security Level: Email, Account Authentication

11

Sent: 1/4/2022 8:49:46 AM Viewed: 1/4/2022 8:54:50 AM Signed: 1/4/2022 8:54:52 AM

Signature Adoption: Pre-selected Style Using IP Address: 76.127.41.204

Electronic Record and Signature Disclosure:

Accepted: 6/2/2020 7:02:26 AM ID: 1740e339-e450-4eb9-8489-b3f5ced3d8e4

Valerie Paulk

valerie.paulk@state.nm.us Signed of Behalf of State Purchasing Agent

New Mexico General Services

Signing Group: 35000 - State Purchasing Agent Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Accepted: 5/29/2020 9:40:59 AM ID: f12oa6d0-7cba-4de4-b58f-8180244887ff Valerie Pault

Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10

Sent: 1/4/2022 8:54:53 AM

Viewed; 1/4/2022 9:08:40 AM Signed: 1/4/2022 9:08:52 AM

In Person Signer Events

Timestamp

**Editor Delivery Events** 

Status

Signature

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**Agent Delivery Events** 

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**Intermediary Delivery Events** 

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**Certified Delivery Events** Status Timestamp **Carbon Copy Events** Status Timestamp Witness Events Signature Timestamp **Notary Events** Signature Timestamp **Envelope Summary Events** Status **Timestamps** Envelope Sent Hashed/Encrypted 1/4/2022 8:20:32 AM Certified Delivered Security Checked 1/4/2022 9:08:40 AM Signing Complete Security Checked 1/4/2022 9:08:52 AM Completed Security Checked 1/4/2022 9:08:52 AM **Payment Events** Status Timestamps

**Electronic Record and Signature Disclosure** 

### ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

### A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

### B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a \$1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

### C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

### D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

## MILLA COUNTY, NM Cibola County, NM

My Detail vs Budget Report

Date Range: 07/01/2021 - 01/21/2022

Account Summary

Encumbrances Public Safety Name 649 - AMERICAN RESCUE PLAN ACT Expense 649-200-400-00105 Account

ning % Remaining		1.86 48.35 %	.86 48.35 %	.86 48.35 %
Budget Remair	96,701	102'96	96,701.86	96,701.86
Ending Balance Budget Remaining	0.00	00.0	0.00	0.00
Total Activity	0.00	0.00	0.00	0.00
Beginning Balance	0.00	0.00	0.00	0.00
Fiscal Budget	200,000.00	200,000.00	200,000.00	200,000.00
Encumbrances	103,298.14	•	103,298.14	103,298.14
	Safety	Expense Totals:	649 - AMERICAN RESCUE PLAN ACT Totals:	Report Total:



10i.

## Procurement For FY23 Budget

Road Equipment-2 Requisitions

### **REQUISITION ORDER**

JALAG	Ulla	DATE :		DEPARTMENT:		Qu	ote Obtained E	lv:
Sig.	1/	January 21, 2022		Road Departmen	it		Edward Salazar	
	The		QUOTE #1		QUOTE #2		QUOTE #3	
THE STATE OF THE S	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	VENDOR NAME:	Pete's Equip	ment Repair				
K		CONTACT NAME:						
- A	n 1 - 4 -		505-242-696					
MEN MEXICO -	157 1941		505-242-415					
NO.	DESC	RIPTION	UNIT COST	EXTENSION	LINUX COST			
1 Ramjet 30			124493.75	124,493.75	UNIT COST	EXTENSION	UNIT COST	EXTENSION
1 Pintle Hite			71.25	71.25		-		-
1 3,000 PSI	Washdown (	Gun w/ 1/2" x 25' Hose	506.25	506.25				
1 Additiona	l 42" Tool Bo	x	1056.25	1,056.25				-
1 Spare Tire	& Rim with	Mounting Bracket	531.25	531.25				<u> </u>
on Frame				331.23		-		-
1 3/4" Supe	r Spinn III W	arthog Nozzle w/	2092.50	2,092.50				-
Syringe &	Oil			2,032.30				-
1 Delivery 8	Training		2500.00	2,500.00				-
1 Mini Thub	der Nozzle A	ssembly	1417.54	1,417.54				<u> </u>
1 Sourcewe	ll Discount		-3862.54	(3,862.54)		-		<u> </u>
				(0,002.54)		-		
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	CLIDTO	TAL FOR STITE			-			
	TOT	OTAL FOR SELECTED ITEMS AL LABOR/ SERVICE COSTS		128,806.25		-		-
	TO	OTAL GROSS RECEIPTS TAX	_	-		_	1 1	-
	TOTAL	SHIPPING/ FREIGHT COSTS	-	-			]	
		GRAND TOTAL	<u> </u>	3,500.00	_	-	]	
		SIMILE TOTAL		132,306.25		-		
VENDOR	Pete's Ec	uipment Repair, Inc	RE	ASON SELECTED	STATE CONTRACT <		<b>\( \bar{\pi} \)</b>	
			CONT	RACT/BID/RFP#				
ADDRESS	ADDRESS 1412 Broadway NE			ATED DELIVERY		90-00000-1	9-00063	
1		Albuquerque, NM 87102		CHASE ORDER #				
JRCHASING GENT			POR	CHASE ORDER #				
DORSEMENT V	With my signature, I hereby certify that all goods/services requested are necessary to properly conduct the operations of this department, and that all procurement has		If all three sien	natures are not	FUND NAME	& LINE ITEM #	AMOL	JNT
8			obtained the p	urchase cannot	402-015-4	416-00028	\$	132,306.25
P			move f	orward	Capital	Outlay		
b	een conducted	a that all procurement has according to purchasing		<b>等等的基本等等</b>	/			
p	olicles approve	ed by the Cibola County	DEPARTMENT H	EAD SIGNATURE	DESIGNEE	SIGNATURE	PILITATION	
В	oard of Comm	ssioners.			DESIGNEE SIGNATURE		FINANCE SIGNATURE	
EASE REMEMBER A	NY REQUISITIO	NS OVER \$500.00 NOW REQUI		District Control of the Control of t				

PLEASE REMEMBER ANY REQUISITIONS OVER \$500.00 NOW REQUIRE 3 HARD QUOTES. ANY REQUISTION \$63.00 00 OR MORE WILL NEED TO GO ON THE AGENDA FOR COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE

### Pete's Equipment Repair, Inc.



### Cleaning and Protecting Our Communities

1412 Broadway NE Albuquerque, NM 87102 (505) 242-6969 Phone (505) 242-4156 Fax www.petesequip.com

January 18, 2022

Cibola County 1129 Motel Dr. Milan, NM 87021 Attn: Edward Salazar Road Superintendent

Dear Mr. Salazar,

I am pleased to offer you a new 2022 Vactor RAMJET, trailer mounted, jetter for \$132,306.25 via Federal Signal Sourcewell Contract #101221-VTR. Please know we are estimating 6 months on this build from the time of purchase order receipt. This final price includes the following features:

- · 40 GPM@3000 PSI
- 750 Gallon Water Capacity
- Water Recirculation & Anti-Freeze System
- DOT Approved LED trailer lighting
- Triplex Plunger Run Dry Pump
- · Pintle Hitch
- 500' 3/4" Piranha Sewer Hose
- 3" Tiger Tail
- Two (2) 42" Aluminum Toolboxes
- · Tier IV Diesel Engine
- 3000 PSI Washdown Gun w/hose

- · Hose Wind Guide
- · 25' Fill Hose
- · Hydraulic Speed Control
- Twin 6000 lbs. Torsion Bar Axles
- · Two Drain Jet Nozzles
- 10' Leader Hose
- · High Temp/Low Oil Shut Down
- · Mini Thunder Nozzle Assembly
- · Pulsation System
- Finned Nozzle Extension
- 3/4" Super Spin III Warthot Nozzle

The purchase order should be addressed to Pete's Equipment Repair, Inc. as we are the sole distributor for Vactor products for the entire State of New Mexico. This price includes delivery and training. Please know this quote is good for 30 days from today's date. If you have any questions, please give me or Laurie Rebarchik a call.

Thank you for this opportunity, William Pedigo

General Manager, Pete S Equipment Repair INC.





Invoice: As Requested

### State of New Mexico General Services Department Purchasing Division

### Statewide Price Agreement Amendment

Awarded Vendor: 23 Vendors	Number: <u>90-0000-19-00063</u>	
Email:	Amendment No.: Four	
Telephone No.:	Term: July 29, 2019-July 28, 2022	
Ship To: All State of New Mexico agencies, commissions,	Procurement Specialist: Raelynn Luian	マム
institutions, political subdivisions and local public bodies allowed by law.	Telephone No.: <u>505-670-1561</u>	
	Email: raelynn.lujan@state.nm.us	

Title: Highway & Off Road Heavy Equipment

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 29, 2021 to July 28, 2022 at the same price, terms and conditions.

This amendment is issued to reflect the following effective immediately: Vendor Titan Machinery Inc. has been acquired by Century Equipment Company.

From:	To:			
(AV) 0000051908	(AV) 0000150685			
Wesskote Inc.	Aaron's Perez Collision Center LLC			
1504 Coors Blvd. SW	1504 Coors Blvd. SW			
Albuquerque, NM 87121	Albuquerque, NM 87121			
(505)873-8300	(505) 269-9387			
wesskote@hotmail.com	aperezcollision@gmail.com			

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Valeric Paulk

Date: 7/1/2021

Mark Hayden, New Mexico State Purchasing Agent

X This Agreement was signed on behalf of the State Purchasing Agent
Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

SUC



### Statewide Price Agreement Amendment

Awarded Vendor: 23 Vendors	Price Agreement Number: 90-000-19-00063
Email: Telephone No.:	Price Agreement Amendment No.: <u>Three</u> Term: <u>July 29, 2019 – July 28, 2021</u>
Ship To: All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.	Procurement Specialist: Raelynn Lujan Telephone No.: (505) 827-0484
Invoice: As Requested	Email: raelynn.lujan@state.nm.us

Title: Highway & Off Road Heavy Equipment and Truck Repairs (Parts & Labor)

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 29, 2020 to July 28, 2021 at the same price, terms and conditions.

This amendment is issued to reflect the following effective immediately: Vendor Titan Machinery Inc. has been acquired by Century Equipment Company.

o: LU) 0000092769		
Century Equipment Company 6301 Edith Blvd NE		
buquerque, NM 87107 5-433-2246		
n.hurley@centuryeq.com		
)		

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

	for the State			
Valler Valler	in Tale	04 1		
Mark Have	den. New Mexi	ico State Dura	chasing Agent	

Date: 7/21/2020

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472



### Statewide Price Agreement Amendment

Awarded Vendor: 0000143288 411 Equipment, LLC 1815 4<sup>TH</sup> Street NW Albuquerque, NM 87102

Email: mmarquez@411equipment.com Telephone No. (505) 280-9143

63.1 Pag

Price Agreement Number: 90-000-19-00063

Price Agreement Amendment No.: Two

Term: July 29, 2019 - July 28, 2020

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested

Procurement Specialist: Raelynn Lujan

Telephone No.: (505) 827-0484

Email: raelynn.lulan@state.nm.us

Title: Highway and Off Road Heavy Equipment and Truck Repairs (Parts & Labor)

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

This amendment is issued to reflect the following effective immediately:

Vendor (AP) MJM Service & Repair has been acquired by 411 Equipment, LLC.

From:	Te:
(AP) 0000142503	(AP) 0000143288
MJM Service & Repair	411 Equipment LLC
8528 Powder Ct NW	1815 4th Street NW
Albuquerque, NM 87120	Albuquerque, NM 87102
	(505) 280-9143

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Mark Hayden, New Mexico State Purchasing Agent

Date: 10/3/2019

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472





### Statewide Price Agreement Amendment

Awarded Vendor: 0000141519 (AS) Roberts Truck Center of NM 1623 Aspen Ave, NM Albuquerque, NM 87104

Email: melody.dyer@robertstruck.com Telephone No. <u>(505) 243-7883</u>

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested at time of order

Price Agreement Number: 90-000-19-00063

Price Agreement Amendment No.: One

Term: July 29, 2019 thru July 28, 2020

Procurement Specialist: Raelynn Lulan

Telephone No.: (505) 827-0484

Email: raelynn.lujan@state.nm

Title: Highway and Off Road Heavy Equipment and Truck Repairs (Parts & Labor)

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

This amendment is issued to reflect the following effective immediately:

Correct Vendor number (AS) Roberts Truck Center: Change from #0000047816 to #0000141519

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 9/3/2019

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472



### **REQUISITION ORDER**

	4 19	Pr an	The state of the s						
. 0	ALD	Wille	DATE:		DEPARTMENT			uoto Obtain	
03		1/2	January 21, 2022		Road Department		<del>                                     </del>	uote Obtained E Edward Salazar	y:
			QUOTE #1			UOTE #2		OTE #3	
717			VENDOR NAME	E: Wagner equipment				QUI	71E#3
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24 (	ew Mexico	. 127 1021	FAX		411				
NO.		DESC	RIPTION	UNIT COST	FIFTHERE				-
	Monthly	Leasing of 2 B	Blades & 1 Back Hoe	0.411 CO31	EXTENSION	UNIT COST	EXTENSION	UNIT COST	EXTENSI
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12	4.40				20,961.96	'	-		
12	140LVR	Motor Grader		3454.30	41,451.60		-		
12	1401115				71,431.00		<u> </u>		
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		100		CON	TRACT/BID/RFP#		90-00000-1	9-00063	
ADDRESS 400 Osuna Rd NE		ESTIMATED DELIVERY							
CHASI	NG	Albuque	erque, NM 87109	PUI	RCHASE ORDER #				
NT		With my sianat				FUND NAME	& LINE ITEMA #		
UKSE	MENT	With my signature, I hereby certify that all goods/services requested are necessary to		If all three sig	natures are not	FUND NAME & LINE ITEM # 402-015-416-00013		\$ AMOU	
	- 1	properly conduct	the operations of this	move	purchase cannot			ð .	43,277.15
	ľ	department, and	that all procurement has	move forward		Equipment Rental			
		policies approved	according to purchasing I by the Cibola County	EDADTAGE					
	li	Board of Commis	sioners.	PARIMENT	HEAD SIGNATURE	DESIGNEE S	IGNATURE	FINANCE SIGI	NATURE
ASE REMEMBER ANY REQUISITIONS OVER \$500.00 NOW REQUI MMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST (					1 700				

COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE



January 20, 2022

CIBOLA COUNTY COMMISSIONATTN: ROAD DEPARTMENT 515 W HIGH STREET GRANTS, New Mexico 87020

Attention: EDWARD SALAZAR

Dear Mr. Salazar,

We would like to thank you for your interest in our company and our products, and are pleased to quote the following for your consideration.

Caterpillar Model: 140LVR Motor Grader

STOCK NUMBER: TBD

SERIAL NUMBER: TBD

YEAR: 2022

HOURS:

We appreciate the opportunity to extend this quote. This quote is subject to availability and is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.

Regards,

Don Roberts 505-320-1023 Sales Representative Wagner Equipment Co.

### Caterpiller Model: 140LVR Motor Grader

### STANDARD EQUIPMENT

POWERTRAIN -Air cleaner, dual stage dry type radial -seal with service indicator and -automatic dust ejector -Air-to-air after cooler (ATAAC) -Belt, serpentine, automatic tensioner -Brakes, oil disc, four-wheel, hydraulic -Demand fan, hydraulic -Electronic over-speed protection -Engine, C9 with ACERT technology, diesel -with automatic engine derate and idle -control. EPA/ARB tier 4 final & EU -stage IV certified engine & -aftertreatment -Parking brake, multi-disc, sealed and -oil cooled -Sediment drain, fuel tank -Tandem drive -Transmission, 8 speed forward and -6 speed reverse, power shift, direct -drive -VHP Plus (Variable Horse Power Plus) -

ELECTRICAL -Alarm, back-up -Alternator, 150 ampere, sealed -Batteries, maintenance free, heavy -duty, 1125 CCA -Breaker panel -Electrical system, 24 volt -Lights, reversing -Starter, electric

OPERATOR ENVIRONMENT -Steering wheel -Air Conditioning with heater -Articulation -Centershift pin indicator -Display, digital speed and gear -Load sensing hydraulic controls: --Right/left blade lift --Circle drive --Center shift --Side shift --Blade tip --Front wheel lean -Doors, left and right side -Gauge, machine level -Gauges (analog) inside the cab -(includes fuel, articulation, engine -coolant temp, engine RPM and hydraulic -oil temp, DEF/AdBlue) -Lights, night time cab -Messenger Display --Meter --Hour digital -Mirror leaview, wide angle -Power port, 12V -Radio ready, entertainment -ROPS cab, 77dB(A) ISO 6394 -Storage area for cooler/lunchbox -Throttle control, electronic -Windows: laminated glass -Fixed front with intermittent wiper -windows: tempered -Left and right side wipers -Rear with intermittent wiper -Cab Storage -

SAFETY AND SECURITY -Clutch, circle drive slip -Doors, 2 engine compartment, (two left -hand, two right hand) locking -Doors, 2 service, left and right locking -Ground level engine shutdown -Hammer (emergency exit) -Horn, electric -Seat belt, retractable 3" -Secondary steering -Tandem walkway/guards

FLUIDS -Antifreeze -Extended life coolant -35C/-30F

OTHER STANDARD EQUIPMENT -Accumulators -brake -dual certified -Drawbar,6 shoe w/replaceable wear strips -Fluid check, ground level -Fuel tank, 100 gallon (378 L) -Ground level fueling -DEF/AdBlue Tank, 3.3 gallon (12.5 L) -Hydraulic lines for base functions -Pump, hydraulic, high capacity -(100cc / 6 cu in) -Radiator, cleanout access -(both sides with swing doors) -SOS ports - engine -hydraulic --transmission -coolant -fuel -Tool box -Debris guard -

### **MACHINE SPECIFICATIONS**

140 B+2,LVR MOLDBOARD, 14' BASIC RIPPER-SCARIFIER, REAR **COLD WEATHER PLUS, TANDEM** PRECLEANER, SY-KLONE LINK BAR, HYDRAULIC DRAWBAR, TOP ADJUST LOCK OUT, MANUAL BASE+2 (RIP,FL) ACCUMULATORS, NO ARO STARTER, EXTREME DUTY ROADING LIGHTS W/FOLD DOWN ARM CAB, PLUS SEAT, CLOTH AIR SUSPENSION MIRRORS, HEATED EXTERNAL PRODUCT LINK, CELLULAR PLE641 FAN, STANDARD TANDEM TIRES,14.0R24 MX XGLA2 \* G2 MP LOW BAR, HALOGEN, TANDEM LIGHTS, WORK PLUS, HALOGEN LIGHTS, CAB ROOF, HALOGEN WARNING STROBE TRANSMISSION, AUTOSHIFT CIRCLE SAVER CAMERA, REAR VISION PREMIUM CORP RADIO (12V) **GUARD, TRANSMISSION COVERS, UNDER CAB** PUSH PLATE, COUNTERWEIGHT LIFT GROUP, FRONT MOUNTING SHANKS/TEETH, RIPPER/SCARIFIER COOLANT (-40C) LANGUAGE, ENGLISH DECALS, ENGLISH (US) FUEL ANTIFREEZE, -25C (-13F)

SELL PRICE SUBTOTAL TOTAL

\$126,005.77

\$126,005.77

\$126,005.77

### **WARRANTY & COVERAGE**

Standard Warranty:

12 Months Unlimited Hours, Parts and Labor (Travel Time included for the

first 6 months)

Extended Coverage:

420-60 MO/3000 HR POWERTRAIN + HYDRAULICS + TECH

F.O.B/TERMS: Grants, NM

### **PAYMENT TERMS**

Cash invoice Terms CASH WITH ORDER

\$0.00

	Lease Terms	Mark P. Mills and the law of the					
:	CASH WITH ORDER	BALANCE TO FINANCE	TERM	MONTHLY PAYMENT	RATE	BUY OUT	DOCUMENT FEE
	\$0.00	\$126,405.77	60 (Monthly)	\$1,746.83		\$46,935.00	\$400.00

The above lease is based on the following:

- Taxes are extra on the monthly payments and the buy-out
- If the machine is not purchased at the end, then it must be returned in average condition with normal wear-and-tear
- The customer is responsible for all maintenance and repairs on the machine using genuine Cat parts only
- Tires, undercarriage, and all ground engaging tools (i.e. teeth, cutting edges) must be at 50% remaining, minimum, if the unit is not purchased at the end of the lease
- The above is subject to approval by Caterpillar Finance



Quote 238963-01

January 20, 2022

CIBOLA COUNTY COMMISSIONATTN: ROAD DEPARTMENT 515 W HIGH STREET GRANTS, New Mexico 87020

Attention: EDWARD SALAZAR

Dear Mr. Salazar,

We would like to thank you for your interest in our company and our products, and are pleased to quote the following for your consideration.

Caterpillar Model: 420 Backhoe Loader

STOCK NUMBER: TBD

SERIAL NUMBER: TBD

YEAR: 2022

HOURS:

We appreciate the opportunity to extend this quote. This quote is subject to availability and is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.

Regards,

Don Roberts 505-320-1023 Sales Representative Wagner Equipment Co.

### Caterpillar Model: 420 Backhoe Loader

### STANDARD EQUIPMENT

BOOMS, STICKS, AND LINKAGES -BACKHOE -- 14'4" Centre pivot backhoe -4.3 Meters -

ELECTRICAL -- External Power Receptacle (12v) -- Diagnostic ports for engine and -machine Electronic Control Modules -

OPERATOR ENVIRONMENT -- Interior rearview mirror -- ROPS canopy, Rear Fenders -- 2-inch (50mm) retractable seat belt -- Tilt steering column -- Steering knob -- Hand and foot throttle -- Automatic Engine Speed Control -- One Touch Low idle -- Floor mat and Coat Strap -- Lockable storage area -- Air suspension seat --

FLUIDS -- Antifreeze - Extended Life Coolant -- 20F (-30C)

OTHER STANDARD EQUIPMENT — Standard Storage Box — Transport tie-down points — Ground line fill fuel tank with -42.3 gal (160L) capacity & 5 gal (19L) -diesel exhaust fluid — Rubber impact strips on radiator -guard — CD-ROM Parts Manual — Safety Manual — Operations and Maintenance Manual — Lockable hood — Tire Valve Stem Protection

BOOMS, STICKS, AND LINKAGES -- Boom and swing transport locks -- Pilot operated backhoe and -electro hydraulic stabilizer controls -- Street type stabilizer shoes -- Anti-drift hydraulics (boom, stick, -and E-stick) -- Cat Cushion Swing(tm) system -LOADER -- Single Tilt Loader -- Lift cylinder brace -- Self-leveling loader with single -lever control -- Return-to-dig -(automatic bucket positioner) -- Transmission neutralizer switch -- Bucket level indicator

POWERTRAIN -- Water separator -- Thermal starting aid system -- Dry type axial seal air cleaner with -integral precleaner -Automatic dust ejection system -- Filter condition indicator -- Hydraulically boosted multi-plate -wet disk brake with dual pedals &
-interlock -- Differential lock -- Torque converter -- Transmission-four speed manual shift -- Neutral safety switch -- Spin-on filters for
-Fuel -Engine oil -Transmission oil -- Outboard Planetary Rear Axies -- Diesel particulate filter -- Hydrostatic power steering

HYDRAULICS -- Pilot hoe and mechanical loader -controls -- Load sensing, variable flow system -with 43 gpm (162 L/min) axial piston -- pump -- 6 micron hydraulic filter -- Caterpillar XT-3 hose -- Hydraulic oil cooler -- Pilot control shutoff switch -- Flow-sharing hydraulic valves -- Hydraulic suction strainer -

ELECTRICAL -- 12 volt electrical start -- Horn, front and rear -- Backup alarm -- Hazard flashers/turn signals -- Halogen head lights (2) -- Halogen rear flood lights (2) -- Stop and tail lights -- Audible system fault alarm -- Key start/stop system -- 850 CCA maintenance free battery -- Battery disconnect switch -

#### **MACHINE SPECIFICATIONS**

420 07A BACKHOE LOADER CFG2 STICK, EXTENDABLE, 14FT PT, 4WD/2WS AUTOSHIFT ENGINE, 74.5KW, C3.6 DITA, T4F HYDRAULICS, GP, 6FCN/8BNK, ST CAB, DELUXE DISPLAY, STANDARD AIR CONDITIONER, T4F WORKLIGHTS (8) HALOGEN LAMPS SEAT, DELUXE FABRIC BELT, SEAT, 2" SUSPENSION COUNTERWEIGHT, 1015 LBS TIRES, 12.5 80/19.5L-24, GY STABILIZER PADS, FLIP-OVER BUCKET-GP, 1.3 YD3, PO LOADER BUCKET PINS **CUTTING EDGE, TWO PIECE** BUCKET-ROCK, HD, 24", 7.0 FT3 COUPLER, PG, MAN.D.LOCK, BHL INSTRUCTIONS, ANSI SERIALIZED TECHNICAL MEDIA KIT RIDE CONTROL LINES, COMBINED AUX, E-STICK STANDARD RADIO (12V) PRODUCT LINK, CELLULAR, PLE643 COLD WEATHER PACKAGE, 120V **AUTO-UP STABILIZERS** GUARD, STABILIZER HAMMER, B9S BRACKET, BL, 45-50MM, XL LINES, 89 HAMMER, BL Coupler Coupler

SELL PRICE SUBTOTAL

\$126,005.77

TOTAL

\$126,005.77

\$126,005.77

#### **WARRANTY & COVERAGE**

Standard Warranty:

12 Months Unlimited Hours, Parts and Labor (Travel Time included for the

first 6 months)

Extended Coverage:

420-60 MO/3000 HR POWERTRAIN + HYDRAULIGS + TECH

F.O.B/TERMS:

Grants, NM

#### **PAYMENT TERMS**

Cash Invoice Terms CASH WITH ORDER

\$0.00

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CASH WITH ORDER	BALANCE TO FINANCE	TERM	MONTHLY	RATE	BUY OUT	DOCUMENT FEE
\$0.00	\$126,405.77	60 (Monthly)	\$1,746.83		\$46,935.00	\$400.00

The above lease is based on the following:

- Taxes are extra on the monthly payments and the buy-out
- If the machine is not purchased at the end, then it must be returned in average condition with normal wear-and-tear
- The customer is responsible for all maintenance and repairs on the machine using genuine Cat parts only
- Tires, undercarriage, and all ground engaging tools (i.e. teeth, cutting edges) must be at 50% remaining, minimum, if the unit is not purchased at the end of the lease
- The above is subject to approval by Caterpillar Finance

RL



#### State of New Mexico General Services Department Purchasing Division

#### Statewide Price Agreement Amendment

Awarded Vendor: 23 Vendors	Number: <u>90-00000-19-00063</u>
Email:	Amendment No.: Four
Telephone No.:	Term: July 29, 2019-July 28, 2022
Ship To:	<b>*</b>
All State of New Mexico agencies, commissions.	Procurement Specialist: Raelynn Lujan
institutions, political subdivisions and local public bodies allowed by law.	Telephone No.: <u>505-670-1561</u>
	Email: raelynn.lujan@state.nm.us
Invoice:	
As Requested	
Title: Highway & Off Road Heavy Equipment	

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 29, 2021 to July 28, 2022 at the same price, terms and conditions.

This amendment is issued to reflect the following effective immediately: Vendor Titan Machinery Inc. has been acquired by Century Equipment Company.

From:	To:		
(AV) 0000051908	(AV) 0000150685		
Wesskote Inc.	Aaron's Perez Collision Center LLC 1504 Coors Blvd. SW Albuquerque, NM 87121		
1504 Coors Blvd. SW			
Albuquerque, NM 87121			
(505)873-8300	(505) 269-9387		
wesskote@hotmail.com	aperezcollision@gmail.com		

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Valerie Paulk

Date: 7/1/2021

Mark Hayden, New Mexico State Purchasing Agent

x This Agreement was signed on behalf of the State Purchasing Agent
Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472

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#### State of New Mexico General Services Department Purchasing Division

#### Statewide Price Agreement Amendment

Awarded Vendor: 23 Vendors	Price Agreement Number: <u>90-000-19-00063</u>
	Price Agreement Amendment No.: Three
Email: Telephone No.:	Term: <u>July 29, 2019 – July 28, 2021</u>
Ship To: All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.	Procurement Specialist: Raelynn Lujan Telephone No.: (505) 827-0484
Invoice: As Requested	Email: raelynn.lujan@state.nm.us

Title: Highway & Off Road Heavy Equipment and Truck Repairs (Parts & Labor)

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 29, 2020 to July 28, 2021 at the same price, terms and conditions.

This amendment is issued to reflect the following effective immediately: Vendor Titan Machinery Inc. has been acquired by Century Equipment Company.

From:	To:
(AU) 0000102501	(AU) 0000092769
Titan Machinery Inc.	Century Equipment Company
6613 Edith Blvd NE	6301 Edith Blvd NE
Albuquerque, NM 87114	Albuquerque, NM 87107
505-342-2566	505-433-2246
jake.schams@titanmachinery.com	ian.hurley@centuryeq.com

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico	
Vallerie Paule Lon	
Mark Hayden, New Mexico State/Purchasing Agent	

Date: 7/21/2020

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472



#### State of New Mexico General Services Department Purchasing Division

#### Statewide Price Agreement Amendment

Awarded Vendor: 0000143288 411 Equipment, LLC 1815 4<sup>TH</sup> Street NW Albuquerque, NM 87102

Email: mmarquez@411equipment.com Telephone No. (505) 280-9143

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested

Price Agreement Number: 90-000-19-00063

Price Agreement Amendment No.: Two

Term: July 29, 2019 - July 28, 2020

Procurement Specialist: Raelynn Lujan 49

Telephone No.: (505) 827-0484

Email: raelynn.lujan@state.nm.us

Title: Highway and Off Road Heavy Equipment and Truck Repairs (Parts & Labor)

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

This amendment is issued to reflect the following effective immediately:

Vendor (AP) MJM Service & Repair has been acquired by 411 Equipment, LLC.

From:	TA:
(AP) 0000142503	(AP) 0000143288
MJM Service & Repair	411 Equipment LLC
8528 Powder Ct NW	1815 4th Street NW
Albuquerque, NM 87120	Albuquerque, NM 87102
	(505) 280-9143

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Mark Harden, New Mexico State Purchasing Agent

Date: 10/3/2019

V Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472



#### State of New Mexico General Services Department Purchasing Division

#### Statewide Price Agreement Amendment

Awarded Vendor; 0000141519 (AS) Roberts Truck Center of NM 1623 Aspen Ave, NM Albuquerque, NM 87104

Email: melody.dyer@robertstruck.com Telephone No. (505) 243-7883

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:

As Requested at time of order

Price Agreement Number: 90-000-19-00063

Price Agreement Amendment No.: One

Term: July 29, 2019 thru July 28, 2020

Procurement Specialist: Raelynn Lujan

Telephone No.: (505) 827-0484

Email: raclynn.lujan@state.nm

Title: Highway and Off Road Heavy Equipment and Truck Repairs (Parts & Labor)

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

This amendment is issued to reflect the following effective immediately:

Correct Vendor number (AS) Roberts Truck Center: Change from #0000047816 to #0000141519

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 9/3/2019

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472



#### State of New Mexico General Services Department Purchasing Division Price Agreement #: 90-000-19-00063

(AV) 0000051908 Wesskote Inc. 1504 Coors Blvd. SW Albuquerque, NM 87121 (505) 873-8300 wesskote@hotmail.com

Delivery: No

(AW) 0000045306 Wagner Equipment 4000 Osuna Rd NE Albuquerque, NM 87109 (505) 345-8411 teldred@wagnerequipment.com

Delivery: Equipment location or our store

Page-9



10j.

# Resolution 22-17

NMFA Loan-2 OEM Vehicles for County Fire Marshall

#### Form 8038-G

Department of the Treasury

**Information Return for Tax-Exempt Governmental Bonds** 

(Rev. October 2021)

Caution: If the issue price is under \$100,000, use Form 8038-GC.

▶ Go to www.irs.gov/F8038G for instructions and the latest information.

OMB No. 1545-0047

Internal Revenue Service Reporting Authority Part I Check box if Amended Return ▶ issuer's name Issuer's employer identification number (EIN) Cibola County, New Mexico 85-0291095 3a Name of person (other than Issuer) with whom the IRS may communicate about this return (see instructions) 3b Telephone number of other person shown on 3a 4 Number and street (or P.O. box if mall is not delivered to street address) Room/suite Report number (For IRS Use Only) 700 East Roosevelt Avenue 3 3 3 6 City, town, or post office, state, and ZIP code Date of issue Grants, New Mexico 87020 03/11/2022 8 Name of Issue 9 CUSIP number New Mexico Finance Authority, 2022 Fire Equipment Loan, PPRF-5707 N/A 10a Name and title of officer or other employee of the issuer whom the IRS may call for more information Telephone number of officer or other employee shown on 10a Paul Ludi, Finance Director 505-285-2518 Type of Issue (Enter the issue price.) See the instructions and attach schedule. 11 Education . . . 11 Health and hospital 12 12 13 Transportation . . 13 14 14 121,000 15 Environment (including sewage bonds) 15 16 16 17 17 18 Other. Describe ► FIRE & RUIP 18 If bonds are TANs or RANs, check only box 19a . . . 19a If bonds are BANs, check only box 19b . . . . . . If bonds are in the form of a lease or installment sale, check box Description of Bonds. Complete for the entire issue for which this form is being filed. Part III (c) Stated redemption (d) Weighted (a) Final maturity date (b) Issue price (e) Yield price at maturity average maturity 21 121.000 \$ 05/01/2029 0.0000 % vears Part IV Uses of Proceeds of Bond Issue (including underwriters' discount) 22 22 23 Issue price of entire issue (enter amount from line 21, column (b)) 23 121,000 Proceeds used for bond issuance costs (including underwriters' discount) 24 24 25 25 26 Proceeds allocated to reasonably required reserve or replacement fund 26 27 Proceeds used to refund prior tax-exempt bonds. Complete Part V. . . . 27 28 Proceeds used to refund prior taxable bonds. Complete Part V . . . . 29 29 30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) 30 121,000 Description of Refunded Bonds. Complete this part only for refunding bonds. Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded . years 32 Enter the remaining weighted average maturity of the taxable bonds to be refunded . . . years Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) Enter the date(s) the refunded bonds were issued ➤ (MM/DD/YYYY)

COULT OU	iao-ai (nev.	10-2021)							rage 🚣	
Part	VI M	iscellaneous								
35	Enter th	e amount of the state volume cap a	llocated to the issue	under section 141(b	)(5)		35			
36a	a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract									
		See instructions								
b	b Enter the final maturity date of the GIC ► (MM/DD/YYYY)									
C	Enter th	ter the name of the GIC provider ►								
37										
38a		sue is a loan made from the proceed						ing infor	mation:	
b	Enter th	ne date of the master pool bond $ ightharpoonup$ (N	/IM/DD/YYYY)	•			_			
C	Enter th	ne ÈIN of the issuer of the master po	ol bond ▶							
d	Enter th	ne name of the issuer of the master i	oool bond 🟲	1			_			
39		suer has designated the issue unde							<b>▶</b> ✓	
40		suer has elected to pay a penalty in						1	<b>▶</b> □	
41a		suer has identified a hedge, check h			ation:					
b	Name o	of hedge provider ►								
C	Type of	i hedge ► f hedge ►								
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		ing to the requirements under the Co		•					▶ □	
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45a		portion of the proceeds was used t	•	tures, check here 🟲	$\square$ and $\epsilon$	enter the a	mount			
		bursement								
b	Enter th	ne date the official intent was adopte	ed ► (MM/DD/YYYY)						<del></del>	
Sign and	ature	Under penalties of perjury, I declare that I ha and bellef, they are true, correct, and comple process this return, to the person that I have	ve examined this return an ete. I further declare that i d authorized above.	d accompanying schedule consent to the IRS's discid	es and state osure of the	ments, and to Issuer's returi	the best on information	of my know on, as nece	ledge ssary to	
Cons	oont			k.	Daniel I	Torrez, Ch	airman			
CON	sem	Signature, of issuer's authorized represer	ntative	Date		int name and				
			Preparer's signature		ate	Check		PTIN		
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Prep			ie - A Professional Cor	rogration		t Ftrm's EIN ►	l	5-022512		
Use Only		Firm's name ► Sutin, Thayer & Browne, A Professional Corporation Firm's EIN ► 85-0225124								

Firm's address ▶ 6100 Uptown Blvd NE, Suite 400, Albuquerque, NM 87110

505-883-2500 Form **8038-G** (Rev. 10-2021)

Phone no.

#### \$121,000 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO	)	
COUNTY OF CIBOLA	) ss.	ARBITRAGE AND TAX
	)	CERTIFICATE

On behalf of Cibola County, New Mexico (the "Governmental Unit"), and in connection with the Loan Agreement dated March 11, 2022 (the "Loan Agreement"), relating to the financing the cost of purchasing two pickup trucks for use by the Governmental Unit's fire administration (the "Project") as described in the Loan Agreement, and evidencing the Governmental Unit's obligation in the aggregate principal amount of \$121,000, the Governmental Unit hereby certifies as follows:

Capitalized terms used in this Certificate have the same meanings as defined in Resolution No. adopted on January 27, 2022, unless otherwise defined in this Certificate or the context requires otherwise.

- 1. The Project. The Governmental Unit is entering into the Loan Agreement simultaneously with delivery of this Certificate. The Loan Agreement evidences the loan (the "Loan") made by the New Mexico Finance Authority (the "Finance Authority") to provide funds to pay the costs of acquiring the Project described in Exhibit "A" attached to the Loan Agreement and to pay certain costs incurred in connection with the execution and delivery of the Loan Agreement.
- 2. <u>Security for the Loan Agreement</u>. Debt service on the Loan Agreement will be secured by the pledged revenues described in <u>Exhibit "A"</u> attached to the Loan Agreement (the "Pledged Revenues") sufficient to pay debt service due in connection with the Loan, which Pledged Revenues have been pledged to the Finance Authority pursuant to the Loan Agreement.
- 3. <u>Finance Authority Public Project Revolving Fund Program</u>. The Governmental Unit acknowledges that the Finance Authority may assign and transfer the Loan Agreement to the BOKF, NA, as successor trustee (the "Trustee") pursuant to the Indenture, as defined in the Loan Agreement, and all Supplemental Indentures thereto, between the Finance Authority and the Trustee (collectively, the "Indenture"). Pursuant to the Indenture, the Loan Agreement may be pledged as an Additional Pledged Loan to the Trustee as additional security for the payment of amounts due on the Finance Authority's Public Project Revolving Fund Revenue Bonds outstanding at the time of such pledge.
- 4. <u>Sources and Uses of Loan Funds</u>. The Governmental Unit has received Loan proceeds from the public project revolving fund, as defined in the New Mexico Finance Authority Act, Sections 6-21-1, *et seq.*, NMSA 1978, as amended and supplemented, in the amount of \$121,000 from the Finance Authority (the "Proceeds"). The Proceeds do not exceed the amount reasonably necessary for the purposes for which the Loan Agreement was entered into.

5. Expenditure Expectations. The Governmental Unit expects to incur a substantial binding obligation within six (6) months of the date hereof with regard to the Project, which obligation involves the expenditure of no less than five percent (5%) of the Proceeds. The Governmental Unit reasonably expects that the \$121,000 of Proceeds deposited into the Governmental Unit's Program Account in the Program Fund together with other legally available funds and anticipated earnings from the investment of such Proceeds until they are spent, are expected to be expended within three (3) years of the date hereof.

The estimated total costs of the Project will not be less than \$121,000 plus investment earnings thereon during the acquisition period.

Proceeds in the amount of \$0.00 will be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 of the Loan Agreement.

- 6. <u>Investment of Proceeds</u>. Except for the investment of the Proceeds (i) in the Program Account established under the Indenture with respect to the Loan Agreement pending the payment of the costs of the Project, and (ii) in the Finance Authority Debt Service Account established and administered by the Finance Authority pending the payment of debt service on the Loan Agreement, there will be no investment of the Proceeds.
- Bona Fide Debt Service Fund. Debt service payments on the Loan Agreement will be paid from the Pledged Revenues of the Governmental Unit deposited to the Finance Authority Debt Service Account created with respect to the Loan Agreement. Because the Pledged Revenues of the Governmental Unit for any year will exceed debt service on the Loan Agreement, it is assumed that current debt service paid by the Governmental Unit for deposit in the Finance Authority Debt Service Account will be derived entirely from the current Pledged Revenues. The Finance Authority Debt Service Account will be depleted at least once a year except for an amount not to exceed the greater of the earnings on the Finance Authority Debt Service Account for the immediately preceding bond year or one-twelfth (1/12<sup>th</sup>) of debt service on the Loan for the immediately preceding bond year. The Governmental Unit has not created or established, nor does it expect to create or establish, any debt service fund, redemption fund, replacement fund, sinking fund or other similar fund which is reasonably expected to be used to pay principal or interest on the Loan Agreement or pledged therefor, except for the Finance Authority Debt Service Account.
- 8. <u>No Disposition of Project</u>. The undersigned reasonably expect that no part of the Project acquired with the Proceeds will be sold or otherwise disposed of, in whole or in part, during the term of the Loan Agreement.
- 9. General Tax Covenant. The Governmental Unit has covenanted in the Loan Agreement that no use will be made of the Proceeds, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148(b)) of the Loan Agreement, which use, if it had been reasonably expected on the date hereof, would have caused the Loan Agreement to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. The Governmental Unit has further obligated itself in the Loan Agreement to comply throughout the term of the Loan

Agreement with the requirements of Sections 103 and 141 through 150 of the Code and regulations proposed or promulgated with respect thereto.

- 10. <u>Private Business Use Limitations</u>. None of the Proceeds will be used by a private business or any entity other than a governmental unit or secured by payments from or property of a private business or any entity other than a governmental unit except pursuant to a management contract which conforms with Revenue Procedure 2017-13 of the United States Treasury. For purposes of the preceding sentence a governmental unit does not include the United States Government or any agency or instrumentality thereof.
- 11. <u>No Common Plan of Financing</u>. There are no other obligations which are being issued or sold at substantially the same time as the Loan Agreement pursuant to a common plan of financing with the Loan Agreement and that will be paid out of the Pledged Revenues or will have substantially the same claim to be paid out of the Pledged Revenues as the Loan Agreement.
- 12. <u>No Federal Guarantees</u>. The Loan is not federally guaranteed within the meaning of Section 149(b) of the Code.
- 13. <u>Information Filing</u>. Loan Counsel for the Finance Authority, on behalf of the Governmental Unit, will timely file the Form 8038-G with respect to the Loan Agreement attached hereto as <u>Exhibit "A"</u> with the Internal Revenue Service. The Finance Authority has verified certain information necessary to complete the Form 8038-G as shown on the Finance Authority Certificate attached hereto as <u>Exhibit "B"</u>.
- 14. <u>Hedge Bonds</u>. The Loan is not a hedge bond as defined in Section 149 of the Code.
- 15. <u>No Reimbursement</u>. None of the Proceeds will be used to reimburse the Governmental Unit for costs paid for the Project more than sixty (60) days prior to the date hereof.
- 16. <u>No Refunding</u>. Proceeds of the Loan are not being used to refund any other obligation of the Governmental Unit.
- 17. <u>Economic Life of Project</u>. The weighted average maturity of 4.1389 years of the Loan Agreement does not exceed 120% of the reasonably expected economic life of the Project, which is four (4) years.
- 18. Qualified Tax-Exempt Obligations. The Loan Agreement is a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Governmental Unit represents that the reasonably anticipated amount of qualified tax-exempt obligations which will be issued by the Governmental Unit during the current calendar year does not exceed \$10,000,000 and the Governmental Unit will not designate more than \$10,000,000 of "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. For purposes of this Section, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is

controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e).

- 19. Rebate Exception. The Governmental Unit is a governmental unit with general taxing powers, no part of the Loan Agreement is a private activity bond, ninety-five percent (95%) or more of the proceeds are to be used for local governmental activities of the Governmental Unit and, the aggregate face amount of all tax-exempt obligations issued by the Governmental Unit during the current calendar year is not reasonably expected to exceed \$5,000,000. There are no subordinate entities of the Governmental Unit which are authorized to issue tax-exempt obligations. If the Governmental Unit fails to satisfy all of the provisions of this paragraph 19 for any reason, as provided in the Loan Agreement and consistent with the covenants of the Governmental Unit contained therein, any rebate owed to the United States Treasury will be paid in the amounts and at the times provided in Section 148 of the Code.
- 20. <u>Record Retention</u>. The Governmental Unit will manage and retain records related to the Loan as follows:
- A. Records will be retained for the life of the Loan, including any refunding loans related thereto, plus three (3) years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to the Loan and compliance functions;
- B. Basic records relating to the Loan transaction, including transcript documents executed in connection with the issuance of the Loan (i.e., the authorizing documents, Form 8038-G, the tax certificate, and any elections made with respect to the Loan, if applicable), any amendments, and copies of rebate calculations and records of payments, including Forms 8038-T;
- C. Records pertaining to the use of Loan-financed facilities by public and private sources including copies of management agreements and research agreements;
- D. Records pertaining to expenditures of Loan proceeds including requisitions, appraisal and property purchase contracts, account statements, invoices, payment vouchers, and the final allocation of proceeds to expenditures;
  - E. Records pertaining to all sources of payment or security for the Loan; and
- F. Records pertaining to investments including guaranteed investment contract documents under the Treasury Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

[Signature page follows]

This certificate is being executed and delivered to establish the reasonable expectations of the Governmental Unit for purposes of Sections 103 and 141 through 148 of the Code, and the undersigned officers of the Governmental Unit are the officers of the Governmental Unit charged with the responsibility of entering into the Loan Agreement. The foregoing is based upon the reasonable expectations of the undersigned on the date hereof, and to the best of our knowledge, information and belief, the above expectations are reasonable.

CIBOLA COUNTY, NEW MEXICO

Dated: March 11, 2022

[SEAL]	Ву:
	Daniel J. Torrez, Chairman
	Bý:
•	Paul Ludi, Finance Director
	By:
	Michelle Dominguez, County Clerk

6191077

## STATE OF NEW MEXICO CIBOLA COUNTY

The Board of County Commissioners (the "Governing Body") of Cibola County, New Mexico, met in regular session in full conformity with law and the rules and regulations of the Governing Body at the Cibola County Commission Chamber Room located at 700 East Roosevelt Avenue, Grants, New Mexico being the meeting place of the Governing Body for the regular meeting held on January 27, 2022, at the hour of 5:00 p.m. Upon roll call, the following members were found to be present:

Present:	
Absent:	
Also Present:	
Also Present:	V

Thereupon, there was officially filed with the County Clerk a copy of a proposed resolution in final form.

# CIBOLA COUNTY, NEW MEXICO RESOLUTION NO. \_\_\_\_

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN CIBOLA COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$121,000 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING TWO PICKUP TRUCKS FOR USE BY THE GOVERNMENTAL UNIT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTION OF STATE FIRE PROTECTION FUND REVENUES DISTRIBUTED BY THE TREASURER TO THE GOVERNMENTAL UNIT PURSUANT TO SECTION 59A-53-7, NMSA 1978; PROVIDING FOR THE DISTRIBUTION OF STATE FIRE PROTECTION FUND REVENUES TO BE REDIRECTED BY THE STATE TREASURER TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

Capitalized terms used in the following recitals have the same meaning as defined in Section 1 of this Resolution unless the context requires otherwise.

WHEREAS, the Governmental Unit is a legally and regularly created, established, organized and existing county under the general laws of the State; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest of the Governmental Unit and its residents that the Loan Agreement and Intercept Agreement be executed and delivered and that the financing of the acquisition of the Project take place by executing and delivering the Loan Agreement and Intercept Agreement; and

WHEREAS, the Governmental Unit may use the Pledged Revenues to finance the Project; and

WHEREAS, the Governing Body has determined pursuant to the Act that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described in Exhibit "A" to the Loan Agreement, the Pledged Revenues have not been pledged to secure the payment of any obligation which is currently outstanding; and

WHEREAS, the Loan Agreement shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues and shall not constitute a general obligation of the Governmental Unit, or a debt or pledge of the full faith and credit of the Governmental Unit or the State; and

WHEREAS, the Governmental Unit desires to provide that distributions of the Pledged Revenues be redirected to the Finance Authority or its assigns pursuant to the Intercept Agreement between the Governmental Unit and the Finance Authority (the "Intercept Agreement") for the payment of amounts due under the Loan Agreement; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the County Clerk this Resolution and the forms of the Loan Agreement and Intercept Agreement, which are incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a "private activity bond" as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governing Body intends by this Resolution to authorize the execution and delivery of the Loan Agreement in the amount and for the purposes set forth herein; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of the amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement and Intercept Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF CIBOLA COUNTY, NEW MEXICO:

Section 1. <u>Definitions</u>. As used in this Resolution, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Act" means the general laws of the State, Sections 4-62-1 through 4-62-10, NMSA 1978, as amended, Sections 59A-53-1 through 59A-53-19, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and Intercept Agreement, including this Resolution.

"Aggregate Annual Debt Service Requirement" means the total principal and interest payments due and payable pursuant to the Loan Agreement and on all Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

"Authorized Officers" means the Chairman, Vice-Chair, Finance Director and County Clerk.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

"Closing Date" means the date of execution, delivery and funding of the Loan Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

"Completion Date" means the date of final payment of the cost of the Project.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

"Expenses" means the cost of issuance of the Loan Agreement and the costs of issuance of the Bonds, if any, and the periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

"Finance Authority" means the New Mexico Finance Authority.

"Finance Authority Debt Service Account" means the debt service account in the name of the Governmental Unit established under the Indenture and held by the Finance Authority to pay principal and interest, if any, on the Loan Agreement as the same become due.

"Fiscal Year" means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

"Governing Body" means the Board of County Commissioners of the Governmental Unit, or any future successor governing body of the Governmental Unit.

"Governmental Unit" means Cibola County, New Mexico.

"Herein," "hereby," "hereunder," "hereof," "hereinabove" and "hereafter" refer to this entire Resolution and not solely to the particular section or paragraph of this Resolution in which such word is used.

"Indenture" means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, as successor trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as successor trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

"Intercept Agreement" means the Intercept Agreement, dated the Closing Date, between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing State

Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

"Loan" means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement.

"Loan Agreement" means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provides for the financing of the Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

"Loan Agreement Principal Amount" means the original principal amount of the Loan Agreement as shown on the Term Sheet.

"NMSA" means the New Mexico Statutes Annotated, 1978, as amended and supplemented.

"Parity Obligations" means the Loan Agreement and any other obligations, now or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with the Loan Agreement, including those obligations described on the Term Sheet.

"Pledged Revenues" means the State Fire Protection Fund revenues distributed to the Governmental Unit for the District, which is utilizing the Project and benefiting from the Loan Agreement, which distribution is made periodically by the State Treasurer pursuant to Section 59A-53-7, NMSA 1978, as amended, in the amount certified by the State Fire Marshal.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan Agreement for disbursal to the Governmental Unit for payment of the costs of the Project.

"Project" means the project described in Exhibit "A" to the Loan Agreement.

"Resolution" means this Resolution No. \_\_\_\_\_ adopted by the Governing Body on January 27, 2022 approving the Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement as shown on the Term Sheet, as supplemented and amended from time to time.

"State" means the State of New Mexico.

"Term Sheet" means Exhibit "A" to the Loan Agreement.

"Trustee" means BOKF, NA, Albuquerque, New Mexico, or any successor trustee company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

Section 2. <u>Ratification</u>. All actions heretofore taken (not inconsistent with the provisions of this Resolution) by the Governing Body and officers of the Governmental Unit directed toward the

acquisition of the Project and the execution and delivery of the Loan Agreement and the Intercept Agreement, be, and the same hereby are, ratified, approved and confirmed.

- Section 3. <u>Authorization of the Project, the Loan Agreement and the Intercept Agreement.</u> The acquisition of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit.
- Section 4. <u>Findings</u>. The Governmental Unit hereby declares that it has considered all relevant information and data and hereby makes the following findings:
- A. The Project is needed to meet the needs of the Governmental Unit and its residents and the issuance and delivery of the Loan Agreement is necessary and advisable.
- B. Moneys available and on hand for the Project from all sources other than the Loan are not sufficient to defray the cost of acquiring the Project.
- C. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.
- D. It is economically feasible to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.
- E. The Project and the execution and delivery of the Loan Agreement and the Intercept Agreement pursuant to the Act to provide funds for the financing of the Project are necessary and in the interest of the public health, safety and welfare of the residents of the Governmental Unit.
- F. The Governmental Unit will acquire the Project, in whole or in part, with the net proceeds of the Loan.
- G. Other than as described in the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from the Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement and the Intercept Agreement.
- H. The net effective interest rate on the Loan does not exceed twelve percent (12.0%) per annum, which is the maximum rate permitted by State law.

#### Section 5. Loan Agreement and Intercept Agreement - Authorization and Detail.

A. <u>Authorization</u>. This Resolution has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and acquiring the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of \$121,000 plus interest thereon, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the

Loan to (i) finance the acquisition of the Project; (ii) make a deposit to the Finance Authority Debt Service Account. The Project will be owned by the Governmental Unit.

- B. <u>Detail</u>. The Loan Agreement and Intercept Agreement shall be in substantially the forms of the Loan Agreement and Intercept Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Loan shall be in an original aggregate principal amount of \$121,000, shall be payable in installments of principal due on May 1 of the years designated in <u>Exhibit "B"</u> to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, beginning on May 1, 2023 at the rates designated in <u>Exhibit "B"</u> to the Loan Agreement.
- Section 6. Approval of Loan Agreement and Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement, as presented at the meeting of the Governing Body at which this Resolution was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement, with such changes, insertions and omissions that are consistent with this Resolution as may be approved by such individual Authorized Officers, and the County Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Resolution and the Loan Agreement and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Resolution or in the Loan Agreement, or any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues), as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Resolution, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefore to payments required by the Loan Agreement, in its sole and absolute discretion.

#### Section 8. <u>Disposition of Proceeds: Completion of Acquisition of the Project.</u>

A. <u>Program Account, Finance Authority Debt Service Account and.</u> The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held by the Finance Authority and to the Program Account to be held and maintained by the Trustee pursuant to the Indenture. The Governmental Unit hereby approves the deposit of a portion of the proceeds of the Loan Agreement in the Program Account and the Finance Authority Debt Service Account, all as set forth in <u>Exhibit "A"</u> to the Loan Agreement.

The proceeds derived from the execution and delivery of the Loan Agreement shall be deposited promptly upon the receipt thereof in the Program Account, all as provided in the Loan Agreement and the Indenture.

Until the Completion Date, the money in the Program Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

The Governmental Unit will acquire the Project with all due diligence.

- B. <u>Completion of Acquisition of the Project</u>. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that acquisition of and payment for the Project have been completed. As soon as practicable, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.
- C. <u>Finance Authority and Trustee Not Responsible</u>. The Finance Authority and the Trustee shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.
- Section 9. <u>Deposit of Pledged Revenues, Distributions of the Pledged Revenues and Flow of Funds.</u>
- A. <u>Deposit of Pledged Revenues</u>. Pursuant to the Intercept Agreement, Pledged Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay the principal and interest due under the Loan Agreement.
- B. Termination on Deposits to Maturity. No payment shall be made into the Finance Authority Debt Service Account if the amount in the Finance Authority Debt Service Account totals a sum at least equal to the entire aggregate amount to become due as to principal, interest on, and any other amounts due under, the Loan Agreement in which case moneys in such account in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided below.
- C. <u>Use of Surplus Revenues</u>. After making all the payments hereinabove required to be made by this Section and any payments required by outstanding Parity Obligations, any moneys remaining in the Finance Authority Debt Service Account shall be transferred to the Governmental Unit on a timely basis and shall be applied to any other lawful purpose, including, but not limited to, the payment of any Parity Obligations or bonds, or obligations subordinate and junior to the Loan Agreement, or other purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine.

- Section 10. <u>Lien on Pledged Revenues</u>. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged to, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest and any other amounts due under the Loan Agreement, subject to the uses hereof permitted by and the priorities set forth in this Resolution. The Loan Agreement constitutes an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues as set forth herein and therein and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement.
- Section 11. <u>Authorized Officers</u>. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan Agreement, the Intercept Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution, the Loan Agreement and Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the publication of the summary of this Resolution set out in Section 17 of this Resolution (with such changes, additions and deletions as may be necessary).
- Section 12. <u>Amendment of Resolution</u>. Prior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Resolution may be supplemented or amended by resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Resolution. This Resolution may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.
- Section 13. <u>Resolution Irrepealable</u>. After the Loan Agreement and Intercept Agreement have been executed and delivered, this Resolution shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.
- Section 14. <u>Severability Clause</u>. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.
- Section 15. <u>Repealer Clause</u>. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.
- Section 16. <u>Effective Date</u>. Upon due adoption of this Resolution, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Chairman and County Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Resolution (set out in Section 17 below) shall be published in a newspaper which maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and said Resolution shall be in full force and effect thereafter, in accordance with law.

Section 17. <u>General Summary for Publication</u>. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Resolution shall be published in substantially the following form:

(Form of Summary of Resolution for Publication)

Cibola County, New Mexico Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. \_\_\_\_\_, duly adopted and approved by the Governing Body of Cibola County, New Mexico, on January 27, 2022. A complete copy of the Resolution is available for public inspection during the normal and regular business hours of the Office of County Clerk, 700 East Roosevelt Avenue, Grants, New Mexico.

The title of the Resolution is:

CIBOLA COUNTY, NEW MEXICO Resolution NO. \_\_\_\_\_

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN CIBOLA COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$121,000 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING TWO PICKUP TRUCKS FOR USE BY THE GOVERNMENTAL UNIT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTION OF STATE FIRE PROTECTION FUND REVENUES DISTRIBUTED BYTHE TREASURER TO THE GOVERNMENTAL UNIT PURSUANT TO SECTION 59A-53-7, NMSA 1978; PROVIDING FOR THE DISTRIBUTION OF STATE FIRE PROTECTION FUND REVENUES TO BE REDIRECTED BY THE STATE TREASURER TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

A general summary of the subject matter of the Resolution is contained in its title. This notice constitutes compliance with Section 6-14-6, NMSA 1978.

(End of Form of Summary for Publication)

# PASSED, APPROVED AND ADOPTED THIS $27^{\text{th}}$ DAY OF JANUARY, 2022. CIBOLA COUNTY, NEW MEXICO

	By: Daniel J. Torrez, Chairman			
[SEAL]				
ATTEST:				
By: Michelle E. Dominguez, County Clerk	<u>.</u> ·,			

Commissionerseconded by Commissioner	then moved adoption of the foregoing Resolution, duly
The motion to adopt said Resol following recorded vote:	ution, upon being put to a vote, was passed and adopted on the
Those Voting Aye:	
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<u>-</u>	
_	· · · · · · · · · · · · · · · · · · ·
Those Voting Nay:	
· · ·	
Those Absent:	
_	·
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Chairman declared said motion carried	e Governing Body having voted in favor of said motion, the land said Resolution adopted, whereupon the Chairman and upon the records of the minutes of the Governing Body

After consideration of matters not relating to the Resolution, the meeting on the motion duly made, seconded and unanimously carried, was adjourned.

CIBOLA COUNTY, NEW MEXICO

	By:
	Daniel J. Torrez, Chairman
[SEAL]	

By: \_\_\_\_\_\_ Michelle E. Dominguez, County Clerk

ATTEST:

#### EXHIBIT "A"

Meeting Agenda of the January 27, 2022 Cibola County Board of County Commissioners Meeting

(See attached)

STATE OF NEW MEXICO	)
•	) ss.
COUNTY OF CIBOLA	)

- I, Michelle E. Dominguez, the duly qualified and acting County Clerk of Cibola County, New Mexico (the "Governmental Unit"), do hereby certify:
- 1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of County Commissioners of Cibola County, New Mexico (the "Governing Body"), constituting the governing body of the Governmental Unit had and taken at a duly called regular meeting held in the County Commission Chamber Room, 700 East Roosevelt Avenue, Grants, New Mexico, on January 27, 2022, at the hour of 5:00 p.m., insofar as the same relate to the execution and delivery of the proposed Loan Agreement and Intercept Agreement, a copy of each of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.
- 2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.
- 3. Notice of said meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the Governmental Unit's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of March, 2022.

CIBOLA COUNTY, NEW MEXICO

Ву:			
	Michelle E. Dominguez,	County	Clerk

[SEAL]

6169319

#### \$121,000 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO	)				Y	
COUNTY OF CIBOLA	) ss. )				IT AND ERTIFIC	ATE
IT IS HEREBY CERTIFIED by the Chairman, Finance Director and Continue (the "Governmental Unit")						ied and acting New Mexico
1. On the date of this Certifical caused to be executed and delivered, a Load New Mexico Finance Authority (the "Finance \$121,000, to the Finance Authority (the "Resolution No (the "Resolution execution and delivery of the Loan Agreed have received \$121,000 as proceeds from therefore.	n Agree ace Autl Loan A on") ad nent an	ment bet hority"), greement lopted of d the Int	ween the ant"), as an Janua ercept A	e Gov ggreg author ry 27 agreen	rernmenta ate princi rized by , 2022 rent. Th	I Unit and the pal amount of Governmental elating to the e undersigned
2. The proceeds of the Loan A created for the deposit of such moneys und of June 1, 1995, as amended and suppleme and Pledge dated as of March 1, 2005, a Authority and BOKF, NA, as Trustee an Finance Authority pursuant to a Pledge Not	er the G ented, or as suppl d its su	eneral In the Sub emented accessors	ndenture ordinate , each t and as	of Tr d Ger by and signs,	ust and Parent Inde deral Inde detween as deter	ledge dated as nture of Trust n the Finance mined by the
Governmental Unit's Account in the Program Fund:	\$121,0	00.00				
Deposit to Finance Authority Debt Service Account:	\$	0.00				
Total:	\$121,0	00.00		•		

3. The proceeds of the Loan Agreement will be available to the Governmental Unit upon submittal of a Requisition Form to the Finance Authority in the form attached to the Loan Agreement as Exhibit "C" and will be used as set forth in the Resolution and the Loan Agreement.

### WITNESS our hands this 11<sup>th</sup> day of March, 2022.

#### CIBOLA COUNTY, NEW MEXICO

By: _	
	Daniel J. Torrez, Chairman
	·
Ву: _	To divide the control of the control
	Paul Ludi, Finance Director
D.	
Ву: _	Michalla Dania G + G1 1
	Michelle Dominguez, County Clerk

[SEAL]

6169465

It is hereby certified by the undersigned, a duly qualified and acting official of the New Mexico Finance Authority, that, the undersigned has, on the date of this Certificate, received from Cibola County, New Mexico the Loan Agreement and the Intercept Agreement.

NEW MEXICO FINANCE AUTHORITY
By:

6169465

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## **BOND DEBT SERVICE**

### Cibola County 2022 Equipment Loan

Period Ending	Principal	Interest	Debt Service
05/01/2023	17,286		17,286
05/01/2024	17,286		•
05/01/2025	17,286		17,286
05/01/2026	17,286		17,286
05/01/2027	17,285		17,286
05/01/2028			17,285
05/01/2029	17,285		17,285
	17,286		17,286
	121,000	0	121,000

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### \$121,000 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO	)	
	) ss.	GENERAL AND NO LITIGATION
COUNTY OF CIBOLA	)	CERTIFICATE

IT IS HEREBY CERTIFIED by the undersigned, the duly elected and chosen, Chairman, County Clerk and Attorney for Cibola County, New Mexico (the "Governmental Unit") in Cibola County, and the State of New Mexico (the "State") (provided, that the Attorney for the Governmental Unit is certifying only as to Paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 20, 21, 22, 24 and 25 hereof):

Capitalized terms used in this Certificate have the same meaning as defined in Governmental Unit Resolution No. \_\_\_\_ adopted on January 27, 2022 (the "Resolution") unless otherwise defined in this Certificate or the context requires otherwise.

- 1. The Governmental Unit is a political subdivision of the State and is duly organized and validly existing under and pursuant to the laws of the State, its full name being "Cibola County, New Mexico."
- 2. The Governmental Unit was established in the year 1981, pursuant to Section 4-3A-1, NMSA 1978, as amended.
- 3. From at least October 18, 2021 (except as otherwise noted), to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Governmental Unit:

Chairman:

Daniel J. Torrez

First Vice-Chair:

Martha Garcia

Second Vice-Chair:

Christine Lowery

Commissioners:

Ralph Lucero

Robert Windhorst

Finance Director:

Paul Ludi

County Clerk:

Michelle Dominguez

Deputy County Clerk:

Natalie Grine

Attorney:

Adren R. Nance, Esq.

4. The population of the Governmental Unit is not less than seventy-five percent (75%) English speaking and is less than twenty-five percent (25%) Spanish speaking.

- 5. There is no reason within our knowledge, after due inquiry with respect thereto, why the Governmental Unit may not enter into the Loan Agreement and the Intercept Agreement with the New Mexico Finance Authority (the "Finance Authority"), as authorized by the Resolution.
- 6. The Governmental Unit has duly authorized the execution, delivery and performance of its obligations under the Loan Agreement and the Intercept Agreement. The Loan Agreement and the Intercept Agreement have been duly authorized, executed and delivered by the Governmental Unit.
- 7. The Resolution has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Governmental Unit to carry out and enforce the provisions of the Loan Agreement and Intercept Agreement. No referendum petition has been filed with respect to the Resolution under the provisions of the laws, bylaws or regulations of the Governmental Unit or the State.
- 8. No event will result from the execution and delivery of the Loan Agreement or the Intercept Agreement that constitutes a default or an event of default under either the Loan Agreement, the Intercept Agreement or the Resolution, and no event of default and no default under the Loan Agreement, the Intercept Agreement or the Resolution has occurred and is continuing on the date of this Certificate.
- 9. The Governmental Unit has duly authorized and approved the consummation by it of all transactions and has complied with all requirements and satisfied all conditions, which are required by the Loan Agreement and the Intercept Agreement to have been authorized, approved, performed or consummated by the Governmental Unit at or prior to the date of this Certificate. The Governmental Unit has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution, the Loan Agreement and the Intercept Agreement.
- 10. A. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan Agreement or the Intercept Agreement or to any of the actions required to be taken by the Resolution, the Loan Agreement or the Intercept Agreement on or prior to the date of this Certificate have been obtained and are in full force and effect; and
- B. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the financing of the Project have been obtained and are in full force and effect.
- 11. None of the following does or will conflict with, or constitute a breach by the Governmental Unit of, or default by the Governmental Unit under any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture,

mortgage or other instrument to which the Governmental Unit is subject or by which it is bound:

- A. The Governmental Unit's adoption of the Resolution; or
- B. Any action contemplated by or pursuant to the Resolution, the Loan Agreement, or the Intercept Agreement.
- 12. No material adverse change has occurred, nor has any development occurred involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects, or properties of the Governmental Unit or the Pledged Revenues since the date of the Resolution.
- 13. To the best of our knowledge and belief, after due inquiry with respect thereto, none of the events of default referred to in Article X of the Loan Agreement has occurred.
- 14. Subsequent to the adoption of the Resolution, the Governmental Unit has not pledged or otherwise encumbered the Pledged Revenues. On the date of this Certificate there are no other outstanding obligations with a lien or encumbrance against the Pledged Revenues senior to or on a parity with the lien of the Loan Agreement.
- 15. The Loan Agreement prohibits the Governmental Unit from issuing any bonds or other obligations with a lien on Pledged Revenues senior to the lien thereon of the Loan Agreement on the Pledged Revenues. The Loan Agreement permits the Governmental Unit to issue additional bonds or other obligations with a lien on the Pledged Revenues on a parity with or subordinate to the lien of the Loan Agreement on the Pledged Revenues upon satisfaction of the conditions set forth in the Loan Agreement.
- There is no threatened action, suit, proceeding, inquiry or investigation 16. against the Governmental Unit, at law or in equity, by or before any court, public board or body, nor to the Governmental Unit's knowledge is there any basis therefor, affecting the existence of the Governmental Unit or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the pledge of revenues or assets of the Governmental Unit pledged or to be pledged to pay the principal, premium, if any, and interest on the Loan Agreement, or in any way materially adversely affecting or questioning: (a) the territorial jurisdiction of the Governmental Unit; (b) the use of the proceeds of the Loan Agreement for the Project and to pay certain costs of the Finance Authority associated with the administration of its public projects revolving fund loan program; (c) the validity or enforceability of the Loan Agreement, the Intercept Agreement or any proceedings of the Governmental Unit taken with respect to the Loan Agreement, the Intercept Agreement or the Resolution; (d) the execution and delivery of the Loan Agreement or the Intercept Agreement; or (e) the power of the Governmental Unit to carry out the transactions contemplated by the Loan Agreement, the Intercept Agreement or the Resolution.

- 17. The Governmental Unit has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Governmental Unit contained in the Loan Agreement and in the Resolution are true and correct as of the date hereof.
- 18. The Governmental Unit is not in default, and has not been in default within the ten (10) years immediately preceding the date of this Certificate, in the payment of principal of, premium, if any, or interest on any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, if any, or interest except that no representation is made with respect to industrial revenue bonds or conduit bonds payable solely from installment sale or lease payments, loan repayments or other amounts received by the Governmental Unit from private entities.
- 19. To the best of our knowledge and belief, neither the Chairman, Finance Director, County Clerk, any member of the Governing Body, nor any other officer, employee or other agent of the Governmental Unit is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.
- 20. Regular meetings of the Governing Body have been held in the Cibola County Commission Chamber, 700 East Roosevelt, Grants, New Mexico, the principal meeting place of the Governing Body.
- 21. The Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Governing Body in connection with the Loan Agreement. Open Meetings Act Resolution No. \_\_\_\_\_, as adopted and approved by the Governing Body on \_\_\_\_\_\_, 2022, establishes notice standards as required by Sections 10-15-1 through 10-15-4, NMSA 1978. Open Meetings Act Resolution No. \_\_\_\_\_ has not been amended or repealed. All action of the Governing Body with respect to the Loan Agreement, the Intercept Agreement and the Resolution was taken at meetings held in compliance with Open Meetings Act Resolution No. 21-05.
- 22. The Cibola Citizen is a legal newspaper which maintains an office and is of general circulation in the Governmental Unit.
- 23. The Pledged Revenues from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded, and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed one hundred twenty-five 125% of the maximum Aggregate Annual Debt Service Requirement.
- 24. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

- 25. The Chairman, Finance Director and County Clerk, on the date of the signing of the Loan Agreement and the Intercept Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Governmental Unit authorized to execute such agreements.
- 26. The Governmental Unit understands that Sutin, Thayer & Browne A Professional Corporation represents the Finance Authority in this Loan and the Governmental Unit has had the opportunity to consult other counsel in connection with the Loan.
  - 27. This Certificate is for the benefit of the Finance Authority.
  - 28. This Certificate may be executed in counterparts.

[Signature page follows]

6169320

March,	WITNESS our hands and the seal of 2022.	f the Go	vernmental Unit this 11 <sup>th</sup> day of
		CIBOLA COUNTY, NEW MEXICO	
		Ву:	Daniel J. Torrez, Chairman
		Ву:	Paul Ludi, Finance Director
		By:	
[SEAL			Michelle E. Dominguez, County Clerk
APPRO	OVED:		
are app	Paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, roved and confirmed.	11, 13,	14, 16, 17, 18, 20, 21, 22, 24 and 25
		NANC	E, PATO & STOUT

Adren R. Nance, Attorney for Cibola County, New Mexico

#### INTERCEPT AGREEMENT

This INTERCEPT AGREEMENT is made and entered into March 11, 2022, by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), a public body politic and corporate constituting a governmental instrumentality separate and apart from the State of New Mexico (the "State") under the laws of the State and CIBOLA COUNTY, NEW MEXICO, a political subdivision duly organized and existing under the laws of the State (the "Governmental Unit").

#### WITNESSETH:

WHEREAS, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, authorized the creation of the Finance Authority within the State to assist in financing the cost of public projects of participating qualified entities, including the Governmental Unit, such as the acquisition of two pickup trucks for use by the Governmental Unit's fire administration; and

WHEREAS, pursuant to Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, and Sections 4-62-1 through 4-62-10, NMSA 1978, as amended (collectively, the "Act"), the Finance Authority and the Governmental Unit are authorized to enter into agreements to facilitate the financing of the Project as described in the Loan Agreement by and between the Finance Authority and the Governmental Unit of even date herewith (the "Loan Agreement"); and

WHEREAS, the Governmental Unit desires to acquire the Project and such acquisition is permitted under the Act; and

WHEREAS, the Finance Authority has established its Loan Program (the "Program") funded by its public project revolving fund (as defined in the Act) for the financing of infrastructure and equipment projects upon the execution of the Loan Agreement and the assignment of loan agreements to a trustee (the "Trustee"); and

WHEREAS, the Governmental Unit desires to borrow \$121,000 from the Program for the purpose of financing the acquisition of the Project, which Loan is to be governed by this Intercept Agreement and by the Loan Agreement; and

WHEREAS, the Act confers upon the Finance Authority the authority to loan funds to the Governmental Unit to finance the Project, and Section 59A-53-1 et seq., NMSA 1978, as amended, authorizes the Governmental Unit to direct that its distribution of the State Fire Protection Fund (the "Pledged Revenues") from the State Treasurer (the "Distributing State Agency") be paid to the Finance Authority or its assignee, to secure payments under the Loan Agreement;

## NOW THEREFORE, the parties hereto agree:

Unless otherwise defined in this Intercept Agreement and except where the context by clear implication otherwise requires, capitalized terms used in this Intercept Agreement shall have for all purposes of this Intercept Agreement the meanings assigned thereto in the Loan Agreement and the Indenture, as defined in the Loan Agreement.

Section 1. <u>Authorization to the Finance Authority</u>. The Governmental Unit hereby recognizes that the Finance Authority has made a Loan to the Governmental Unit in the amount of \$121,000 to finance the acquisition of the Project. Pursuant to the Loan Agreement and this Intercept Agreement, the Loan and all Loan Agreement Payments on the Loan made by or on behalf of the Governmental Unit shall be collected by the Finance Authority and remitted to the Trustee. All payments due on the Loan from the Pledged Revenues shall be paid by the Distributing State Agency to the Finance Authority or its designee, on behalf of the Governmental Unit, from scheduled distributions of the Pledged Revenues in accordance with the Intercept Schedule attached hereto as <u>Exhibit "A"</u> (the "Intercept Schedule"), or shall be made from special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues).

This Intercept Agreement shall be deemed a written certification, authorization and request by the Governmental Unit to the Distributing State Agency to pay to the Finance Authority, on behalf of the Governmental Unit, sums shown on the Intercept Schedule from periodic distributions of the Pledged Revenues pursuant to Section 59A-53-7,, NMSA 1978, as amended, or from special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues) to insure compliance with the Loan Agreement and repayment of the Loan. Upon written notice to the Distributing State Agency from the Finance Authority, the amount of the Pledged Revenues to be paid to the Finance Authority shall be increased from the amounts shown on Exhibit "A" to defray any delinquencies in the Finance Authority Debt Service Account or Loan Agreement Reserve Account, if any, established for the Governmental Unit. Any accumulation of the Pledged Revenues in an amount in excess of the next Loan Agreement Payment and the Loan Agreement Reserve Requirement, if any, shall be redirected by the Finance Authority to the benefit of the Governmental Unit on a timely basis as provided in Section 5.2 of the Loan Agreement.

To the extent applicable and to the extent that the Pledged Revenues are insufficient to meet the debt service requirements due on the Loan and other Parity Obligations (as defined in the Loan Agreement) now or hereafter issued or incurred, the amounts intercepted under this Intercept Agreement shall be applied to allow partial payment on a pro-rata basis of the debt service due and owing on the Loan Agreement and other Parity Obligations.

Section 2. <u>Term; Amendments</u>. This Intercept Agreement will remain in full force and effect from its effective date as herein provided until such time as the Loan made pursuant to the Loan Agreement and this Intercept Agreement have been paid in full. Nothing herein shall be deemed in any way to limit or restrict the Governmental

Unit from issuing its own obligations, providing its own program or participating in any other program for the financing of public projects which the Governmental Unit may choose to finance. This Intercept Agreement may be amended only by written instrument signed by the parties hereto.

- Section 3. <u>Authorization</u>. The execution and performance of the terms of this Intercept Agreement have been authorized and approved by Resolution No. \_\_\_\_\_, passed and adopted on January 27, 2022 by the Governing Body of the Governmental Unit, which Resolution is in full force and effect on the date hereof.
- Section 4. <u>Severability of Invalid Provisions</u>. If any one or more of the provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separable from the remaining provisions and shall in no way affect the validity of any of the other provisions hereof.
- Section 5. <u>Counterparts</u>. This Intercept Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- Section 6. <u>Further Authorization</u>. The Governmental Unit agrees that the Finance Authority shall do all things necessary or convenient to the implementation of the Program to facilitate the Loan to the Governmental Unit.
- Section 7. <u>Effective Date</u>. This Intercept Agreement shall take effect on the Closing Date of the Loan.
- Section 8. <u>Initial Intercept Date</u>. As indicated on the Intercept Schedule, the periodic distribution of the Pledged Revenues that is to be intercepted by the Distributing State Agency under the terms of this Intercept Agreement consist of Pledged Revenues due to the Governmental Unit distributed in the Fiscal Year ending June 30, 2023.
- Section 9. <u>Final Intercept Date</u>. Once the Loan has been fully paid off and satisfied, Finance Authority shall provide written notice to the Distributing State Agency to discontinue the interception of the Governmental Unit's Pledged Revenues.

[Remainder of page left intentionally blank]

[Signature page follows]

IN WITNESS WHEREOF, the parties to this Intercept Agreement have caused their names to be affixed hereto by the proper officers thereof as of the date first above written.

	NEW MEXICO FINANCE AUTHORITY
	By:
	CIBOLA COUNTY, NEW MEXICO
	By:
(SEAL)	
Attest:	
By: Michelle E. Dominguez, Cibola	County Clerk
Acknowledged:	
By:  John Kondratick,  Acting State Fire Marshall	
Date:	

## EXHIBIT "A"

## INTERCEPT SCHEDULE CIBOLA COUNTY, NEW MEXICO

Fiscal Year Ending June 30 Payment Dates	Pledged Revenues	Annual Amount
2023 – 2029	The distribution of State Fire Protection Fund Revenues to Cibola County pursuant to Sections 59A-53-7, NMSA 1978, which distributions are made periodically by the State Treasurer	\$17,286

6169458

### \$121,000

### LOAN AGREEMENT

dated

March 11, 2022

by and between the

NEW MEXICO FINANCE AUTHORITY

and

CIBOLA COUNTY, NEW MEXICO

Certain interests of the New Mexico Finance Authority under this Loan Agreement may be assigned to BOKF, NA as trustee under the Indenture, as defined in Article I of this Loan Agreement.

#### LOAN AGREEMENT

THIS LOAN AGREEMENT dated March 11, 2022 is entered into by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), and the CIBOLA COUNTY, NEW MEXICO (the "Governmental Unit"), a political subdivision duly organized and existing under the laws of the State of New Mexico (the "State").

#### WITNESSETH:

WHEREAS, the Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly Section 6-21-1 et seq., NMSA 1978, as amended (the "Finance Authority Act"); and

WHEREAS, one of the purposes of the Finance Authority Act is to implement a program to permit qualified entities, such as the Governmental Unit, to enter into agreements with the Finance Authority to facilitate financing of public projects; and

WHEREAS, the Governmental Unit is a political subdivision duly organized and existing under and pursuant to the laws of the State and is a qualified entity under the Finance Authority Act; and

WHEREAS, the Governing Body of the Governmental Unit, has determined that it is in the best interests of the Governmental Unit and its residents that the Governmental Unit enter into this Loan Agreement with the Finance Authority and accept a loan from the Finance Authority to finance the costs of purchasing two pickup trucks for use by the Governmental Unit's fire administration as more fully described on the Term Sheet attached hereto as Exhibit "A"; and

WHEREAS, the Act authorizes the Governmental Unit to use the Pledged Revenues to finance the Project and to enter into this Loan Agreement; and

WHEREAS, the Finance Authority has determined that the Project is important to the overall capital needs of the residents of the State and that the Project will directly enhance the health and safety of the residents of the Governmental Unit; and

WHEREAS, the Governmental Unit is a disadvantaged qualified entity within the meaning of Section 8(B)(4)(b) of the Finance Authority's Amended and Restated Rules and Regulations Governing the Public Project Revolving Fund Program.

WHEREAS, the Governmental Unit has entered into the Intercept Agreement by and between the Finance Authority and the Governmental Unit whereby the Pledged Revenues due to the Governmental Unit from the Distributing State Agency are intercepted by the Finance Authority, or the Trustee, as its assignee, to make payments due under this Loan Agreement; and

WHEREAS, the Finance Authority may assign and transfer this Loan Agreement to the Trustee pursuant to the Indenture; and

WHEREAS, except as described on the Term Sheet, the Pledged Revenues have not been pledged or hypothecated in any manner or for any purpose at the time of the execution and delivery of this Loan Agreement, and the Governmental Unit desires to pledge the Pledged Revenues toward the payment of this Loan Agreement; and

WHEREAS, the obligation of the Governmental Unit hereunder shall constitute a special, limited obligation of the Governmental Unit, limited to the Pledged Revenues, and shall not constitute a general obligation or other indebtedness of the Governmental Unit or a charge against the general credit or ad valorem taxing power of the Governmental Unit or the State; and

WHEREAS, the execution, performance and delivery of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Governing Body pursuant to the Resolution; and

WHEREAS, the execution and performance of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Finance Authority; and

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the parties hereto agree:

# ARTICLE I DEFINITIONS

Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Loan Agreement, unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Loan Agreement, including the foregoing recitals, unless the context clearly requires otherwise.

"Act" means the general laws of the State, including Sections 4-62-1 through 4-62-10 and Sections 59A-53-1 through 59A-53-19, NMSA 1978, as amended, and enactments of the Governing Body relating to this Loan Agreement and Intercept Agreement, including the Resolution.

"Additional Payment Obligations" mean payments in addition to Loan Agreement Payments required by this Loan Agreement, including, without limitation, payments required pursuant to the provisions of Article IX and Article X hereof.

"Aggregate Annual Debt Service Requirement" means the total principal, interest, and premium payments, if any, due and payable pursuant to this Loan Agreement and on all Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

"Authorized Officers" means, in the case of the Governmental Unit, Chairman, Vice-Chair, Finance Director and County Clerk and, in the case of the Finance Authority, the Chair, Vice-Chair and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

"Blended Interest Rate" means the rate of interest on this Loan Agreement as shown on the Term Sheet.

"Bond Counsel" means nationally recognized bond counsel experienced in matters of municipal law satisfactory to the Trustee and listed in the list of municipal bond attorneys, as published semi-annually by The Bond Buyer's Municipal Marketplace, or any successor publication, acting as Loan Counsel to the Finance Authority.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

"Closing Date" means the date of execution, delivery and funding of this Loan Agreement as shown on the Term Sheet.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues to or on behalf of the Governmental Unit.

"Event of Default" means one or more events of default as defined in Section 10.1 of this Loan Agreement.

"Expenses" means the costs of issuance of this Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering this Loan Agreement, including legal fees.

"Finance Authority Debt Service Account" means the debt service account established in the name of the Governmental Unit within the Debt Service Fund, as defined in the Indenture, held and administered by the Finance Authority to pay principal and interest, if any, on this Loan Agreement as the same become due.

"Fiscal Year" means the period beginning on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

"Governing Body" means the duly organized County Commission of the Governmental Unit and any successor governing body of the Governmental Unit.

"Indenture" means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

"Independent Accountant" means: (i) an accountant employed by the State and under the supervision of the State Auditor; or (ii) any certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Governmental Unit who (a) is, in fact, independent and not under the domination of the Governmental Unit; (b) does not have any substantial interest, direct or indirect, with the Governmental Unit; and (c) is not connected with the Governmental Unit as an officer or employee of the Governmental Unit, but who may be regularly retained to make annual or similar audits of the books or records of the Governmental Unit.

"Intercept Agreement" means the Intercept Agreement, dated March 11, 2022, between the Governmental Unit and the Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of the Pledged Revenues in amounts sufficient to pay Loan Agreement Payments, and any amendments or supplements to the Intercept Agreement.

"Interest Component" means the portion of each Loan Agreement Payment paid as interest on this Loan Agreement as shown on <u>Exhibit "B"</u> hereto.

"Loan" means the funds in the Loan Agreement Principal Amount to be loaned to the Governmental Unit by the Finance Authority pursuant to this Loan Agreement.

"Loan Agreement" means this loan agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

"Loan Agreement Balance" means, as of any date of calculation, the Loan Agreement Principal Amount less the aggregate principal amount paid or prepaid pursuant to the provisions of this Loan Agreement.

"Loan Agreement Payment" means, collectively, the Principal Component and the Interest Component, if any, to be paid by the Governmental Unit as payment of this Loan Agreement as shown on Exhibit "B" hereto.

"Loan Agreement Payment Date" means each date a payment is due on this Loan Agreement as shown on Exhibit "B" hereto.

"Loan Agreement Principal Amount" means the original principal amount of this Loan Agreement as shown on the Term Sheet.

"Loan Agreement Term" means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

"NMSA" means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

"Parity Obligations" means this Loan Agreement, and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with this Loan Agreement, including any such obligations shown on the Term Sheet.

"Permitted Investments" means securities which are at the time legal investments of the Governmental Unit for the money to be invested, as applicable, including but not limited to the following, if permitted by law: (i) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States, the federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank, federal home loan banks or the student loan marketing association or that are backed by the full faith and credit of the United States government; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody's Investors Service, Inc., or Standard & Poor's Rating Group; and (iv) the State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1, NMSA 1978, and operated, maintained and invested by the office of the State Treasurer.

"Pledged Revenues" means revenues distributed to the Governmental Unit pledged to payment of the Loan Agreement Payments pursuant to the Resolution and described on the Term Sheet.

"Principal Component" means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement as shown on <u>Exhibit "B"</u> hereto.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan Agreement for disbursal to the Governmental Unit for payment of the costs of the Project.

"Project" means the project(s) described on the Term Sheet.

"Resolution" means the Governmental Unit Resolution No. \_\_\_\_ adopted by the Governing Body on January 27, 2022 approving this Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet.

"Term Sheet" means Exhibit "A" attached hereto.

"Trustee" means BOKF, NA, Albuquerque, New Mexico, or any successor trust company, national or state banking association or financial institution at the time appointed Trustee by Finance Authority.

"Unassigned Rights" means the rights of the Finance Authority to receive payment of administrative expenses, reports and indemnity against claims pursuant to the provisions of this Loan Agreement which are withheld in the granting clauses of the Indenture from the pledge, assignment and transfer of this Loan Agreement to the Trustee.

## ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 <u>Representations, Covenants and Warranties of the Governmental Unit.</u>
The Governmental Unit represents, covenants and warrants:

- (a) <u>Binding Nature of Covenants</u>. All covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Resolution shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.
- (b) <u>Personal Liability</u>. No covenant, stipulation, obligation or agreement contained in this Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Governmental Unit or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer, agent or employee of the Governmental Unit executing this Loan Agreement shall be liable personally on this Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.
- (c) <u>Authorization of Loan Agreement and Intercept Agreement.</u> The Governmental Unit is a political subdivision of the State and is duly organized and existing under the statutes and laws of the State. Pursuant to the Act, as amended and supplemented from time to time, the Governmental Unit is authorized to enter into the transactions contemplated by this Loan Agreement and the Intercept Agreement and to carry out its obligations hereunder and thereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement, the Intercept Agreement, and the other documents related to the transaction.
- (d) <u>Use of Loan Agreement Proceeds</u>. The Governmental Unit shall proceed without delay in applying the proceeds of this Loan Agreement to the acquisition of the Project.
- Loan Agreement Payments, as specified in Exhibit "B" hereto, according to the true intent and meaning of this Loan Agreement. Loan Agreement Payments are payable solely from (i) the Pledged Revenues, (ii) special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues), or (iii) the proceeds of refunding bonds or other refunding obligations which the Governmental Unit may hereafter issue in its sole discretion and which are payable from the Pledged Revenues; and nothing in this Loan Agreement shall be construed as obligating the Governmental Unit to pay Loan Agreement Payments from any general or other fund of the Governmental Unit other than such special funds. Nothing contained in this Loan Agreement, however, shall be construed as prohibiting the Governmental Unit in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.

- (f) <u>Acquisition and Completion of Project</u>. The Project will consist of acquiring fire equipment; the funds will be used to purchase two pickup trucks for use by the Governmental Unit's fire administration. The Project will be acquired and completed so as to comply with all applicable ordinances, resolutions and regulations, if any, and any and all applicable laws relating to the acquisition and completion of the Project and to the use of the Pledged Revenues. The Project complies with Sections 59A-53-1 through 59A-53-19, NMSA 1978, as amended.
- (g) <u>Necessity of Project</u>. The acquisition of the Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of the governmental purposes of the Governmental Unit and is in the best interests of the Governmental Unit and its residents.
- (h) <u>Legal, Valid and Binding Special Obligation</u>. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement and the Intercept Agreement, and this Loan Agreement and the Intercept Agreement constitute legal, valid and binding special obligations of the Governmental Unit enforceable in accordance with their terms.
- (i) <u>Loan Agreement Term</u>. The weighted average maturity of 4.1389 years of the Loan Agreement does not exceed 120% of the reasonably expected life of the Project which is four (4) years.
- (j) <u>Use of Project</u>. During the Loan Agreement Term, the Project will at all times be used for the purpose of benefiting the Governmental Unit as a whole.
- (k) <u>No Private Activity</u>. The Governmental Unit is a "governmental unit" within the meaning of Sections 103 and 141(b)(6) of the Code. In addition, no amounts disbursed from the Program Account and used to finance the Project shall be used in the trade or business of a person who is not a "governmental unit" within the meaning of Sections 103 and 141(b)(6) of the Code.
- (1) No Excess Loan Agreement Proceeds. The amount loaned to the Governmental Unit under this Loan Agreement as set forth on the Term Sheet does not exceed the sum of: (i) the cost of the Project and (ii) an amount necessary to pay the costs related to issuance of the Bonds, if any.
- (m) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement and the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement and the Intercept Agreement, nor the consummation of the transactions contemplated herein and therein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the Governmental Unit is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.

- (n) <u>Irrevocable Enactments</u>. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement, including the Resolution shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.
- (o) Outstanding Debt. Except for the Parity Obligations, if any, described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a parity lien on the Pledged Revenues. No additional indebtedness, bonds or notes of the Governmental Unit payable on a priority ahead of the indebtedness herein authorized out of the Pledged Revenues shall be created or incurred while this Loan Agreement remains outstanding. No additional indebtedness, bonds or notes of the Governmental Unit payable on a priority ahead of the indebtedness herein authorized out of the Pledged Revenues shall be created or incurred while this Loan Agreement remains outstanding. Prior to entering into additional indebtedness to be secured by a parity lien on the Pledged Revenues, the Governmental Unit shall comply with the terms of Section 5.5 hereof and shall seek the written consent of the Finance Authority, such consent shall not be unreasonably withheld. During the term of this Loan Agreement, prior to entering into any indebtedness secured by a subordinate lien on the Pledged Revenues or a lien on any revenues of the Governmental Unit other than the Pledged Revenues, the Governmental Unit shall notify the Finance Authority in writing of such indebtedness.
- (p) No Litigation. To the knowledge of the Governmental Unit, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Governmental Unit, nor compliance by the Governmental Unit with the obligations under such agreements, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.
- (q) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement and the Intercept Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement or the Intercept Agreement.
- (r) <u>Pledged Revenues Not Budgeted</u>. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, is not needed or budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.
- (s) Expected Coverage Ratio. The Pledged Revenues (giving credit for any increase in the Pledged Revenues which has received final approval of the Governing Body and become effective) from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed, two hundred percent (200%) of the maximum Aggregate Annual Debt Service Requirement.

- (t) No Extension of Interest Payments. The Governmental Unit will not extend or be a party to the extension of the time for paying any interest on this Loan Agreement.
- (u) <u>Governmental Unit's Existence</u>. The Governmental Unit will maintain its corporate identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision by operation of law succeeds to the liabilities and rights of the Governmental Unit without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.
- (v) <u>Continuing Disclosure</u>. The Governmental Unit covenants that it shall provide continuing disclosure to the Finance Authority, as the Finance Authority may require, that shall include, but not be limited to, annual audits, operational data required to update information in any disclosure documents used to assign or securitize the Loan Agreement Payments by issuance of Bonds by the Finance Authority pursuant to the Indenture, and notification of any event deemed material by the Finance Authority.
- Tax Covenants. The Governmental Unit covenants that it shall restrict the (w) use of the proceeds of this Loan Agreement in such manner and to such extent, if any, as may be necessary so that this Loan Agreement will not constitute an arbitrage bond under Section 148 of the Code and that it shall pay any applicable rebate to the Internal Revenue Service. Authorized Officers of the Governmental Unit are hereby authorized and directed to execute an Arbitrage and Tax Certificate as may be required by the Finance Authority and such additional certificates as shall be necessary to establish that this Loan Agreement is not an "arbitrage bond" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated or proposed with respect thereto, including Treasury Regulation Sections 1.148-1 through 1.148-11, 1.149 and 1.150 as the same currently exist, or may from time to time hereafter be amended, supplemented The Governmental Unit covenants to comply with the provisions of any such Arbitrage and Tax Certificate and the provisions thereof will be incorporated herein by reference to the same extent as if set forth herein. The Governmental Unit covenants that no use will be made of the proceeds of this Loan Agreement, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148-1(b)) of this Loan Agreement, which use, if it had been reasonably expected on the Closing Date, would have caused this Loan Agreement to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. Pursuant to this covenant, the Governmental Unit obligates itself to comply throughout the Loan Agreement Term with the requirements of Sections 103 and 141 through 150 of the Code and the regulations proposed or promulgated with respect thereto. The Governmental Unit further represents and covenants that no bonds or other evidence of indebtedness of the Governmental Unit payable from substantially the same source as this Loan Agreement have been or will be issued, sold or delivered within fifteen (15) days prior to or subsequent to the Closing Date. The Governmental Unit hereby further represents and covenants to comply with Section 7.6 hereof, which designates this Loan Agreement as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code.
- (x) <u>Use of Fire Protection Fund Revenues.</u> The Governmental Unit will take no action with respect to the Project that would constitute a violation of the terms of Sections 59A-53-7 through 59A-53-10, NMSA 1978, as the same may be amended or recompiled from time to time.

- Section 2.2 <u>Representations, Covenants and Warranties of the Finance Authority</u>. The Finance Authority represents, covenants and warrants for the benefit of the Governmental Unit as follows:
- (a) <u>Authorization of Loan Agreement and Intercept Agreement</u>. The Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized, existing and in good standing under the laws of the State, has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and the Intercept Agreement and, by proper action, has duly authorized the execution and delivery of this Loan Agreement and the Intercept Agreement based upon the Finance Authority's findings that:
- (i) The Governmental Unit is a disadvantaged qualified entity in that its median household income is \$39,413, which is less than eighty percent (80%) of the State median household income of \$48,059.
- (ii) The Project is important to the overall capital needs of the State and directly enhances the health and safety of the residents of the Governmental Unit].
- (b) <u>Assignment of Rights</u>. The Finance Authority may not pledge or assign the Pledged Revenues, the Loan Agreement Payments or any of its other rights under this Loan Agreement and the Intercept Agreement except to the Trustee pursuant to the Indenture.
- Neither the execution and delivery of this Loan Agreement or the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement or the Intercept Agreement, nor the consummation of the transactions contemplated in this Loan Agreement or the Intercept Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Finance Authority is a party or by which the Finance Authority is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or resolution of any court, government or governmental authority having jurisdiction over the Finance Authority or its property and which conflict or violation will have a material adverse effect on the Finance Authority or the financing of the Project.
- (d) No Litigation. To the knowledge of the Finance Authority, there is no litigation or proceeding pending or threatened against the Finance Authority or any other person affecting the right of the Finance Authority to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Finance Authority, nor compliance by the Finance Authority with its obligations under this Loan Agreement and the Intercept Agreement requires the approval of any regulatory body, or any other entity, which approval has not been obtained.

- (e) <u>Legal, Valid and Binding Obligations</u>. This Loan Agreement and the Intercept Agreement constitute the legal, valid and binding obligations of the Finance Authority enforceable in accordance with their terms.
- (f) <u>Tax-Exempt Reimbursement of Amount Loaned</u>. The Finance Authority intends to reimburse the public project revolving fund (as defined in the Finance Authority Act) for the amount of the Loan from the proceeds of tax-exempt bonds which the Finance Authority expects to issue within eighteen (18) months of the Closing Date.

### ARTICLE III LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until this Loan Agreement has been paid in full or provision for the payment of this Loan Agreement has been made pursuant to Article VIII hereof.

### ARTICLE IV LOAN; APPLICATION OF MONEYS

On the Closing Date, the Finance Authority shall transfer the Loan Agreement Principal Amount as follows:

- (a) To the Trustee, the amount shown on the Term Sheet as the Program Account Deposit shall be deposited in the Governmental Unit's Program Account to be disbursed by the Trustee pursuant to the Indenture and disbursed pursuant to Section 6.2 hereof at the direction of the Governmental Unit as needed by the Governmental Unit for the Project; and
- (b) To the Finance Authority, the amount shown on the Term Sheet as the Finance Authority Debt Service Account deposit shall be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 hereof; and

### ARTICLE V LOAN TO THE GOVERNMENTAL UNIT; PAYMENTS BY THE GOVERNMENTAL UNIT

Section 5.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the Finance Authority an amount equal to the Loan Agreement Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein or special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues), the Loan Agreement Payments as herein provided. The Governmental Unit does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right,

title and interest of the Governmental Unit in and to: (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on parity with the Parity Obligations; (ii) the Finance Authority Debt Service Account, such account being held by the Finance Authority; (iii) the Program Account, such account being held by the Trustee; and (iv) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Agreement Payments and Additional Payment Obligations; provided, however, that if the Governmental Unit, its successors or assigns, shall well and truly pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, according to the true intent and meaning hereof, or shall provide, as permitted by Article VIII of this Loan Agreement for the payment hereof and shall pay all other amounts due or to become due under this Loan Agreement in accordance with its terms and provisions, then, upon such final payment or provision for payment by the Governmental Unit, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Principal Component and Interest Component when due, the payment schedule of which is attached hereto as Exhibit "B."

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the Finance Authority acknowledge and agree that the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that this Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit hereunder, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law.

Section 5.2 Payment Obligations of Governmental Unit. As provided in the Intercept Agreement, the Distributing State Agency shall cause to be transferred from the Pledged Revenues or special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues) the amounts provided in subsections (a)(i) and (ii) of this Section 5.2 for deposit into the Finance Authority Debt Service Account. The Finance Authority Debt Service Account shall be established and held by the Finance Authority on behalf of the Governmental Unit. All Pledged Revenues received by the Finance Authority pursuant to the Intercept Agreement shall be accounted for and maintained on an ongoing basis by the Finance Authority in the Finance Authority Debt Service Account or used for repayment of Loan Agreement Payments paid by the special reserve funds of the Finance Authority, and all Loan Agreement Payments shall be remitted to the Trustee. The amounts on deposit in the Finance Authority Debt Service Account shall be expended and used by the Finance Authority or the Trustee, as the case may be, only in the manner and order of priority specified below.

- (a) As a first charge and lien, but not an exclusive first charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Parity Obligations), the Governmental Unit shall remit to the Finance Authority and the Finance Authority shall transfer and deposit into the Finance Authority Debt Service Account the following from the Pledged Revenues received pursuant to the Intercept Agreement from the Governmental Unit, which the Finance Authority shall transfer to the Trustee in accordance with the Indenture:
- (i) <u>Interest Components</u>. Amounts necessary to pay the Interest Components coming due on this Loan Agreement on May 1 and November 1 of each Fiscal Year beginning with the Fiscal Year ending June 30, 2023, as described in <u>Exhibit "B;"</u>
- (ii) <u>Principal Payments</u>. Amounts necessary to pay the Principal Components coming due on this Loan Agreement on May 1 of each Fiscal Year beginning with the Fiscal Year ending June 30, 2023, as described in <u>Exhibit "B."</u>
- (b) Each Loan Agreement Payment shall be transferred by the Finance Authority from the Finance Authority Debt Service Account to the Trustee.
- (c) Subject to the foregoing deposits, the Finance Authority or the Trustee shall annually use the balance of the Pledged Revenues received, if any, at the request of the Governmental Unit: (i) to credit against upcoming Loan Agreement Payments; or (ii) to distribute to the Governmental Unit's account in the Fire Protection Fund maintained by the State Treasurer for any purpose permitted by law.
- Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 herein, for remittance to the Trustee. The obligation of the Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the Finance Authority, the Trustee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.
- Section 5.4 <u>Disposition of Payments by the Trustee</u>. The Trustee shall deposit all moneys received from the Finance Authority under this Loan Agreement in accordance with the Indenture.
- Section 5.5 <u>Additional Parity Obligations</u>. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from the Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually issued (excluding refunding bonds or

refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Section 5.6 hereof), the Governmental Unit shall obtain the written consent of the Finance Authority and it must be determined that:

- (a) The Governmental Unit is then current in all of the accumulations required to be made into the Finance Authority Debt Service Account as provided herein.
- (b) No default shall exist in connection with any of the covenants or requirements of the Resolution or this Loan Agreement.
- (c) The Pledged Revenues received by or credited to the Governmental Unit for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing two hundred percent (200%) of the combined maximum Aggregate Annual Debt Service Requirement coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding the accumulation of any reserves therefor).
- (d) A written certification or opinion by the Governmental Unit's Treasurer or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the Parity Obligations proposed to be issued.
- (e) With prior written notice to Finance Authority, no provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of this Loan Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Loan Agreement as permitted by Section 5.6 hereof.
- (f) The Governmental Unit shall not issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior and superior to this Loan Agreement.
- Section 5.6 <u>Refunding Obligations</u>. The provisions of Section 5.5 hereof are subject to the following exceptions:
- (a) If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Loan Agreement or bonds to be refunded may not be compelled to surrender this Loan Agreement or their bonds, unless this Loan Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Governmental Unit's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as

provided in subparagraph (e) of Section 5.5 hereof and in subparagraphs (b) and (c) of this Section.

- (b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with this Loan Agreement unless:
- (i) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or
- (ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof.
- (c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Loan Agreement or any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Loan Agreement or the bonds or other obligations of the same issue refunded thereby. If only a part of this Loan Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:
- (i) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or
- (ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof; or
- (iii) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.
- (d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the Governmental Unit may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Loan Agreement).
- Section 5.7 <u>Investment of Governmental Unit Funds</u>. Money on deposit in the Finance Authority Debt Service Account established by the Finance Authority may be invested by the Finance Authority in Permitted Investments at the discretion of the Finance Authority. Money on deposit in the Program Account held by the Trustee and created hereunder may be invested by the Trustee in Permitted Investments at the written direction of the Finance Authority or at the discretion of the Trustee. Any earnings on any of said accounts shall be held and administered in each respective account and utilized in the same manner as the other moneys on deposit therein.

Section 5.8 <u>Governmental Unit May Budget for Payments</u>. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to defray any insufficiency of the Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

### ARTICLE VI THE PROJECT

Section 6.1 <u>Agreement To Acquire and Complete the Project</u>. The Governmental Unit hereby agrees that to effectuate the purposes of this Loan Agreement and to effectuate the acquisition of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general, do all things which may be requisite or proper to complete the Project. The Governmental Unit agrees to acquire the Project through the application of moneys to be disbursed from the Program Account pursuant to Section 6.2 of this Loan Agreement.

Section 6.2 <u>Disbursements From the Program Account</u>. So long as no Event of Default shall occur, the Trustee shall disburse moneys from the Program Account in accordance with Section 6.2 of the Indenture upon receipt by the Trustee of a requisition substantially in the form of <u>Exhibit "C"</u> attached hereto signed by an Authorized Officer of the Governmental Unit.

No disbursement shall be made from the Program Account without the approval of Bond Counsel: (i) to reimburse the Governmental Unit's own funds for expenditures made prior to the Closing Date; (ii) to refund or advance refund any tax-exempt obligations issued by or on behalf of the Governmental Unit; (iii) to be used, directly or indirectly, to finance a project used or to be used in the trade or business of a person who is not a "governmental unit," within the meaning of Section 141(b)(6) of the Code; or (iv) to expend funds after the date that is three (3) years after the execution and delivery of this Loan Agreement.

Section 6.3 <u>Completion of Acquisition of the Project</u>. Upon completion of the acquisition of the Project, an Authorized Officer of the Governmental Unit shall deliver a certificate to the Finance Authority and the Trustee substantially in the form of <u>Exhibit "D" attached hereto stating that</u>, to the best of his or her knowledge, the Project has been completed and accepted by the Governmental Unit, and all costs have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 <u>Application of Loan Agreement Proceeds Subsequent to Completion of the Project.</u> Upon completion of the Project as signified by delivery of the completion certificate contemplated in Section 6.3 hereof, or in the event that the Finance Authority and the Trustee shall not have received a certificate of completion as required by Section 6.3 hereof by the date three (3) years from the Closing Date (or such later date as is approved in writing by Bond Counsel), the Trustee shall transfer the amounts remaining in the Program Account (except amounts necessary for payment of amounts not then due and payable) to the Finance Authority

Debt Service Account and such amounts shall be used for the payment of Loan Agreement Payments.

### ARTICLE VII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

- Section 7.1 <u>Further Assurances and Corrective Instruments</u>. The Finance Authority and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof.
- Section 7.2 <u>Finance Authority and Governmental Unit Representatives</u>. Whenever under the provisions hereof the approval of the Finance Authority or the Governmental Unit is required, or the Governmental Unit or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or for the Governmental Unit by an Authorized Officer of the Finance Authority or the Governmental Unit, as the case may be, and any party hereto shall be authorized to act on any such approval or request.
- Section 7.3 <u>Requirements of Law.</u> During the Loan Agreement Term, the Governmental Unit and the Finance Authority shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, the Project or the Pledged Revenues.
- Section 7.4 <u>First Lien; Equality of Liens</u>. The Loan Agreement Payments constitute an irrevocable first lien (but not necessarily an exclusive first lien) upon the Pledged Revenues. The Governmental Unit covenants that the Loan Agreement Payments and any Parity Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a first lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Parity Obligations regardless of the fact that they may be actually issued and delivered at different times.
- Section 7.5 <u>Expeditious Completion</u>. The Governmental Unit shall complete the Project with all practical dispatch.
- Section 7.6 <u>Bank Designation of Loan Agreement</u>. For purposes of and in accordance with Section 265 of the Code, the Governmental Unit hereby designates this Loan Agreement as an issue qualifying for the exception for certain qualified tax-exempt obligations to the rule denying banks and other financial institutions 100% of the deduction for interest expenses which is allocable to tax-exempt interest. The Governmental Unit reasonably anticipates that the total amount of tax exempt obligations (other than obligations described in Section 265(b)(3)(C)(ii) of

the Code) which will be issued by the Governmental Unit and by any aggregated issuer during the current calendar year will not exceed \$10,000,000. For purposes of this Section 7.6, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that: (a) it has not created and does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code; and (b) the total amount of obligations so designated by the Governmental Unit, and all aggregated issuers for the current calendar year does not exceed \$10,000,000.

Section 7.7 Arbitrage Rebate Exemption. The Governmental Unit hereby certifies and warrants, for the purpose of qualifying for the exception contained in Section 148(f)(4)(D) of the Code, to the requirement to rebate arbitrage earnings from investments of the proceeds of the Loan Agreement (the "Rebate Exemption"), that: (i) this Loan Agreement is issued by the Governmental Unit which has general taxing powers; (ii) neither this Loan Agreement nor any portion thereof is a private activity bond as defined in Section 141 of the Code ("Private Activity Bond"); (iii) all of the net proceeds of this Loan Agreement are to be used for local government activities of the Governmental Unit (or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Governmental Unit); and (iv) neither the Governmental Unit nor any aggregated issuer has issued or is reasonably expected to issue any Tax-Exempt Bonds other than (A) Private Activity Bonds (as those terms are used in Section 148(f)(4)(D) of the Code) and (B) issued to refund (other than to advance refund (as used in the Code)) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, during the current calendar year, which would in the aggregate amount exceed For purposes of this paragraph, "aggregated issuer" means any entity which: (a) issues obligations on behalf of the Governmental Unit; (b) derives its issuing authority from the Governmental Unit; or (c) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 148(f)(4)(D) of the Code.

Accordingly, with respect to the Loan Agreement, the Governmental Unit will qualify for the rebate exemption granted under Section 148(f)(4)(D) of the Code and the Governmental Unit shall be treated as meeting the requirements of paragraphs (2) and (3) of Section 148(f) of the Code relating to the required rebate of arbitrage earnings to the United States.

The Governmental Unit hereby further represents and covenants that if it is determined that rebatable arbitrage, as that term is defined under Section 148 of the Code and related regulations, is required to be paid to the United States, that it will pay such rebatable arbitrage.

# ARTICLE VIII PREPAYMENT OF LOAN AGREEMENT PAYMENTS

Section 8.1 <u>Prepayment</u>. The Governmental Unit is hereby granted the option to prepay any of the Principal Components of this Loan Agreement in whole or in part on any day on or after one (1) year following the Closing Date without penalty or prepayment premium.

The Governmental Unit may designate the due dates of any Principal Components being prepaid in the event of a partial prepayment. Notice of intent to make such prepayment shall be provided to the Finance Authority and the Trustee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The Trustee shall recalculate the Loan Agreement Payments due under this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

Defeasance. Should the Governmental Unit pay or make provision for Section 8.2 payment of the Loan such that all amounts due pursuant to this Loan Agreement shall be deemed to have been paid and defeased, then the Loan Agreement Payments hereunder shall also be deemed to have been paid, the Governmental Unit's payment obligations hereunder shall be terminated, this Loan Agreement and all obligations contained herein shall be discharged and the pledge hereof released. Such payment shall be deemed made when the Governmental Unit has deposited with an escrow agent, in trust, (i) moneys sufficient to make such payment, and/or (ii) noncallable Governmental Obligations maturing as to principal and interest in such amount and at such times as will ensure the availability of sufficient moneys to make such payment and when all necessary and proper expenses of the Finance Authority have been paid or provided for. In the event the Governmental Unit makes provisions for defeasance of this Loan Agreement, the Governmental Unit shall cause to be delivered (1) a report of an independent nationally recognized certified public accountant verifying the sufficiency of the escrow established to pay this Loan Agreement in full when due or upon an irrevocably designated prepayment date, and (2) an opinion of Bond Counsel to the effect that this Loan Agreement is no longer outstanding, each of which shall be addressed and delivered to the Finance Authority. Obligations within the meaning of this Section 8.2, unless otherwise approved by the Finance Authority, shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series - "SLGs"), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

# ARTICLE IX INDEMNIFICATION

From and to the extent of the Pledged Revenues, and to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the Finance Authority and the Trustee harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition or operation of the Project during the Loan Agreement Term, from: (i) any act of negligence or other misconduct of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan Agreement proceeds and interest on the investment thereof. The Governmental Unit shall indemnify and save the Finance Authority and the Trustee harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Trustee, shall defend the Finance Authority or the Trustee, as applicable, in any such action or proceeding.

# ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1 <u>Events of Default Defined</u>. Any one of the following shall be an Event of Default under this Loan Agreement:

- (a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable;
- (b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Governmental Unit by the Finance Authority or the Trustee unless the Finance Authority and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority or the Trustee but cannot be cured within the applicable thirty (30) day period, the Finance Authority and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default);
- (c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect;
- (d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;
- (e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or
- (f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any of its property is appointed by court order or takes possession thereof and such order

remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

- Section 10.2 <u>Remedies on Default</u>. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the Finance Authority or the Trustee may take any or all of the following actions as may appear necessary or desirable to collect the payments then due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement or the Intercept Agreement:
- (a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the Finance Authority and the Trustee under this Loan Agreement and the Intercept Agreement against the Governmental Unit, and compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or
- (b) By suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Finance Authority or the Trustee; or
- (c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or
- (d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues; or
- (e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or to enforce any other of its rights thereunder; or
- (f) Apply any amounts in the Program Account toward satisfaction of any of the obligations of the Governmental Unit under this Loan Agreement.
- Section 10.3 <u>Limitations on Remedies</u>. A judgment requiring a payment of money entered against the Governmental Unit may reach only the available Pledged Revenues.
- Section 10.4 No Remedy Exclusive. Subject to Section 10.3 hereof, no remedy herein conferred upon or reserved to the Finance Authority or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority or the Trustee to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.
- Section 10.5 <u>Waivers of Events of Default</u>. The Finance Authority or the Trustee may in its discretion waive by written waiver any Event of Default hereunder and the consequences of such an Event of Default provided, however, that there shall not be waived: (i) any Event of

Default in the payment of the principal of this Loan Agreement at the date when due as specified herein; or (ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver or rescission, all arrears of interest, with interest at the rate borne by this Loan Agreement on all arrears of payments of principal and all expenses of the Finance Authority or the Trustee, in connection with such Event of Default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Finance Authority or the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Finance Authority and the Trustee shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Governmental Unit shall default under any of the provisions hereof and the Finance Authority or the Trustee shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit herein contained, the Governmental Unit agrees that it shall on demand therefor pay to the Finance Authority or the Trustee, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

## ARTICLE XI MISCELLANEOUS

Section 11.1 <u>Notices</u>. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows: if to the Governmental Unit, 700 East Roosevelt, Suite 50, Grants, New Mexico 87020, Attention: County Clerk; if to the Finance Authority, New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and if to the Trustee, BOKF, NA, 100 Sun Avenue N.E., Suite 500, Albuquerque, New Mexico 87109, Attention: Trust Division. The Governmental Unit, the Finance Authority, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.2 <u>Binding Effect</u>. This Loan Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Governmental Unit and their respective successors and assigns, if any.

Section 11.3 Amendments. The Governmental Unit agrees that this Loan Agreement will not be amended without the prior written consent of the Finance Authority, and, if the Loan

has been pledged under the Indenture (as defined herein), without the prior written consent of the Trustee (as defined herein), the Finance Authority and the Governmental Unit, pursuant to the Indenture.

Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Finance Authority, either directly or through the Finance Authority, or against any officer, employee, director, trustee or member of the Governing Body, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute, constitution or otherwise, of any such officer, employee, director, trustee or member of the Governing Body or of the Finance Authority is hereby expressly waived and released by the Governmental Unit and by the Finance Authority as a condition of and in consideration for the execution of this Loan Agreement.

Section 11.5 <u>Severability</u>. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6 <u>Execution in Counterparts</u>. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 <u>Assignment by the Finance Authority</u>. Pursuant to the Indenture, this Loan Agreement and the Intercept Agreement may be assigned and transferred by the Finance Authority to the Trustee, which assignment and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 <u>Compliance with Governing Law</u>. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 <u>Applicable Law</u>. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 <u>Captions</u>. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

[Signature pages follow]

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and as approved by the Board of Directors of the Finance Authority on December 16, 2021, has executed this Loan Agreement in its corporate name by its duly authorized officer; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed and attested by its duly authorized officers. All of the above are effective as of the date first above written.

	NEW MEXICO FINANCE AUTHORITY
	By Marquita D. Russel, Chief Executive Officer
PREPARED FOR EXECUTION BY OFFICE THE NEW MEXICO FINANCE AUTHOR Sutin, Thayer & Browne A Professional Cor As Loan Counsel	ITY:
Ву	
Suzanne Wood Bruckner	
APPROVED FOR EXECUTION BY OFFIC NEW MEXICO FINANCE AUTHORITY:	CERS OF THE
By	
Daniel C. Opperman, Chief Legal Office	er ·

# CIBOLA COUNTY, NEW MEXICO

[SEAL]	By
ATTEST:	Daniel J. Torrez, Chairman
ByMichelle E. Dominguez, County Clerk	-

6169316

## EXHIBIT "A"

## TERM SHEET

## New Mexico Finance Authority Loan No. PPRF-5707

Governmental Unit:

Cibola County, New Mexico

Project Description:

Purchase two pickup trucks for use by the Governmental

Unit's Fire Administration.

Loan Agreement

Principal Amount:

\$121,000

Disadvantaged Funding Amount:

\$121,000

Pledged Revenues:

The distribution of State Fire Protection Funds to the

Governmental Unit made periodically by the State Treasurer pursuant to Section 59A-53-7, NMSA 1978.

Resolution No. adopted on January 27, 2022

Treasurer pursuant to section 35

Coverage Ratio:

125%

Distributing State Agency:

State Treasurer

Currently Outstanding Parity

Obligations:

None

Additional Parity Bonds Test:

200%

Authorizing Legislation:

March 11, 2022

Closing Date:

Blended Interest Rate:

0.00%

Program Account Deposit:

\$121,000

Finance Authority Debt Service Account

Deposit:

\$0

First Interest Payment Date:

May 1, 2023

First Principal Payment Date:

May 1, 2023

Final Payment Date:

May 1, 2029

PROGRAM ACCOUNT DEPOSITS MUST BE USED WITHIN THREE YEARS UNLESS A THE FINANCE AUTHORITY APPROVES A LONGER PERIOD IN WRITING

# EXHIBIT "B"

# DEBT SERVICE SCHEDULE FOR LOAN REPAYMENT [SEE ATTACHED]

# EXHIBIT "C"

# FORM OF REQUISITION

RE:	\$121,000 Loan Agreement by and between the Cibola County, New Mexico, and the New Mexico Finance Authority (the "Loan Agreement").
TO:	BOKF, NA c/o New Mexico Finance Authority <a href="mailto:PPRF@nmfa.net">PPRF@nmfa.net</a>
You a (2022 follow	are hereby authorized to disburse from the Program Account - Cibola County, New Mexico Fire Equipment Loan), with regard to the above-referenced Loan Agreement the ving:
LOA	NO. PPRFCLOSING DATE:
REQU	JISITION NUMBER:
NAM	E AND ADDRESS OF PAYEE:
AMO	UNT OF PAYMENT: \$OSE OF PAYMENT:
Each of payabl	obligation, item of cost or expense mentioned herein is for costs of the Project, is due and e, has not been the subject of any previous requisition and is a proper charge against the m Account – Cibola County, New Mexico (2022 Fire Equipment Loan).
u uo an	oresentations contained in the Loan Agreement and the related closing documents remain d correct and (the) Cibola County, New Mexico, is not in breach of any of the covenants ned therein.
(me) c	is the final requisition, payment of costs of the Project is complete or, if not complete, libola County shall and understands its obligation to complete the acquisition of the from other legally available funds.
Capital	ized terms used herein, are used as defined or used in the Loan Agreement.
	D: Bv
-	Authorized Officer

Title\_

(Print Name and Title)

## EXHIBIT "D"

## CERTIFICATE OF COMPLETION

RE:	\$121,000 Loan Agreement by and between the Cibola County, New Mexico, and the
	New Mexico Finance Authority (the "Loan Agreement").

TO: New Mexico Finance Authority <a href="PPRF@nmfa.net">PPRF@nmfa.net</a>

Susan Ellis Assistant Vice President, Corporate Trust BOKF, NA 100 Sun Avenue NE, Suite 500 Albuquerque, New Mexico 87109

LOAN NO.: PPRF-5707 CLOSING DATE: March 11, 2022

In accordance with Section 6.3 of the Loan Agreement, the undersigned states, to the best of his or her knowledge, that the acquisition of the Project has been completed and accepted by the Governmental Unit, and all costs have been paid as of the date of this Certificate. Notwithstanding the foregoing, this certification is given without prejudice to any rights against third parties which exist at the date of this Certificate or which may subsequently come into being.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED:	By		•
		Authorized Officer of Gove	rnmental Unit
	Title_		
		Print Name and Title	

## EXHIBIT "B"

# NEW MEXICO FINANCE AUTHORITY TAX REPRESENTATIONS CERTIFICATE

The undersigned hereby certifies as follows with respect to the \$121,000 Loan Agreement dated March 11, 2022 (the "Loan") from the New Mexico Finance Authority (the "Finance Authority") to Cibola County, New Mexico (the "Governmental Unit");

- 1. The Finance Authority is making the Loan for its own account (and not on behalf of another) in the principal amount of \$121,000 without accrued interest. The Finance Authority is not acting as an Underwriter with respect to the Loan. The Finance Authority has no present intention to sell, reoffer, or otherwise dispose of the Loan (or any portion of the Loan or any interest in the Loan). The Finance Authority has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Loan and the Finance Authority has not agreed with the Governmental Unit pursuant to a written agreement to sell the Loan to persons other than the Finance Authority, therefore the "issue price" of the Loan is \$121,000.
- 2. The Arbitrage Yield on the Loan, calculated in accordance with the applicable U.S. Treasury Regulations from interest to be paid on the Loan, is 0.00%.
- 3. Funding the Loan Agreement Reserve Account with proceeds of the Loan in the amount of \$121,000 was required by the Finance Authority as a condition of making the Loan, and is, in the best judgment of the undersigned, reasonably required to provide the Loan at a reasonable interest rate for the Governmental Unit and is, in the best judgment of the undersigned, established at a level of funding comparable to that found for obligations of similar credit quality as the Loan which were issued or originated within the past year.
- 4. The Weighted Average Maturity of the Loan, calculated in accordance with the applicable U.S. Treasury Regulations, is 4.1389 years.
- 5. The undersigned understands that the statements made herein will be relied upon by the Governmental Unit in its effort to complete the Information Return for Tax-Exempt Governmental Obligations (Form 8038-G), required to be filed for the Loan pursuant to the Internal Revenue Code of 1986, as amended, and with regard to establishing facts and circumstances relied on by the Governmental Unit and bond counsel in connection with the execution and delivery of the Loan and the exclusion of interest on the Loan from gross income for federal income tax purposes. Such reliance is hereby authorized and approved.

Dated this 11th day of March, 2022.

HORITY
HORITY

By:	
Marquita D. Russel, Chief Executive	e Officer

6191078





# 10k. & 10l. Resolution 22-18 &

Ordinance 22-001

NMFA Loan-Cibola County HVAC System

# Form **8038-G**

Department of the Treasury

For Paperwork Reduction Act Notice, see separate instructions.

Internal Revenue Service

**Information Return for Tax-Exempt Governmental Bonds** 

(Rev. October 2021)

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

▶ Go to www.irs.gov/F8038G for instructions and the latest information.

OMB No. 1545-0047

Form **8038-G** (Rev. 10-2021)

Part	Reporting Authorit	У			Check box if A	Amended Return ► 🗌
1 ls				2 Issuer's employ	er identification number (EIN)	
Cibola	Cibola County, New Mexico			8!	5-0291095	
	ame of person (other than issuer) wi	ith whom the IRS may communic	ate about this return (see in	nstructions)	3b Telephone numb	er of other person shown on 3a
4 N	lumber and street (or P.O. box if mai	il is not delivered to street addres	ss)	Room/suite	5 Report number (	I tremove Providenti
700 Ea	st Roosevelt Avenue					3
6 C	city, town, or post office, state, and z	ZIP code			7 Date of issue	
Grants	, New Mexico 87020				0	4/08/2021
8 N	lame of issue				9 CUSIP number	
New M	exico Finance Authority, 2022	2 Building Loan, PPRF-5708				N/A
10a N	lame and title of officer or other emp	ployee of the issuer whom the IRS	S may call for more informa	ition	10b Telephone num employee show	nber of officer or other
David	udi Financa Director				ASS 100 \$ 200 PE CONSULTATION OF THE	5-285-2518
Part	udi, Finance Director	er the issue price.) See	the instructions and	attach sche		3-203-2310
11	Education			attaon sone	Judio.	11
12	Health and hospital			• • • •		12
13	Transportation					13
14	Public safety					14
15	Environment (including sew					15
16						16
17						17
18	The state of the s				18 1,777,778	
19a	If bonds are TANs or RANs				▶ 🗆	
b	If bonds are BANs, check of					
20	If bonds are in the form of					
Part		nds. Complete for the e				
	(a) Final maturity date	(b) Issue price	(c) Stated redemption		(d) Weighted	(e) Yield
	(a) Final maturity date		price at maturity	av	erage maturity	\$50 mloy
21	05/01/2031	\$ 1,777,778			.152 years	1.4628 %
Part	IV Uses of Proceeds	of Bond Issue (includ	ing underwriters'	discount)		
22	Proceeds used for accrued					22
23	Issue price of entire issue (	enter amount from line 21	, column (b))	4 1		23 1,777,778
24	Proceeds used for bond is					
25	Proceeds used for credit e					
26	Proceeds allocated to reas				177,778	
27	Proceeds used to refund p					
28	Proceeds used to refund p					00
29	Total (add lines 24 through	128)		:.		29 177,778
30	Nonrefunding proceeds of	the issue (subtract line 29	from line 23 and en	ter amount r	here)	30 1,600,000
Part	V Description of Ref	funded Bonds. Comple	ete this part only to	r relunaing	bolius.	years
31	31 Enter the remaining weighted average maturity of the tax-exchipt bonds to be rotationed.				years	
32	Enter the remaining weigh	ted average maturity of th	e taxable bonds to b	e teinuded		ycars
33	Enter the last date on which			ע (אוואו/טט/ צ	111)	
34	Enter the date(s) the return	aea bonas were issuea 🟲	(וזוז איטט/ועוועו)			

Cat. No. 63773S

Form 80	38-G (Rev	. 10-2021)						Page 2
Part	VI M	liscellaneous				······································		
35	Enter ti	ne amount of the state volume cap a	llocated to the issue	under section 14	l(b)(5) .		35	
36a	Enter the (GIC). S	ne amount of gross proceeds invest See instructions	ed or to be invested	in a guaranteed in	vestment (	contract	36a	
b	Enter th	ne final maturity date of the GIC ► (N	/IM/DD/YYYY)			<b>(</b>	1470	
С	Enter th	ne name of the GIC provider ▶	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,					
37	to othe	ne name of the GIC provider ► financings: Enter the amount of the r governmental units					37	
38a	If this is	ssue is a loan made from the procee	ds of another tax-exe	empt issue, check	box ► 🗌	and enter th	e follo	wing information
b	Enter tl	ne date of the master pool bond ► (I	MM/DD/YYYY)					
C	Enter t	ne EIN of the issuer of the master po	ool bond 🟲				•	
d	Enter t	ne name of the issuer of the master	pool bond 🟲					
39	If the is	suer has designated the issue unde	r section 265(b)(3)(B)	(i)(III) (small issuer	exception	), check box		▶ □
40		suer has elected to pay a penalty in						▶ 🗀
41a		suer has identified a hedge, check h		the following info	rmation:			
b	Name o	of hedge provider ►						
C	Type of	f hedge ►						
d	i erm o	t nedde ▶						
42		suer has superintegrated the hedge						
43	accord	issuer has established written pro- ing to the requirements under the C	ode and Regulations	(see instructions),	check bo	х		▶ □
44		suer has established written proced						▶ 🗀
45a	If some	portion of the proceeds was used t	o reimburse expend	itures, check here	and and	l enter the a	nount	
		bursement						,
b	Enter ti	ne date the official intent was adopte	/					•
Signa and	ature	Under penalties of perjury, I declare that I ha and belief, they are true, correct, and comple process this return, to the person that I have	ve examined this return an ete. I further declare that I of authorized above,	d accompanying sched consent to the IRS's dis	lules and stat closure of the	tements, and to e issuer's return	the best informat	of my knowledge tion, as necessary to
Cons	ent	<b>N</b> .			Daniel	J. Torrez, Cha	irman	
		Signature of issuer's authorized represer	ntative	Date		print name and		
Paid		Print/Type preparer's name	Preparer's signature		Date	Check	□ If □	PTIN
	arar	Suzanne Wood Bruckner	-			self-em		PO1629036
Prep		Firm's name ➤ Sutin, Thayer & Brown	ne, A Professional Co	poration		Firm's EIN ▶		85-0225124
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Form **8038-G** (Rev. 10-2021)

# \$1,777,778 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY PUBLIC PROJECT REVOLVING FUND LOAN Loan No. PPRF-5708

STATE OF NEW MEXICO	)	
	) ss.	ARBITRAGE AND TAX
COUNTY OF CIBOLA	)	CERTIFICATE

On behalf of Cibola County, New Mexico (the "Governmental Unit"), and in connection with the Loan Agreement dated April 8, 2022 (the "Loan Agreement"), relating to the financing the cost of purchasing and installing an HVAC system in the Governmental Unit's administration building for use by the Governmental Unit (the "Project") as described in the Loan Agreement, and evidencing the Governmental Unit's obligation in the aggregate principal amount of \$1,777,778, the Governmental Unit hereby certifies as follows:

Capitalized terms used in this Certificate have the same meanings as defined in Ordinance No. \_\_\_\_\_ adopted on February 24, 2022, unless otherwise defined in this Certificate or the context requires otherwise.

- 1. The Project. The Governmental Unit is entering into the Loan Agreement simultaneously with delivery of this Certificate. The Loan Agreement evidences the loan (the "Loan") made by the New Mexico Finance Authority (the "Finance Authority") to provide funds to pay the costs of acquiring the Project described in <a href="Exhibit "A" attached to the Loan Agreement and to pay certain costs incurred in connection with the execution and delivery of the Loan Agreement.">Exhibit "A" attached to the Loan Agreement.</a>
- 2. <u>Security for the Loan Agreement</u>. Debt service on the Loan Agreement will be secured by the pledged revenues described in <u>Exhibit "A"</u> attached to the Loan Agreement (the "Pledged Revenues") sufficient to pay debt service due in connection with the Loan, which Pledged Revenues have been pledged to the Finance Authority pursuant to the Loan Agreement.
- 3. <u>Finance Authority Public Project Revolving Fund Program</u>. The Governmental Unit acknowledges that the Finance Authority may assign and transfer the Loan Agreement to the BOKF, NA, as successor trustee (the "Trustee") pursuant to the Indenture, as defined in the Loan Agreement, and all Supplemental Indentures thereto, between the Finance Authority and the Trustee (collectively, the "Indenture"). Pursuant to the Indenture, the Loan Agreement may be pledged as an Additional Pledged Loan to the Trustee as additional security for the payment of amounts due on the Finance Authority's Public Project Revolving Fund Revenue Bonds outstanding at the time of such pledge.
- 4. <u>Sources and Uses of Loan Funds</u>. The Governmental Unit has received Loan proceeds from the public project revolving fund, as defined in the New Mexico Finance Authority Act, Sections 6-21-1, et seq., NMSA 1978, as amended and supplemented, in the amount of \$1,777,778 from the Finance Authority (the "Proceeds"). The Proceeds do not exceed the amount reasonably necessary for the purposes for which the Loan Agreement was entered into.

5. Expenditure Expectations. The Governmental Unit expects to incur a substantial binding obligation within six (6) months of the date hereof with regard to the Project, which obligation involves the expenditure of no less than five percent (5%) of the Proceeds. The Governmental Unit reasonably expects that the \$1,600,000 of Proceeds deposited into the Governmental Unit's Program Account in the Program Fund together with other legally available funds and anticipated earnings from the investment of such Proceeds until they are spent, are expected to be expended within three (3) years of the date hereof.

The estimated total costs of the Project will not be less than \$1,600,000 plus investment earnings thereon during the acquisition period.

Proceeds in the amount of \$0.20 will be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 of the Loan Agreement.

- 6. <u>Investment of Proceeds</u>. Except for the investment of the Proceeds (i) in the Program Account established under the Indenture with respect to the Loan Agreement pending the payment of the costs of the Project, (ii) in the Loan Agreement Reserve Account established under the Indenture with respect to the Loan Agreement to be applied to prevent deficiencies in the payment of principal and interest on the Loan Agreement, and (iii) in the Finance Authority Debt Service Account established and administered by the Finance Authority pending the payment of debt service on the Loan Agreement, there will be no investment of the Proceeds.
- Bona Fide Debt Service Fund. Debt service payments on the Loan Agreement will be paid from the Pledged Revenues of the Governmental Unit deposited to the Finance Authority Debt Service Account created with respect to the Loan Agreement. Because the Pledged Revenues of the Governmental Unit for any year will exceed debt service on the Loan Agreement, it is assumed that current debt service paid by the Governmental Unit for deposit in the Finance Authority Debt Service Account will be derived entirely from the current Pledged Revenues. The Finance Authority Debt Service Account will be depleted at least once a year except for an amount not to exceed the greater of the earnings on the Finance Authority Debt Service Account for the immediately preceding bond year or one-twelfth (1/12<sup>th</sup>) of debt service on the Loan for the immediately preceding bond year. The Governmental Unit has not created or established, nor does it expect to create or establish, any debt service fund, redemption fund, replacement fund, sinking fund or other similar fund which is reasonably expected to be used to pay principal or interest on the Loan Agreement or pledged therefor, except for the Finance Authority Debt Service Account and the Loan Agreement Reserve Account.
- 8. Reserve Account. Proceeds in the amount of \$177,777.80 will be deposited in the Governmental Unit's Loan Agreement Reserve Account in the Agreement Reserve Fund held by the Trustee under the Indenture, which amount does not exceed the least of (i) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; (ii) the maximum annual principal and interest requirements under the Loan Agreement, or (iii) ten percent (10%) of the Loan Agreement Principal Amount. Amounts held in the Governmental Unit's Loan Agreement Reserve Account may be applied to prevent deficiencies in the payment of principal and interest on the Loan Agreement resulting from a failure by the Governmental Unit to deposit into the Finance Authority Debt Service Account sufficient funds to pay debt service on the Loan Agreement. The Loan Agreement Reserve

Account is required as a condition to enter into the Loan Agreement with the Finance Authority, the Governmental Unit is of the opinion that the amount deposited to the Loan Agreement Reserve Account is reasonably required.

- 9. <u>No Disposition of Project</u>. The undersigned reasonably expect that no part of the Project acquired with the Proceeds will be sold or otherwise disposed of, in whole or in part, during the term of the Loan Agreement.
- Agreement that no use will be made of the Proceeds, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148(b)) of the Loan Agreement, which use, if it had been reasonably expected on the date hereof, would have caused the Loan Agreement to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. The Governmental Unit has further obligated itself in the Loan Agreement to comply throughout the term of the Loan Agreement with the requirements of Sections 103 and 141 through 150 of the Code and regulations proposed or promulgated with respect thereto.
- 11. <u>Private Business Use Limitations</u>. None of the Proceeds will be used by a private business or any entity other than a governmental unit or secured by payments from or property of a private business or any entity other than a governmental unit except pursuant to a management contract which conforms with Revenue Procedure 2017-13 of the United States Treasury. For purposes of the preceding sentence a governmental unit does not include the United States Government or any agency or instrumentality thereof.
- 12. <u>No Common Plan of Financing</u>. There are no other obligations which are being issued or sold at substantially the same time as the Loan Agreement pursuant to a common plan of financing with the Loan Agreement and that will be paid out of the Pledged Revenues or will have substantially the same claim to be paid out of the Pledged Revenues as the Loan Agreement.
- 13. <u>No Federal Guarantees</u>. The Loan is not federally guaranteed within the meaning of Section 149(b) of the Code.
- 14. <u>Information Filing</u>. Loan Counsel for the Finance Authority, on behalf of the Governmental Unit, will timely file the Form 8038-G with respect to the Loan Agreement attached hereto as <u>Exhibit "A"</u> with the Internal Revenue Service. The Finance Authority has verified certain information necessary to complete the Form 8038-G as shown on the Finance Authority Certificate attached hereto as <u>Exhibit "B"</u>.
- 15. <u>Hedge Bonds</u>. The Loan is not a hedge bond as defined in Section 149 of the Code.
- 16. <u>No Reimbursement</u>. None of the Proceeds will be used to reimburse the Governmental Unit for costs paid for the Project more than sixty (60) days prior to the date hereof.

- 17. <u>No Refunding</u>. Proceeds of the Loan are not being used to refund any other obligation of the Governmental Unit.
- 18. <u>Economic Life of Project</u>. The weighted average maturity of 5.152 years of the Loan Agreement does not exceed 120% of the reasonably expected economic life of the Project, which is 7 years.
- 19. Qualified Tax-Exempt Obligations. The Loan Agreement is a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Governmental Unit represents that the reasonably anticipated amount of qualified tax-exempt obligations which will be issued by the Governmental Unit during the current calendar year does not exceed \$10,000,000 and the Governmental Unit will not designate more than \$10,000,000 of "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. For purposes of this Section, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e).]
- 20. Rebate Exception. The Governmental Unit is a governmental unit with general taxing powers, no part of the Loan Agreement is a private activity bond, ninety-five percent (95%) or more of the proceeds are to be used for local governmental activities of the Governmental Unit and, the aggregate face amount of all tax-exempt obligations issued by the Governmental Unit during the current calendar year is not reasonably expected to exceed \$5,000,000. There are no subordinate entities of the Governmental Unit which are authorized to issue tax-exempt obligations. If the Governmental Unit fails to satisfy all of the provisions of this paragraph 20 for any reason, as provided in the Loan Agreement and consistent with the covenants of the Governmental Unit contained therein, any rebate owed to the United States Treasury will be paid in the amounts and at the times provided in Section 148 of the Code.
- 21. <u>Record Retention</u>. The Governmental Unit will manage and retain records related to the Loan as follows:
- A. Records will be retained for the life of the Loan, including any refunding loans related thereto, plus three (3) years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to the Loan and compliance functions;
- B. Basic records relating to the Loan transaction, including transcript documents executed in connection with the issuance of the Loan (i.e., the authorizing documents, Form 8038-G, the tax certificate, and any elections made with respect to the Loan, if applicable), any amendments, and copies of rebate calculations and records of payments, including Forms 8038-T;
- C. Records pertaining to the use of Loan-financed facilities by public and private sources including copies of management agreements and research agreements;
- D. Records pertaining to expenditures of Loan proceeds including requisitions, appraisal and property purchase contracts, account statements, invoices, payment vouchers, and the final allocation of proceeds to expenditures;

- E. Records pertaining to all sources of payment or security for the Loan; and
- F. Records pertaining to investments including guaranteed investment contract documents under the Treasury Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

[Signature page follows]

This certificate is being executed and delivered to establish the reasonable expectations of the Governmental Unit for purposes of Sections 103 and 141 through 148 of the Code, and the undersigned officers of the Governmental Unit are the officers of the Governmental Unit charged with the responsibility of entering into the Loan Agreement. The foregoing is based upon the reasonable expectations of the undersigned on the date hereof, and to the best of our knowledge, information and belief, the above expectations are reasonable.

Dated: April 8, 2022

	CIBOLA COUNTY, NEW MEXICO
	By: Daniel J. Torrez, Chairman
	By:Paul Ludi, Finance Director
[SEAL]	By: Michelle Dominguez, County Clerk

6172646

# STATE OF NEW MEXICO COUNTY OF CIBOLA

The County Commission (the "Governing Body") of Cibola County, New Mexico, met in regular session in full conformity with law and the rules and regulations of the Governing Body at Cibola County Commission Chamber Room, 700 East Roosevelt, Grants, New Mexico being the meeting place of the Governing Body for the regular meeting held on the 24<sup>th</sup> day of February, 2022, at the hour of 5:00 p.m. Upon roll call, the following members were found to be present:

Present:	
Absent:	
Also Present:	
·	

Thereupon, there was officially filed with the County Clerk a copy of a proposed ordinance in final form.

# CIBOLA COUNTY, NEW MEXICO ORDINANCE NO.

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN CIBOLA COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$1,777,778 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING AND INSTALLING AN HVAC SYSTEM IN THE COUNTY ADMINISTRATION BUILDING LOCATED IN GRANTS, NEW MEXICO AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT: PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM ONE-EIGHTH OF ONE PERCENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978, AND DISTRIBUTED TO THE GOVERNMENTAL UNIT BY THE STATE TAXATION AND REVENUE DEPARTMENT; PROVIDING FOR THE DISTRIBUTION TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF. AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

Capitalized terms used in the following recitals have the same meaning as defined in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS, the Governmental Unit is a legally and regularly created, established, organized and existing county under the general laws of the State; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest of the Governmental Unit and its residents that the Loan Agreement and Intercept Agreement be executed and delivered and that the financing of the acquisition of the Project take place by executing and delivering the Loan Agreement and Intercept Agreement; and

WHEREAS, the Governmental Unit may use the Pledged Revenues to finance the Project; and

WHEREAS, the Governing Body has determined pursuant to the Act that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described in <u>Exhibit "A"</u> to the Loan Agreement, the Pledged Revenues have not been pledged to secure the payment of any obligation, which is currently outstanding; and

WHEREAS, the Loan Agreement shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues, and shall not constitute a general obligation of the Governmental Unit, or a debt or pledge of the full faith and credit of the Governmental Unit or the State; and

WHEREAS, the Governmental Unit desires to provide that distributions of the Pledged Revenues be redirected to the Finance Authority or its assigns pursuant to an Intercept Agreement between the Governmental Unit and the Finance Authority (the "Intercept Agreement") for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than the Pledged Revenues, no tax revenues collected by the Governmental Unit shall be pledged to the Loan Agreement; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the County Clerk this Ordinance and the forms of the Loan Agreement and Intercept Agreement, which are incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the Project to be financed by the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a "private activity bond" as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governing Body intends by this Ordinance to authorize the execution and delivery of the Loan Agreement in the amount and for the purposes set forth herein; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of the amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement and Intercept Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF CIBOLA COUNTY, NEW MEXICO:

Section 1. <u>Definitions</u>. As used in this Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Act" means the general laws of the State, Sections 4-62-1 through 4-62-10, NMSA 1978, as amended, Sections 7-1-6.15 and 7-20E-9, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and Intercept Agreement, including this Ordinance.

"Aggregate Annual Debt Service Requirement" means the total principal and interest payments due and payable pursuant to the Loan Agreement and on all Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

"Authorized Officers" means the Chairman, Vice Chair, Finance Director and County Clerk for Borrower.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

"Closing Date" means the date of execution, delivery and funding of the Loan Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

"Completion Date" means the date of final payment of the cost of the Project.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

"Expenses" means the cost of issuance of the Loan Agreement and the costs of issuance of the Bonds, if any, and the periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

"Finance Authority" means the New Mexico Finance Authority.

"Finance Authority Debt Service Account" means the debt service account in the name of the Governmental Unit established under the Indenture and held by the Finance Authority to pay principal and interest, if any, on the Loan Agreement as the same become due.

"Fiscal Year" means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

"Governing Body" means the County Commission of the Governmental Unit, or any future successor governing body of the Governmental Unit.

"Governmental Unit" means Cibola County, New Mexico.

"Herein," "hereby," "hereunder," "hereof," "hereinabove" and "hereafter" refer to this entire Ordinance and not solely to the particular section or paragraph of this Ordinance in which such word is used.

"Indenture" means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, as successor trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as successor trustee, as

determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

"Intercept Agreement" means the Intercept Agreement, dated the Closing Date, between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

"Loan" means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement.

"Loan Agreement" means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provides for the financing of the Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

"Loan Agreement Principal Amount" means the original principal amount of the Loan Agreement as shown on the Term Sheet.

"Loan Agreement Reserve Account" means the loan agreement reserve account established in the name of the Governmental Unit funded from the proceeds of the Loan Agreement and administered by the Trustee pursuant to the Indenture.

"Loan Agreement Reserve Requirement" means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account Deposit on Exhibit "A" to the Loan Agreement, which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

"NMSA" means the New Mexico Statutes Annotated, 1978, as amended and supplemented.

"Ordinance" means the Governmental Unit Ordinance No. \_\_\_\_\_\_ adopted by the Governing Body on February 24, 2022 approving the Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet.

"Parity Obligations" means the Loan Agreement and any other obligations, now or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with the Loan Agreement, including those obligations described on the Term Sheet.

"Pledged Revenues" means the one-eighth of one percent (.125%) of County Local Option Gross Receipts Tax enacted pursuant to Section 7-20E-9, NMSA 1978, as amended, and received

pursuant to the Tax Ordinance and pledged to payment of the Loan Agreement Payments pursuant to the Ordinance and described on the Term Sheet.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan Agreement for disbursal to the Governmental Unit for payment of the costs of the Project.

"Project" means the project described on the Term Sheet.

"State" means the State of New Mexico.

"Tax Ordinance" means Ordinance No. 88-3 passed and approved by the Governmental Unit pursuant to the Act on August 4, 1988, which originally imposed what was previously identifiable as the first one-eighth of one percent (0.125%) increment of the County Local Option Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit, as amended by Ordinance No. 02-03 passed and approved by the Governmental Unit on July 22, 2002. Pursuant to laws 2019, Chapter 274, Section 16, the County Local Option Gross Receipts Tax imposed by Ordinance No. 88-3, as amended by Ordinance No. 02-03 is no longer identifiable as the first increment, and instead comprises one-eighth of one percent (0.125%) of the maximum rate of county gross receipts tax that may be imposed under Section 7-20E-9, NMSA 1978, as amended, of one and seventy-five hundredths percent (1.75%).

"Term Sheet" means Exhibit "A" to the Loan Agreement.

"Trustee" means BOKF, NA, Albuquerque, New Mexico, or any successor trustee company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

- Section 2. <u>Ratification</u>. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the acquisition of the Project and the execution and delivery of the Loan Agreement and the Intercept Agreement, be, and the same hereby are, ratified, approved and confirmed.
- Section 3. <u>Authorization of the Project, the Loan Agreement and the Intercept Agreement</u>. The acquisition of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit.
- Section 4. <u>Findings</u>. The Governmental Unit hereby declares that it has considered all relevant information and data and hereby makes the following findings:
- A. The Project is needed to meet the needs of the Governmental Unit and its residents and the issuance and delivery of the Loan Agreement is necessary and advisable.
- B. Moneys available and on hand for the Project from all sources other than the Loan are not sufficient to defray the cost of acquiring the Project.

- C. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.
- D. It is economically feasible to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.
- E. The Project and the execution and delivery of the Loan Agreement and the Intercept Agreement pursuant to the Act to provide funds for the financing of the Project are necessary and in the interest of the public health, safety and welfare of the residents of the Governmental Unit.
- F. The Governmental Unit will acquire the Project, in whole or in part, with the net proceeds of the Loan.
- G. Other than as described in the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from the Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement and the Intercept Agreement.
- H. The net effective interest rate on the Loan does not exceed twelve percent (12.0%) per annum, which is the maximum rate permitted by State law.
- I. Pursuant to Section 7-20E-9, NMSA 1978, as amended, the Governmental Unit heretofore has adopted the Tax Ordinance, which imposes one-eighth of one percent (0.125%) of County Local Option Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit.
- J. Pursuant to Section 7-1-6.13, NMSA 1978, as amended, the Government unit receives Pledged Revenues from the Distributing State Agency.

## Section 5. Loan Agreement and Intercept Agreement - Authorization and Detail.

- A. <u>Authorization</u>. This Ordinance has been adopted by the affirmative vote of at least a two thirds (2/3) majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and acquiring the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of \$1,777,778 plus interest thereon, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the acquisition of the Project; (ii) fund the Loan Agreement Reserve Account; (iii) make a deposit to the Finance Authority Debt Service Account. The Project will be owned by the Governmental Unit.
- B. <u>Detail</u>. The Loan Agreement and Intercept Agreement shall be in substantially the forms of the Loan Agreement and Intercept Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an original aggregate principal amount of \$1,777,778, shall be payable in installments of principal due on

May 1 of the years designated in <u>Exhibit "B"</u> to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, beginning on May 1, 2022 at the rates designated in <u>Exhibit "B"</u> to the Loan Agreement.

Section 6. Approval of Loan Agreement and Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement, as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement, with such changes, insertions and omissions that are consistent with this Ordinance as may be approved by such individual Authorized Officers, and the County Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Ordinance and the Loan Agreement and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance or in the Loan Agreement, or any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues), as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefore to payments required by the Loan Agreement, in its sole and absolute discretion.

# Section 8. <u>Disposition of Proceeds: Completion of Acquisition of the Project.</u>

A. Program Account, Finance Authority Debt Service Account and Loan Agreement Reserve Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held by the Finance Authority and to the Program Account, and the Loan Agreement Reserve Account to be held by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves: (i) the deposit of a portion of the proceeds of the Loan Agreement in the Program Account and the Finance Authority Debt Service Account; and (ii) the deposit of funds in the amount of the Loan Agreement Reserve Requirement in the Loan Agreement Reserve Account, all as set forth in Exhibit "A" to the Loan Agreement.

The proceeds derived from the execution and delivery of the Loan Agreement shall be deposited promptly upon the receipt thereof in the Program Account, Loan Agreement Reserve Account and Finance Authority Debt Service Account shall be paid to the Finance Authority, all as provided in the Loan Agreement and the Indenture.

Until the Completion Date, the money in the Program Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

The Governmental Unit will acquire the Project with all due diligence.

- B. <u>Completion of Acquisition of the Project</u>. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that acquisition of and payment for the Project have been completed. As soon as practicable, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.
- C. <u>Finance Authority and Trustee Not Responsible</u>. The Finance Authority and the Trustee shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.
- Section 9. <u>Deposit of Pledged Revenues, Distributions of the Pledged Revenues and Flow of Funds.</u>
- A. <u>Deposit of Pledged Revenues</u>. Pursuant to the Intercept Agreement, Pledged Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal and interest due under the Loan Agreement. [edit for Contingent Intercept Agreement]
- B. <u>Termination on Deposits to Maturity</u>. No payment shall be made into the Finance Authority Debt Service Account if the amounts in the Finance Authority Debt Service Account and Loan Agreement Reserve Account total a sum at least equal to the entire aggregate amount to become due as to principal, interest on, and any other amounts due under, the Loan Agreement in which case moneys in such account in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided below.
- C. <u>Use of Surplus Revenues</u>. After making all the payments hereinabove required to be made by this Section and any payments required by outstanding Parity Obligations, any moneys remaining in the Finance Authority Debt Service Account shall be transferred to the Governmental Unit on a timely basis and shall be applied to any other lawful purpose, including, but not limited to, the payment of any Parity Obligations or bonds, or obligations subordinate and

junior to the Loan Agreement, or other purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine.

- Section 10, Lien on Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement, subject to the uses hereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues as set forth herein and therein and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement.
- Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, the Intercept Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance, the Loan Agreement and Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the publication of the summary of this Ordinance set out in Section 17 of this Ordinance (with such changes, additions and deletions as may be necessary).
- Amendment of Ordinance. Prior to the date of the initial delivery of the Section 12. Loan Agreement to the Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.
- Section 13. Ordinance Irrepealable. After the Loan Agreement and Intercept Agreement have been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.
- Section 14. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.
- Repealer Clause. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

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Section 16. <u>Effective Date</u>. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Chairman and County Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 17 below) shall be published in a newspaper which maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and said Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 17. <u>General Summary for Publication</u>. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

[Form of Summary of Ordinance for Publication]

Cibola County, New Mexico Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. \_\_\_\_\_, duly adopted and approved by the Governing Body of Cibola County, New Mexico, on February 24, 2022. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the County Clerk, 700 East Roosevelt, Suite 50, Grants, New Mexico.

The title of the Ordinance is:

CIBOLA COUNTY, NEW MEXICO ORDINANCE NO.

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN CIBOLA COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$1,777,778 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING AND INSTALLING AN HVAC SYSTEM IN THE COUNTY ADMINISTRATION BUILDING LOCATED IN GRANTS, NEW MEXICO AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM ONE-EIGHTH OF ONE PERCENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978, AND DISTRIBUTED TO THE GOVERNMENTAL UNIT BY THE STATE TAXATION AND REVENUE DEPARTMENT; PROVIDING FOR THE DISTRIBUTION TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title. This notice constitutes compliance with Section 6-14-6, NMSA 1978.

[End of Form of Summary for Publication]

[Remainder of page intentionally left blank]

# PASSED, APPROVED AND ADOPTED THIS 24<sup>th</sup> DAY OF FEBRUARY, 2022. CIBOLA COUNTY, NEW MEXICO

	By: Daniel J. Torrez, Chairman
[SEAL]	
ATTEST:	
By: Michelle Dominguez County Clerk	- -

The motion to adopt said Order following recorded vote:	linance, upor	ı being pu	t to a vote,	was passed	and adopte
Those Voting Aye:					
				·····	
Those Voting Nay:				<del></del>	ē.
Those Absent:					
				<del></del> -	
			•		

After consideration of matters not relating to the Ordinance, the meeting on the motion duly made, seconded and unanimously carried, was adjourned.

# CIBOLA COUNTY, NEW MEXICO

Ву	7:
	Daniel J. Torrez, Chairman
[SEAL]	
ATTEST:	
By:Michelle Dominguez, County Clerk	

# EXHIBIT "A"

Meeting Agenda of the February 24, 2022 County Commission Meeting

[SEE ATTACHED]

# STATE OF NEW MEXICO COUNTY OF CIBOLA

- I, Michelle Dominguez, the duly qualified and acting County Clerk of Cibola County, New Mexico (the "Governmental Unit"), do hereby certify:
- 1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the County Commission of Cibola County, New Mexico (the "Governing Body"), constituting the governing body of the Governmental Unit had and taken at a duly called regular meeting held at Cibola County Commission Chamber Room, 700 East Roosevelt, Grants, New Mexico, on February 24, 2022, at the hour of 5:00 p.m., insofar as the same relate to the execution and delivery of the proposed Loan Agreement and Intercept Agreement, a copy of each of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.
- 2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.
- 3. Notice of said meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the Governmental Unit's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 2022.

CIBOLA COUNTY, NEW MEXICO

6172632

# \$1,777,778 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY PUBLIC PROJECT REVOLVING FUND LOAN Loan No. PPRF-5708

STATE OF NEW MEXICO	) ) ss.	DELIVER` CROSS-RI	Y, DEPOS	SIT AND	A (7777)
COUNTY OF CIBOLA	)	CROSS-RI	ECEIPT C	ERTIFICA	ATE
IT IS HEREBY CERTIFIED to Chairman, Finance Director and (the "Governmental Unit"):	y the undo County	ersigned, the Clerk of	duly chos Cibola	en, qualifi County,	ed and acting New Mexico
1. On the date of this Cert caused to be executed and delivered, a New Mexico Finance Authority (the "\$1,777,778, to the Finance Authority Unit Ordinance No (the "Cexecution and delivery of the Loan A have received \$1,777,778 as proceeds therefore.	Loan Agreement a from the	eement betwe uthority"), in Agreement" adopted on and the Intere Loan Agreem	en the Go the aggre; ), as auth February ept Agree ent, bein	vernmenta gate princi orized by 24, 2022 ement. Th g the full p	pal amount of Governmental relating to the undersigned purchase price
2. The proceeds of the L created for the deposit of such moneys of June 1, 1995, as amended and suppand Pledge dated as of March 1, 20 Authority and BOKF, NA, as Truste Finance Authority pursuant to a Pledge	s under the blemented, 105, as sup see and its	General Inde or the Suborc oplemented, e successors as	nture of I linated Go ach by a nd assign	rust and Peneral Inde and between s, as deter	Tedge dated as enture of Trust on the Finance rmined by the
Governmental Unit's Account in the Progra	m Fund:		\$1,60	00,000.00	
Deposit to Loan Agre Reserve Account:	ement		\$17	77,777.80	

3. The proceeds of the Loan Agreement will be available to the Governmental Unit upon submittal of a Requisition Form to the Finance Authority in the form attached to the Loan Agreement as Exhibit "C" and will be used as set forth in the Ordinance and the Loan Agreement.

\$0.20

\$1,777,778.00

Deposit to Finance Authority Debt

Service Account:

Total:

## WITNESS our hands this 8<sup>th</sup> day of April, 2022.

	CIBOLA COUNTY, NEW MEXICO	
	By:	
	By:Paul Ludi, Finance Director	
[SEAL]	By: Michelle Dominguez, County Clerk	
6172645		

It is hereby certified by the undersigned, a duly qualified and acting official of the New Mexico Finance Authority, that, the undersigned has, on the date of this Certificate, received from Cibola County, New Mexico the Loan Agreement and the Intercept Agreement.

N	EW MEXICO FINANCE AUTHORITY
В	y: Marquita D. Russel, Chief Executive Officer
	Marquia D. Russei, Chief Executive Officer

6172645

# \$1,777,778 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY PUBLIC PROJECT REVOLVING FUND LOAN Loan No. PPRF-5708

STATE OF NEW MEXICO	)	
COUNTY OF CIBOLA	) ss. )	GENERAL AND NO LITIGATION CERTIFICATE
County Clerk and Attorney for Cibola County, and the State of N	Cibola Cou Vew Mexico	ndersigned, the duly elected and chosen, Chairman, inty, New Mexico (the "Governmental Unit") in the "State") (provided, that the Attorney for the ragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 13, 14, 16, 17, 19, 10, 11, 10, 10, 10, 10, 10, 10, 10, 10
Capitalized terms used i Governmental Unit Ordinance No unless otherwise defined in this Co	)	rtificate have the same meaning as defined in adopted on February 24, 2022 (the "Ordinance") the context requires otherwise.
		political subdivision of the State and is duly rsuant to the laws of the State, its full name being
2. The Governmental 1978, as amended.	Unit was es	stablished in the year 1981, Section 4-3A-1, NMSA
3. From at least Octol date of this Certificate, the follow officers of the Governmental Unit	ving were a	1 (except as otherwise noted), to and including the and now are the duly chosen, qualified and acting
Chairman:	Ι	Daniel J. Torrez
First Vice-Chair:	N	Martha Garcia
Second Vice-Chair	: 0	Christine Lowery
Commissioners:	F	Ralph Lucero
	F	Robert Windhorst
Finance Director:	F	Paul Ludi
County Clerk:	N	Michelle Dominguez
Deputy County Cle	rk: N	Natalie Grine
Attorney:	A	Adren R. Nance, Esq.

4. The population of the Governmental Unit is not less than seventy-five percent (75%) English speaking and is less than twenty-five percent (25%) Spanish speaking.

- 5. There is no reason within our knowledge, after due inquiry with respect thereto, why the Governmental Unit may not enter into the Loan Agreement and the Intercept Agreement with the New Mexico Finance Authority (the "Finance Authority"), as authorized by the Ordinance.
- 6. The Governmental Unit has duly authorized the execution, delivery and performance of its obligations under the Loan Agreement and the Intercept Agreement. The Loan Agreement and the Intercept Agreement have been duly authorized, executed and delivered by the Governmental Unit.
- 7. The Ordinance has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Ordinance. The Ordinance constitutes valid and sufficient legal authority for the Governmental Unit to carry out and enforce the provisions of the Loan Agreement and Intercept Agreement. No referendum petition has been filed with respect to the Ordinance under the provisions of the laws, bylaws or regulations of the Governmental Unit or the State.
- 8. No event will result from the execution and delivery of the Loan Agreement or the Intercept Agreement that constitutes a default or an event of default under either the Loan Agreement, the Intercept Agreement or the Ordinance, and no event of default and no default under the Loan Agreement, the Intercept Agreement or the Ordinance has occurred and is continuing on the date of this Certificate.
- 9. The Governmental Unit has duly authorized and approved the consummation by it of all transactions and has complied with all requirements and satisfied all conditions, which are required by the Loan Agreement and the Intercept Agreement to have been authorized, approved, performed or consummated by the Governmental Unit at or prior to the date of this Certificate. The Governmental Unit has full legal right, power and authority to carry out and consummate the transactions contemplated by the Ordinance, the Loan Agreement and the Intercept Agreement.
- 10. A. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan Agreement or the Intercept Agreement or to any of the actions required to be taken by the Ordinance, the Loan Agreement or the Intercept Agreement on or prior to the date of this Certificate have been obtained and are in full force and effect; and
- B. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the financing of the Project have been obtained and are in full force and effect.
- 11. None of the following does or will conflict with, or constitute a breach by the Governmental Unit of, or default by the Governmental Unit under any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture, mortgage or other instrument to which the Governmental Unit is subject or by which it is bound:
  - A. The Governmental Unit's adoption of the Ordinance; or

- B. Any action contemplated by or pursuant to the Ordinance, the Loan Agreement, or the Intercept Agreement.
- 12. No material adverse change has occurred, nor has any development occurred involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects, or properties of the Governmental Unit or the Pledged Revenues since the date of the Ordinance.
- 13. To the best of our knowledge and belief, after due inquiry with respect thereto, none of the events of default referred to in Article X of the Loan Agreement has occurred.
- 14. Subsequent to the adoption of the Ordinance, the Governmental Unit has not pledged or otherwise encumbered the Pledged Revenues. On the date of this Certificate there are no other outstanding obligations with a lien or encumbrance against the Pledged Revenues senior to or on a parity with the lien of the Loan Agreement.
- 15. The Loan Agreement prohibits the Governmental Unit from issuing any bonds or other obligations with a lien on Pledged Revenues senior to the lien thereon of the Loan Agreement on the Pledged Revenues. The Loan Agreement permits the Governmental Unit to issue additional bonds or other obligations with a lien on the Pledged Revenues on a parity with or subordinate to the lien of the Loan Agreement on the Pledged Revenues upon satisfaction of the conditions set forth in the Loan Agreement.
- There is no threatened action, suit, proceeding, inquiry or investigation against the Governmental Unit, at law or in equity, by or before any court, public board or body, nor to the Governmental Unit's knowledge is there any basis therefor, affecting the existence of the Governmental Unit or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the pledge of revenues or assets of the Governmental Unit pledged or to be pledged to pay the principal, premium, if any, and interest on the Loan Agreement, or in any way materially adversely affecting or questioning: (a) the territorial jurisdiction of the Governmental Unit; (b) the use of the proceeds of the Loan Agreement for the Project and to pay certain costs of the Finance Authority associated with the administration of its public projects revolving fund loan program; (c) the validity or enforceability of the Loan Agreement, the Intercept Agreement or the Ordinance; (d) the execution and delivery of the Loan Agreement or the Intercept Agreement; or (e) the power of the Governmental Unit to carry out the transactions contemplated by the Loan Agreement, the Intercept Agreement or the Ordinance.
- 17. The Governmental Unit has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Governmental Unit contained in the Loan Agreement and in the Ordinance are true and correct as of the date hereof.
- 18. The Governmental Unit is not in default, and has not been in default within the ten (10) years immediately preceding the date of this Certificate, in the payment of principal of, premium, if any, or interest on any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, if any, or interest except that no

representation is made with respect to industrial revenue bonds or conduit bonds payable solely from installment sale or lease payments, loan repayments or other amounts received by the Governmental Unit from private entities.

- 19. To the best of our knowledge and belief, neither the Chairman, Finance Director, County Clerk, any member of the Governing Body, nor any other officer, employee or other agent of the Governmental Unit is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.
- 20. Regular meetings of the Governing Body have been held in the Cibola County Commission Chamber, 700 East Roosevelt, Grants, New Mexico, the principal meeting place of the Governing Body.
- 21. The Governing Body has no rules of procedure which would invalidate or make ineffective the Ordinance or other action taken by the Governing Body in connection with the Loan Agreement. Open Meetings Act Resolution No. \_\_\_\_\_\_, as adopted and approved by the Governing Body on \_\_\_\_\_\_\_, establishes notice standards as required by Sections 10-15-1 through 10-15-4, NMSA 1978. Open Meetings Act Resolution No. \_\_\_\_\_\_ has not been amended or repealed. All action of the Governing Body with respect to the Loan Agreement, the Intercept Agreement and the Ordinance was taken at meetings held in compliance with Open Meetings Act Resolution No. \_\_\_\_\_\_.
- 22. The Cibola Citizen is a legal newspaper which maintains an office and is of general circulation in the Governmental Unit.
- 23. The Pledged Revenues from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded, and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed one hundred twenty-five percent (125%) of the maximum Aggregate Annual Debt Service Requirement.
- 24. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.
- 25. The Chairman, Finance Director and County Clerk, on the date of the signing of the Loan Agreement and the Intercept Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Governmental Unit authorized to execute such agreements.
- 26. The Governmental Unit understands that Sutin, Thayer & Browne A Professional Corporation represents the Finance Authority in this Loan and the Governmental Unit has had the opportunity to consult other counsel in connection with the Loan.
  - 27. This Certificate is for the benefit of the Finance Authority.
  - 28. This Certificate may be executed in counterparts.

[Signature page follows]

## WITNESS our hands and the seal of the Governmental Unit this 8th day of April, 2022.

## CIBOLA COUNTY, NEW MEXICO

	By: Daniel J. Torrez, Chairman
	Daniel J. Torrez, Chairman
	By:Paul Ludi, Finance Director
	Paul Ludi, Finance Director
	By: Michelle Dominguez, County Clerk
SEAL]	Michelle Dominguez, County Clerk
PPROVED:	,
	, 9, 10, 11, 13, 14, 16, 17, 18, 20, 21, 22, 24 and
	Arden R. Nance, Attorney for Cibola County, New Mexico

#### INTERCEPT AGREEMENT

This INTERCEPT AGREEMENT is made and entered into April 8, 2022, by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), a public body politic and corporate constituting a governmental instrumentality separate and apart from the State of New Mexico (the "State") under the laws of the State and CIBOLA COUNTY, NEW MEXICO, a political subdivision duly organized and existing under the laws of the State (the "Governmental Unit").

#### WITNESSETH:

WHEREAS, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, authorized the creation of the Finance Authority within the State to assist in financing the cost of public projects of participating qualified entities, including the Governmental Unit, such as the acquisition and installation of an HVAC system in the Governmental Unit's administration building for use by the Governmental Unit; and

WHEREAS, pursuant to Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, and Sections 4-62-1 through 4-62-10 for county, NMSA 1978, as amended (collectively, the "Act"), the Finance Authority and the Governmental Unit are authorized to enter into agreements to facilitate the financing of the Project as described in the Loan Agreement by and between the Finance Authority and the Governmental Unit of even date herewith (the "Loan Agreement"); and

WHEREAS, the Governmental Unit desires to acquire the Project and such acquisition is permitted under the Act; and

WHEREAS, the Finance Authority has established its Loan Program (the "Program") funded by its public project revolving fund (as defined in the Act) for the financing of infrastructure and equipment projects upon the execution of the Loan Agreement and the assignment of loan agreements to a trustee (the "Trustee"); and

WHEREAS, the Governmental Unit desires to borrow \$1,777,778 from the Program for the purpose of financing the acquisition of the Project, which Loan is to be governed by this Intercept Agreement and by the Loan Agreement; and

WHEREAS, the Act confers upon the Finance Authority the authority to loan funds to the Governmental Unit to finance the Project, and Section 7-1-6.15, NMSA 1978, as amended, authorizes the Governmental Unit to direct that its distribution of County Local Option Gross Receipt Tax (the "Pledged Revenues") from the State Taxation and Revenue Department (the "Distributing State Agency") be paid to the Finance Authority or its assignee, to secure payments under the Loan Agreement;

NOW THEREFORE, the parties hereto agree:

Unless otherwise defined in this Intercept Agreement and except where the context by clear implication otherwise requires, capitalized terms used in this Intercept Agreement shall have for all purposes of this Intercept Agreement the meanings assigned thereto in the Loan Agreement and the Indenture, as defined in the Loan Agreement.

Section 1. Authorization to the Finance Authority. The Governmental Unit hereby recognizes that the Finance Authority has made a Loan to the Governmental Unit in the amount of \$1,777,778 to finance the acquisition of the Project. Pursuant to the Loan Agreement and this Intercept Agreement, the Loan and all Loan Agreement Payments on the Loan made by or on behalf of the Governmental Unit shall be collected by the Finance Authority and remitted to the Trustee. All payments due on the Loan from the Pledged Revenues shall be paid by the Distributing State Agency to the Finance Authority or its designee, on behalf of the Governmental Unit, from scheduled distributions of the Pledged Revenues in accordance with the Intercept Schedule attached hereto as Exhibit "A" (the "Intercept Schedule").

This Intercept Agreement shall be deemed a written certification, authorization and request by the Governmental Unit to the Distributing State Agency to pay to the Finance Authority, on behalf of the Governmental Unit, sums shown on the Intercept Schedule from distributions of the Pledged Revenues pursuant to Section 7-1-6.15, NMSA 1978, as amended, to insure compliance with the Loan Agreement and repayment of the Loan. Upon written notice to the Distributing State Agency from the Finance Authority, the amount of the Pledged Revenues to be paid to the Finance Authority shall be increased from the amounts shown on Exhibit "A" to defray any delinquencies in the Finance Authority Debt Service Account or Loan Agreement Reserve Account, if any, established for the Governmental Unit. Any accumulation of the Pledged Revenues in an amount in excess of the next Loan Agreement Payment and the Loan Agreement Reserve Requirement, if any, shall be redirected by the Finance Authority to the benefit of the Governmental Unit on a timely basis as provided in Section 5.2 of the Loan Agreement.

To the extent applicable and to the extent that the Pledged Revenues are insufficient to meet the debt service requirements due on the Loan and other Parity Obligations (as defined in the Loan Agreement) now or hereafter issued or incurred, the amounts intercepted under this Intercept Agreement shall be applied to allow partial payment on a pro-rata basis of the debt service due and owing on the Loan Agreement and other Parity Obligations.

Section 2. <u>Term; Amendments</u>. This Intercept Agreement will remain in full force and effect from its effective date as herein provided until such time as the Loan made pursuant to the Loan Agreement and this Intercept Agreement have been paid in full. Nothing herein shall be deemed in any way to limit or restrict the Governmental Unit from issuing its own obligations, providing its own program or participating in any other program for the financing of public projects which the Governmental Unit may choose to finance. This Intercept Agreement may be amended only by written instrument signed by the parties hereto.

Section 3. <u>Authorization</u>. The execution and performance of the terms of this Intercept Agreement have been authorized and approved by Ordinance No. \_\_\_\_\_\_, passed

and adopted on February 24, 2022 by the Governing Body of the Governmental Unit, which Ordinance is in full force and effect on the date hereof.

- Section 4. <u>Severability of Invalid Provisions</u>. If any one or more of the provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separable from the remaining provisions and shall in no way affect the validity of any of the other provisions hereof.
- Section 5. <u>Counterparts</u>. This Intercept Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- Section 6. <u>Further Authorization</u>. The Governmental Unit agrees that the Finance Authority shall do all things necessary or convenient to the implementation of the Program to facilitate the Loan to the Governmental Unit.
- Section 7. <u>Effective Date</u>. This Intercept Agreement shall take effect on the Closing Date of the Loan.
- Section 8. <u>Initial Intercept Date</u>. As indicated on the Intercept Schedule, the first distribution of the Pledged Revenues that is to be intercepted by the Distributing State Agency under the terms of this Intercept Agreement consist of Pledged Revenues due to the Governmental Unit distributed in May 2022.
- Section 9. <u>Final Intercept Date</u>. Once the Loan has been fully paid off and satisfied, Finance Authority shall provide written notice to the Distributing State Agency to discontinue the interception of the Governmental Unit's Pledged Revenues.

[Remainder of page left intentionally blank]

[Signature page follows]

IN WITNESS WHEREOF, the parties to this Intercept Agreement have caused their names to be affixed hereto by the proper officers thereof as of the date first above written.

	NEW MEXICO FINANCE AUTHORITY	
	By: Marquita D. Russel, Chief Executive Officer	
	CIBOLA COUNTY, NEW MEXICO	
	By:	
[SEAL]	or ronon, Chamman	
ATTEST:		
By: Michelle Dominguez, County Clerk		

## EXHIBIT "A"

## INTERCEPT SCHEDULE CIBOLA COUNTY, NEW MEXICO

Payment Dates	Pledged Revenues	Amount
Monthly, beginning: May 1, 2022  June 1, 2022 through May 1, 2031	The distribution of one-eighth of one percent (0.125%) of County Local Option Gross Receipts Tax Revenues distributed to the Governmental Unit pursuant to Section 7-20E-9, NMSA 1978, and the Tax Ordinance, which distributions are made monthly by the State Taxation and Revenue Department	\$21,005.61 \$17,504.81

### \$1,777,778

#### LOAN AGREEMENT

dated

April 8, 2022

by and between the

NEW MEXICO FINANCE AUTHORITY

and

CIBOLA COUNTY, NEW MEXICO

Certain interests of the New Mexico Finance Authority under this Loan Agreement may be assigned to BOKF, NA, as trustee under an Indenture, as defined in Article I of this Loan Agreement.

## LOAN AGREEMENT

THIS LOAN AGREEMENT dated April 8, 2022 is entered into by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), and CIBOLA COUNTY, NEW MEXICO (the "Governmental Unit"), a political subdivision duly organized and existing under the laws of the State of New Mexico (the "State").

## WITNESSETH:

WHEREAS, the Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly Section 6-21-1 et seq., NMSA 1978, as amended (the "Finance Authority Act"); and

WHEREAS, one of the purposes of the Finance Authority Act is to implement a program to permit qualified entities, such as the Governmental Unit, to enter into agreements with the Finance Authority to facilitate financing of public projects; and

WHEREAS, the Governmental Unit is a political subdivision duly organized and existing under and pursuant to the laws of the State and is a qualified entity under the Finance Authority Act; and

WHEREAS, the Governing Body of the Governmental Unit has determined that it is in the best interests of the Governmental Unit and its residents that the Governmental Unit enter into this Loan Agreement with the Finance Authority and accept a loan from the Finance Authority to finance the costs of purchasing and installing an HVAC system in the Governmental Unit's administration building for use by the Governmental Unit as more fully described on the Term Sheet attached hereto as Exhibit "A": and

WHEREAS, the Governmental Unit is authorized by the Act to impose by ordinance a County Local Option Gross Receipts Tax pursuant to Section 7-20E-9, NMSA 1978, as amended; and

WHEREAS, pursuant to the Act, the Governmental Unit has by the Tax Ordinance imposed one-eighth of one percent (.125%) of County Local Option Gross Receipts Tax on the gross receipts of all persons engaging in business within the Governmental Unit which provides for the Pledged Revenues; and

WHEREAS, the Act authorizes the Governmental Unit to use the Pledged Revenues to finance the Project and to enter into this Loan Agreement; and

WHEREAS, the Governmental Unit is a disadvantaged qualified entity within the meaning of Section 8(B)(4)(b) of the Finance Authority's Amended Rules and Regulations Governing the Public Project Revolving Fund Program; and

WHEREAS, the Finance Authority has determined that the Project is important to the overall capital needs of the residents of the State and that the Project will directly enhance the health and safety of the residents of the Governmental Unit; and

WHEREAS, the Governmental Unit has entered into the Intercept Agreement by and between the Finance Authority and the Governmental Unit whereby the Pledged Revenues due to the Governmental Unit from the Distributing State Agency are intercepted by the Finance Authority, or the Trustee, as its assignee, to make payments due under this Loan Agreement; and

WHEREAS, the Finance Authority may assign and transfer this Loan Agreement to the Trustee pursuant to the Indenture; and

WHEREAS, except as described on the Term Sheet, the Pledged Revenues have not been pledged or hypothecated in any manner or for any purpose at the time of the execution and delivery of this Loan Agreement, and the Governmental Unit desires to pledge the Pledged Revenues toward the payment of this Loan Agreement; and

WHEREAS, the obligation of the Governmental Unit hereunder shall constitute a special, limited obligation of the Governmental Unit, limited to the Pledged Revenues, and shall not constitute a general obligation or other indebtedness of the Governmental Unit or a charge against the general credit or ad valorem taxing power of the Governmental Unit or the State; and

WHEREAS, the execution, performance and delivery of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Governing Body pursuant to the Ordinance; and

WHEREAS, the execution and performance of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Finance Authority.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the parties hereto agree:

# ARTICLE I DEFINITIONS

Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Loan Agreement unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Loan Agreement including the foregoing recitals, unless the context clearly requires otherwise.

"Act" means the general laws of the State, including Sections 4-62-1 through 4-62-10, NMSA 1978, as amended, Sections 7-20E-9 and 7-1-6.15, NMSA 1978, as amended, and enactments of the Governing Body relating to this Loan Agreement and Intercept Agreement, including the Ordinance.

"Additional Payment Obligations" mean payments in addition to Loan Agreement Payments required by this Loan Agreement, including, without limitation, payments required to replenish the Loan Agreement Reserve Account and payments required pursuant to the provisions of Article IX and Article X hereof.

"Aggregate Annual Debt Service Requirement" means the total principal, interest, and premium payments, if any, due and payable pursuant to this Loan Agreement and on all Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

"Authorized Officers" means, in the case of the Governmental Unit, Chairman, Vice-Chair, Finance Director and County Clerk, and, in the case of the Finance Authority, the Chair, Vice-Chair and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

"Blended Interest Rate" means the rate of interest on this Loan Agreement as shown on the Term Sheet.

"Bond Counsel" means nationally recognized bond counsel experienced in matters of municipal law, satisfactory to the Trustee and listed in the list of municipal bond attorneys, as published semiannually by The Bond Buyer's Municipal Marketplace, or any successor publication, acting as loan counsel to the Finance Authority.

"Bonds" means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse this Loan Agreement.

"Closing Date" means the date of execution, delivery and funding of this Loan Agreement as shown on the Term Sheet.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

"Distributing State Agency" means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues to or on behalf of the Governmental Unit.

"Event of Default" means one or more events of default as defined in Section 10.1 of this Loan Agreement.

"Expenses" means the costs of issuance of this Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering this Loan Agreement, including legal fees.

"Finance Authority Debt Service Account" means the debt service account established in the name of the Governmental Unit within the Debt Service Fund, as defined in the Indenture, held and administered by the Finance Authority to pay principal and interest, if any, on this Loan Agreement as the same become due.

"Fiscal Year" means the period beginning on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

"Governing Body" means the duly organized County Commission of the Governmental Unit, and any successor governing body of the Governmental Unit.

"Indenture" means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, as successor trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as successor trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

"Independent Accountant" means: (i) an accountant employed by the State and under the supervision of the State Auditor; or (ii) any certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Governmental Unit who: (a) is, in fact, independent and not under the domination of the Governmental Unit; (b) does not have any substantial interest, direct or indirect, with the Governmental Unit; and (c) is not connected with the Governmental Unit as an officer or employee of the Governmental Unit, but who may be regularly retained to make annual or similar audits of the books or records of the Governmental Unit.

"Intercept Agreement" means the Intercept Agreement dated April 8, 2022, between the Governmental Unit and the Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of the Pledged Revenues in amounts sufficient to pay Loan Agreement Payments, and any amendments or supplements to the Intercept Agreement.

"Interest Component" means the portion of each Loan Agreement Payment paid as interest on this Loan Agreement as shown on Exhibit "B" hereto.

"Loan" means the funds in the Loan Agreement Principal Amount to be loaned to the Governmental Unit by the Finance Authority pursuant to this Loan Agreement.

"Loan Agreement" means this loan agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

"Loan Agreement Balance" means, as of any date of calculation, the Loan Agreement Principal Amount less the aggregate principal amount paid or prepaid pursuant to the provisions of this Loan Agreement.

"Loan Agreement Payment" means, collectively, the Principal Component and the Interest Component, if any, to be paid by the Governmental Unit as payment of this Loan Agreement as shown on <a href="Exhibit">Exhibit</a> "B" hereto.

"Loan Agreement Payment Date" means each date a payment is due on this Loan Agreement as shown on Exhibit "B" hereto.

"Loan Agreement Principal Amount" means the original principal amount of this Loan Agreement as shown on the Term Sheet.

"Loan Agreement Reserve Account" means the loan agreement reserve account established in the name of the Governmental Unit funded from the proceeds of this Loan Agreement and administered by the Trustee pursuant to the Indenture.

"Loan Agreement Reserve Requirement" means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account deposit on the Term Sheet which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

"Loan Agreement Term" means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

"NMSA" means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

"Ordinance" means the Governmental Unit Ordinance No. \_\_\_\_\_ adopted by the Governing Body on February 24, 2022 approving this Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet.

"Parity Obligations" means this Loan Agreement, and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with this Loan Agreement, including any such obligations shown on the Term Sheet.

"Permitted Investments" means securities which are at the time legal investments of the Governmental Unit for the money to be invested, as applicable, including but not limited to the following, if permitted by law: (i) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States, the federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank, federal home loan banks or the student loan marketing association or that are backed by the full faith and credit of the United States government; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody's Investors Service, Inc., or S&P Global Ratings; and (iv) the State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1, NMSA 1978, as amended, and operated, maintained and invested by the office of the State Treasurer.

"Pledged Revenues" means revenues of the Governmental received pursuant to the Tax Ordinance and pledged to payment of the Loan Agreement Payments pursuant to the Ordinance and described on the Term Sheet.

"Principal Component" means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement as shown on Exhibit "B" hereto.

"Program Account" means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of this Loan · Agreement for disbursal to the Governmental Unit for payment of the costs of the Project.

"Project" means the project(s) described on the Term Sheet.

"Tax Ordinance" means Ordinance No. 88-3 passed and approved by the Governmental Unit pursuant to the Act on August 4, 1988, which originally imposed what was previously identifiable as the first one-eighth of one percent (0.125%) increment of the County Local Option Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit, as amended by Ordinance No. 02-03 passed and approved by the Governmental Unit on July 22, 2002. Pursuant to laws 2019, Chapter 274, Section 16, the County Local Option Gross Receipts Tax imposed by Ordinance No. 88-3, as amended by Ordinance No. 02-03 is no longer identifiable as the first increment, and instead comprises one-eighth of one percent (0.125%) of the maximum rate of county gross receipts tax that may be imposed under Section 7-20E-9, NMSA 1978, as amended, of one and seventy-five hundredths percent (1.75%).

"Term Sheet" means Exhibit "A" attached hereto.

"Trustee" means BOKF, NA, Albuquerque, New Mexico, or any successor trust company, national or state banking association or financial institution at the time appointed the Trustee by the Finance Authority.

"Unassigned Rights" means the rights of the Finance Authority to receive payment of the administrative expenses, reports and indemnity against claims pursuant to the provisions of this Loan Agreement which are withheld in the granting clauses of the Indenture from the pledge, assignment and transfer of this Loan Agreement to the Trustee.

## ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

- Section 2.1 <u>Representations, Covenants and Warranties of the Governmental Unit.</u>
  The Governmental Unit represents, covenants and warrants:
- (a) <u>Binding Nature of Covenants</u>. All covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Ordinance shall be exercised or performed by the Governmental Unit or by such members,

officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

- (b) <u>Personal Liability</u>. No covenant, stipulation, obligation or agreement contained in this Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Governmental Unit or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer, agent or employee of the Governmental Unit executing this Loan Agreement shall be liable personally on this Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.
- (c) <u>Authorization of Loan Agreement and Intercept Agreement.</u> The Governmental Unit is a political subdivision of the State and is duly organized and existing under the statutes and laws of the State. Pursuant to the Act, as amended and supplemented from time to time, the Governmental Unit is authorized by the Act to enter into the transactions contemplated by this Loan Agreement and the Intercept Agreement and to carry out its obligations hereunder and thereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement, the Intercept Agreement, and the other documents related to the transaction.
- (d) <u>Use of Loan Agreement Proceeds</u>. The Governmental Unit shall proceed without delay in applying the proceeds of this Loan Agreement (less the deposits to the Loan Agreement Reserve Account, if any, and the Finance Authority Debt Service Account) to the acquisition of the Project.
- (e) Payment of Loan Agreement. The Governmental Unit shall promptly pay Loan Agreement Payments, as specified in Exhibit "B" hereto, according to the true intent and meaning of this Loan Agreement. Loan Agreement Payments are payable solely from the Pledged Revenues or from the proceeds of refunding bonds or other refunding obligations which the Governmental Unit may hereafter issue in its sole discretion and which are payable from the Pledged Revenues; and nothing in this Loan Agreement shall be construed as obligating the Governmental Unit to pay Loan Agreement Payments from any general or other fund of the Governmental Unit other than such special funds. Nothing contained in this Loan Agreement, however, shall be construed as prohibiting the Governmental Unit in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.
- (f) Acquisition and Completion of Project. The Project will consist of acquiring and completing the purchase and installation of an HVAC system in the Governmental Unit's administration building for use by the Governmental Unit. The Project will be acquired and completed so as to comply with all applicable ordinances, resolutions and regulations, if any, and any and all applicable laws relating to the acquisition and completion of the Project and to the use of the Pledged Revenues. The Project complies with Section 7-1-6.15, NMSA, as amended.
- (g) <u>Necessity of Project</u>. The acquisition of the Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of

the governmental purposes of the Governmental Unit and is in the best interests of the Governmental Unit and its residents.

- (h) <u>Legal, Valid and Binding Special Obligation</u>. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement and the Intercept Agreement, and this Loan Agreement and the Intercept Agreement constitute legal, valid and binding special obligations of the Governmental Unit enforceable in accordance with their terms.
- (i) <u>Loan Agreement Term</u>. The weighted average maturity of 5.152 years of the Loan Agreement does not exceed 120% of the reasonably expected life of the Project which is seven (7) years.
- (j) <u>Use of Project</u>. During the Loan Agreement Term, the Project will at all times be used for the purpose of benefiting the Governmental Unit as a whole.
- (k) No Private Activity. The Governmental Unit is a "governmental unit" within the meaning of Sections 103 and 141(b)(6) of the Code. In addition, no amounts disbursed from the Program Account and used to finance the Project shall be used in the trade or business of a person who is not a "governmental unit" within the meaning of Sections 103 and 141(b)(6) of the Code.
- (l) No Excess Loan Agreement Proceeds. The amount loaned to the Governmental Unit under this Loan Agreement as set forth on the Term Sheet does not exceed the sum of: (i) the cost of the Project; (ii) the Loan Agreement Reserve Requirement; and (iii) an amount necessary to pay the costs related to issuance of the Bonds, if any.
- (m) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement and the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement and the Intercept Agreement, nor the consummation of the transactions contemplated herein and therein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the Governmental Unit is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.
- (n) <u>Irrevocable Enactments</u>. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement, including the Tax Ordinance and the Ordinance, shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.
- (o) <u>Outstanding Debt</u>. Except for the Parity Obligations, if any, described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a parity lien on the Pledged Revenues. No additional indebtedness, bonds or notes of the Governmental Unit payable on a

priority ahead of the indebtedness herein authorized out of the Pledged Revenues shall be created or incurred while this Loan Agreement remains outstanding. Prior to entering into additional indebtedness to be secured by a parity lien on the Pledged Revenues, the Governmental Unit shall comply with the terms of Section 5.5 hereof and shall seek the written consent of the Finance Authority, such consent shall not be unreasonably withheld. During the term of this Loan Agreement, prior to entering into any indebtedness secured by a subordinate lien on the Pledged Revenues or a lien on any revenues of the Governmental Unit other than the Pledged Revenues, the Governmental Unit shall notify the Finance Authority in writing of such indebtedness.

- (p) No Litigation. To the knowledge of the Governmental Unit, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Governmental Unit nor compliance by the Governmental Unit with the obligations under such agreements, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.
- (q) <u>No Event of Default</u>. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement and the Intercept Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement or the Intercept Agreement.
- (r) <u>Pledged Revenues Not Budgeted</u>. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, is not needed or budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.
- (s) Expected Coverage Ratio. The Pledged Revenues (giving credit for any increase in Pledged Revenues which has received final approval of the Governing Body and become effective) from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded, and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed, one hundred twenty-five percent (125%) of the maximum Aggregate Annual Debt Service Requirement.
- (t) <u>No Extension of Interest Payments</u>. The Governmental Unit will not extend or be a party to the extension of the time for paying any interest on this Loan Agreement.
- (u) <u>Governmental Unit's Existence</u>. The Governmental Unit will maintain its corporate identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision by operation of law succeeds to the liabilities and rights of the Governmental Unit without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.
- (v) <u>Continuing Disclosure</u>. The Governmental Unit covenants that it shall provide continuing disclosure to the Finance Authority, as the Finance Authority may require, that shall include, but not be limited to: annual audits, operational data required to update

information in any disclosure documents used to assign or securitize the Loan Agreement Payments by issuance of Bonds by the Finance Authority pursuant to the Indenture, and notification of any event deemed material by the Finance Authority.

- Tax Covenants. The Governmental Unit covenants that it shall restrict the use of the proceeds of this Loan Agreement in such manner and to such extent, if any, as may be necessary so that this Loan Agreement will not constitute an arbitrage bond under Section 148 of the Code and that it shall pay any applicable rebate to the Internal Revenue Service. Authorized Officers are hereby authorized and directed to execute an Arbitrage and Tax Certificate as may be required by the Finance Authority and such additional certificates as shall be necessary to establish that this Loan Agreement is not an "arbitrage bond" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated or proposed with respect thereto, including Treasury Regulation Sections 1.148-1 through 1.148-11, 1.149 and 1.150 as the same currently exist, or may from time to time hereafter be amended, supplemented or revised. The Governmental Unit covenants to comply with the provisions of any such Arbitrage and Tax Certificate and the provisions thereof will be incorporated herein by reference to the same extent as if set forth herein. The Governmental Unit covenants that no use will be made of the proceeds of this Loan Agreement, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148-1(b)) of this Loan Agreement, which use, if it had been reasonably expected on the Closing Date, would have caused this Loan Agreement to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. Pursuant to this covenant, the Governmental Unit obligates itself to comply throughout the Loan Agreement Term with the requirements of Sections 103 and 141 through 150 of the Code and the regulations proposed or promulgated with respect thereto. The Governmental Unit further represents and covenants that no bonds or other evidence of indebtedness of the Governmental Unit payable from substantially the same source as this Loan Agreement have been or will be issued, sold or delivered within fifteen (15) days prior to or subsequent to the Closing Date. The Governmental Unit hereby further represents and covenants to comply with Section 7.6 hereof, which designates this Loan Agreement as a "qualified taxexempt obligation" for the purposes of Section 265(b)(3) of the Code.
- (x) <u>Pledged Revenues Covenants</u>. The Governing Body has duly adopted the Tax Ordinance imposing the one-eighth of one percent (0.125%) of County Local Option Gross Receipts Tax, which constitutes the Pledged Revenues. The Tax Ordinance has not been repealed or superseded and is in full force and effect.
- Section 2.2 <u>Representations, Covenants and Warranties of the Finance Authority</u>. The Finance Authority represents, covenants and warrants for the benefit of the Governmental Unit as follows:
- Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized, existing and in good standing under the laws of the State, has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and the Intercept Agreement based upon the Finance Authority's findings that:

- (i) The Governmental Unit is a disadvantaged qualified entity in that its median household income is \$39,413, which is less than eighty percent (80%) of the State median household income of \$49,751.
- (ii) The Project is important to the overall capital needs of the State and directly enhances the health and safety of the residents of the Governmental Unit.
- (b) <u>Assignment of Rights</u>. The Finance Authority may not pledge or assign the Pledged Revenues, the Loan Agreement Payments or any of its other rights under this Loan Agreement and the Intercept Agreement except to the Trustee pursuant to the Indenture.
- Neither the execution and delivery of this Loan Agreement or the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement or the Intercept Agreement, nor the consummation of the transactions contemplated in this Loan Agreement or the Intercept Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Finance Authority is a party or by which the Finance Authority is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or resolution of any court, government or governmental authority having jurisdiction over the Finance Authority or its property, and which conflict or violation will have a material adverse effect on the Finance Authority or the financing of the Project.
- (d) No Litigation. To the knowledge of the Finance Authority, there is no litigation or proceeding pending or threatened against the Finance Authority or any other person affecting the right of the Finance Authority to execute or deliver this Loan Agreement or the Intercept Agreement, or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Finance Authority, nor compliance by the Finance Authority with its obligations under this Loan Agreement and the Intercept Agreement, requires the approval of any regulatory body, or any other entity, which approval has not been obtained.
- (e) <u>Legal, Valid and Binding Obligations</u>. This Loan Agreement and the Intercept Agreement constitute the legal, valid and binding obligations of the Finance Authority enforceable in accordance with their terms.
- (f) <u>Tax-Exempt Reimbursement of Amount Loaned</u>. The Finance Authority intends to reimburse the public project revolving fund (as defined in the Finance Authority Act) for the amount of the Loan from the proceeds of tax-exempt bonds which the Finance Authority expects to issue within eighteen (18) months of the Closing Date.

#### ARTICLE III LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until this Loan Agreement has been paid in full or provision for the payment of this Loan Agreement has been made pursuant to Article VIII hereof.

# ARTICLE IV LOAN; APPLICATION OF MONEYS

On the Closing Date, the Finance Authority shall transfer the Loan Agreement Principal Amount as follows:

- (a) To the Trustee, the amount shown on the Term Sheet as the Program Account deposit shall be deposited into the Governmental Unit's Program Account to be maintained by the Trustee pursuant to the Indenture and disbursed pursuant to Section 6.2 hereof at the direction of the Governmental Unit as needed by the Governmental Unit for the Project; and
- (b) To the Trustee, the amount shown on the Term Sheet as the Loan Agreement Reserve Account deposit shall be deposited in the Governmental Unit's account maintained in the Loan Agreement Reserve Fund by the Trustee pursuant to the Indenture; and
- (c) To the Finance Authority, the amount shown on the Term Sheet as the Finance Authority Debt Service Account deposit shall be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 hereof; and

#### ARTICLE V LOAN TO THE GOVERNMENTAL UNIT; PAYMENTS BY THE GOVERNMENTAL UNIT

Loan to the Governmental Unit; Payment Obligations Limited to Pledged Section 5.1 Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the Finance Authority an amount equal to the Loan Agreement Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein, the Loan Agreement Payments as herein provided. The Governmental Unit does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to: (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on parity with the Parity Obligations; (ii) the Finance Authority Debt Service Account, such account being held by the Finance Authority; (iii) the Program Account and the Loan Agreement Reserve Account, such accounts being held by the Trustee, and; (iv) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Agreement Payments and Additional Payment Obligations; provided, however, that if the Governmental Unit, its successors or assigns, shall well and truly pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, then, upon such final payment or provision for

payment by the Governmental Unit, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Principal Component and Interest Component when due, the payment schedule of which is attached hereto as Exhibit "B."

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the Finance Authority acknowledge and agree that the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that this Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit hereunder, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law.

- Section 5.2 Payment Obligations of Governmental Unit: As provided in the Intercept Agreement, the Distributing State Agency shall cause to be transferred from the Pledged Revenues the amounts provided in subsections (a)(i) and (ii) of this Section 5.2 for deposit into the Finance Authority Debt Service Account and the amount provided in subsection (c) for deposit into the Loan Agreement Reserve Account. The Finance Authority Debt Service Account shall be established and held by the Finance Authority and the Loan Agreement Reserve Account shall be established and held by the Trustee, each on behalf of the Governmental Unit. All Pledged Revenues received by the Finance Authority pursuant to this Section 5.2 shall be accounted for and maintained on an ongoing basis by the Finance Authority in the Finance Authority Debt Service Account and all Loan Agreement Payments shall be remitted to the Trustee. The amounts on deposit in the Finance Authority Debt Service Account and Loan Agreement Reserve Account shall be expended and used by the Finance Authority or the Trustee, as the case may be, only in the manner and order of priority specified below.
- (a) As a first charge and lien, but not an exclusive first charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Parity Obligations) the Governmental Unit shall remit to the Finance Authority, and the Finance Authority shall transfer and deposit into the Finance Authority Debt Service Account the following from the Pledged Revenues received pursuant to the Intercept Agreement from the Governmental Unit, which the Finance Authority shall transfer to the Trustee in accordance with the Indenture:
- (i) <u>Interest Components</u>. (A) Monthly, beginning on the first day of the month following the Closing Date, an amount in equal monthly installments which is necessary to pay the first maturing Interest Component coming due on this Loan Agreement (which is May 1, 2022), and (B) on the first day of each month thereafter, one-sixth (1/6) of the amount necessary to pay the next maturing Interest Component on this Loan Agreement as described in <u>Exhibit "B"</u>;

- (ii) <u>Principal Payments</u>. (A) Monthly, beginning on the first day of the month following the Closing Date, an amount in equal monthly installments which is necessary to pay the first maturing Principal Component (which is [insert date from Debt Service Schedule]), and (B) on the first day of each month thereafter, one-twelfth (1/12) of the amount which is necessary to pay the next maturing Principal Component on this Loan Agreement during the Loan Agreement Term, as described in <u>Exhibit "B"</u>.
- (b) Each Loan Agreement Payment shall be transferred by the Finance Authority from the Finance Authority Debt Service Account to the Trustee.
- (c) As a second charge and lien on the Pledged Revenues received from the Governmental Unit after deposits in (a) and (b) have been made, the Trustee shall transfer and deposit to the Loan Agreement Reserve Account any amounts necessary to replenish the Loan Agreement Reserve Account to the Loan Agreement Reserve Requirement. Moneys in the Loan Agreement Reserve Account shall be held and administered by the Trustee and shall be used only to prevent deficiencies in the payment of the Principal Component and Interest Component of the Loan Agreement Payments resulting from a failure to deposit into the Finance Authority Debt Service Account sufficient funds to pay debt service requirements on the Loan; provided, that the final two Interest Components and the final Principal Component on the Loan shall be payable from the Loan Agreement Reserve Account. If funds are withdrawn from the Loan Agreement Reserve Account to pay debt service on the Loan, at the direction of the Finance Authority or the Trustee, additional Pledged Revenues shall be deposited into the Loan Agreement Reserve Account in amounts in equal monthly installments sufficient to restore the amount on deposit therein to the Loan Agreement Reserve Requirement within one (1) year following such withdrawal; provided, that no additional Pledged Revenues shall be intercepted to replenish the Loan Agreement Reserve Account following the transfer of the amount in the Loan Agreement Reserve Account to the Finance Authority Debt Service Account for payment of the final two Interest Components and the final Principal Component.

Notwithstanding any other provisions hereof, the Finance Authority shall have the right to waive the requirement of the Loan Agreement Reserve Account and the Loan Agreement Reserve Requirement, and any moneys in the Loan Agreement Reserve Account may, at the written direction of the Finance Authority, be applied to the Finance Authority Debt Service Account, applied to the prepayment of the Loan pursuant to Article VIII hereof, or released to the Governmental Unit for the Project or used for any other purposes provided by law. If amounts in the Loan Agreement Reserve Account are released by the Finance Authority, the references in this Loan Agreement to the Loan Agreement Reserve Account and the Loan Agreement Reserve Requirement shall be of no further force and effect.

- (d) Subject to the foregoing deposits, the Finance Authority or the Trustee shall annually use the balance of the Pledged Revenues received, if any, at the request of the Governmental Unit: (i) to credit against upcoming Loan Agreement Payments; or (ii) to distribute to the Governmental Unit for any purpose permitted by law.
- Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 herein, for remittance to the Trustee. The obligation of the

Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the Finance Authority, the Trustee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

- Section 5.4 <u>Disposition of Payments by the Trustee</u>. The Trustee shall deposit all moneys received from the Finance Authority under this Loan Agreement in accordance with the Indenture.
- Section 5.5 Additional Parity Obligations. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from the Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Section 5.6 hereof), the Governmental Unit shall obtain the written consent of the Finance Authority and it must be determined that:
- (a) The Governmental Unit is then current in all of the accumulations required to be made into the Finance Authority Debt Service Account and the Loan Agreement Reserve Account as provided herein.
- (b) No default shall exist in connection with any of the covenants or requirements of the Ordinance or this Loan Agreement.
- (c) The Pledged Revenues received by or credited to the Governmental Unit for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing one hundred twenty-five percent (125%) of the combined maximum Aggregate Annual Debt Service Requirement coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding the accumulation of any reserves therefor).
- (d) A written certification or opinion by the Governmental Unit's Treasurer or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the Parity Obligations proposed to be issued.
- (e) With prior written notice to the Finance Authority, no provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the

Governmental Unit of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of this Loan Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Loan Agreement as permitted by Section 5.6 hereof.

- (f) The Governmental Unit shall not issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior and superior to this Loan Agreement.
- Section 5.6 <u>Refunding Obligations</u>. The provisions of Section 5.5 hereof are subject to the following exceptions:
- (a) If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Loan Agreement or bonds to be refunded may not be compelled to surrender this Loan Agreement or their bonds, unless this Loan Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Governmental Unit's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph (e) of Section 5.5 hereof and in subparagraphs (b) and (c) of this Section.
- (b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with this Loan Agreement unless:
- (i) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or
- (ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof.
- (c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Loan Agreement or any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Loan Agreement or the bonds or other obligations of the same issue refunded thereby. If only a part of this Loan Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:
- (i) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

- (ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof; or
- (iii) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.
- (d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the Governmental Unit may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Loan Agreement).
- Section 5.7 <u>Investment of Governmental Unit Funds</u>. Money on deposit in the Finance Authority Debt Service Account established by the Finance Authority for the Governmental Unit may be invested by the Finance Authority in Permitted Investments at the discretion of the Finance Authority. Money on deposit in the Program Account and the Loan Agreement Reserve Account held by the Trustee and created hereunder may be invested by the Trustee in Permitted Investments at the written direction of the Finance Authority or at the discretion of the Trustee. Any earnings on any of said accounts shall be held and administered in each respective account and utilized in the same manner as the other moneys on deposit therein.
- Section 5.8 <u>Governmental Unit May Budget for Payments</u>. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to defray any insufficiency of Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

### ARTICLE VI THE PROJECT

- Section 6.1 <u>Agreement to Acquire the Project</u>. The Governmental Unit hereby agrees that to effectuate the purposes of this Loan Agreement and to effectuate the acquisition and completion of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general, do all things which may be requisite or proper to acquire the Project. The Governmental Unit agrees to acquire and complete the Project through the application of moneys to be disbursed from the Program Account pursuant to Section 6.2 of this Loan Agreement.
- Section 6.2 <u>Disbursements From the Program Account</u>. So long as no Event of Default shall occur, the Trustee shall disburse moneys from the Program Account in accordance with Section 6.2 of the Indenture upon receipt by the Trustee of a requisition substantially in the form of <u>Exhibit</u> "C" attached hereto signed by an Authorized Officer of the Governmental Unit.

No disbursement shall be made from the Program Account without the approval of Bond Counsel: (i) to reimburse the Governmental Unit's own funds for expenditures made prior to the Closing Date; (ii) to refund or advance refund any tax-exempt obligations issued by or on behalf

of the Governmental Unit; (iii) to be used, directly or indirectly, to finance a project used or to be used in the trade or business of a person who is not a "governmental unit," within the meaning of Section 141(b)(6) of the Code; or (iv) to expend funds after the date that is three (3) years after the execution and delivery of this Loan Agreement.

Section 6.3 <u>Completion of the Project</u>. Upon completion of the Project, an Authorized Officer of the Governmental Unit shall deliver a certificate to the Finance Authority and the Trustee substantially in the form of <u>Exhibit "D"</u> attached hereto stating that, to the best of his or her knowledge, the Project has been completed and accepted by the Governmental Unit, and all costs have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 <u>Application of Loan Agreement Proceeds Subsequent to Completion of the Project</u>. Upon completion of the Project as signified by delivery of the completion certificate contemplated in Section 6.3 hereof or in the event that the Finance Authority and the Trustee shall not have received a certificate of completion as required by Section 6.3 hereof by the date three (3) years from the Closing Date (or such later date as is approved in writing by Bond Counsel), the Trustee shall transfer the amounts remaining in the Program Account (except amounts necessary for payment of amounts not then due and payable) to the Finance Authority Debt Service Account and such amounts shall be used for the payment of Loan Agreement Payments.

### ARTICLE VII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

- Section 7.1 <u>Further Assurances and Corrective Instruments</u>. The Finance Authority and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof.
- Section 7.2 <u>Finance Authority and Governmental Unit Representatives</u>. Whenever under the provisions hereof the approval of the Finance Authority or the Governmental Unit is required, or the Governmental Unit or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or for the Governmental Unit by an Authorized Officer of the Finance Authority or the Governmental Unit, as the case may be, and any party hereto shall be authorized to act on any such approval or request.
- Section 7.3 <u>Requirements of Law</u>. During the Loan Agreement Term, the Governmental Unit and the Finance Authority shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, the Project or the Pledged Revenues.

Section 7.4 First Lien; Equality of Liens. The Loan Agreement Payments constitute an irrevocable first lien (but not necessarily an exclusive first lien) upon the Pledged Revenues. The Governmental Unit covenants that the Loan Agreement Payments and any Parity Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a first lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Parity Obligations regardless of the fact that they may be actually issued and delivered at different times.

Section 7.5 <u>Expeditious Completion</u>. The Governmental Unit shall complete the Project with all practical dispatch.

Bank Designation of Loan Agreement. For purposes of and in accordance Section 7.6 with Section 265 of the Code, the Governmental Unit hereby designates this Loan Agreement as an issue qualifying for the exception for certain qualified tax-exempt obligations to the rule denying banks and other financial institutions 100% of the deduction for interest expenses which is allocable to tax-exempt interest. The Governmental Unit reasonably anticipates that the total amount of tax exempt obligations (other than obligations described in Section 265(b)(3)(C)(ii) of the Code) which will be issued by the Governmental Unit and by any aggregated issuer during the current calendar year will not exceed \$10,000,000. For purposes of this Section 7.6, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that: (a) it has not created and does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code; and (b) the total amount of obligations so designated by the Governmental Unit, and all aggregated issuers for the current calendar year, does not exceed \$10,000,000.

Section 7.7 Arbitrage Rebate Exemption. The Governmental Unit hereby certifies and warrants, for the purpose of qualifying for the exception contained in Section 148(f)(4)(D) of the Code, to the requirement to rebate arbitrage earnings from investments of the proceeds of the Loan Agreement (the "Rebate Exemption"), that: (i) this Loan Agreement is issued by the Governmental Unit which has general taxing powers; (ii) neither this Loan Agreement nor any portion thereof is a private activity bond as defined in Section 141 of the Code ("Private Activity Bond"); (iii) all of the net proceeds of this Loan Agreement are to be used for local government activities of the Governmental Unit (or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Governmental Unit); and (iv) neither the Governmental Unit nor any aggregated issuer has issued or is reasonably expected to issue any Tax-Exempt Bonds other than (A) Private Activity Bonds (as those terms are used in Section 148(f)(4)(D) of the Code) and (B) issued to refund (other than to advance refund (as used in the Code)) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, during the current calendar year, which would in the aggregate amount exceed \$5,000,000. For purposes of this paragraph, "aggregated issuer" means any entity which: (a) issues obligations on behalf of the Governmental Unit; (b) derives its issuing authority from the

Governmental Unit; or (c) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 148(f)(4)(D) of the Code.

Accordingly, with respect to the Loan Agreement, the Governmental Unit will qualify for the rebate exemption granted under Section 148(f)(4)(D) of the Code and the Governmental Unit shall be treated as meeting the requirements of paragraphs (2) and (3) of Section 148(f) of the Code relating to the required rebate of arbitrage earnings to the United States.

The Governmental Unit hereby further represents and covenants that if it is determined that rebatable arbitrage, as that term is defined under Section 148 of the Code and related regulations, is required to be paid to the United States, that it will pay such rebatable arbitrage.

# ARTICLE VIII PREPAYMENT OF LOAN AGREEMENT PAYMENTS

Section 8.1 <u>Prepayment</u>. The Governmental Unit is hereby granted the option to prepay any of the Principal Components of this Loan Agreement in whole or in part on any day following the Closing Date without penalty or prepayment premium. The Governmental Unit may designate the due dates of any Principal Components being prepaid in the event of a partial prepayment. Notice of intent to make such prepayment shall be provided to the Finance Authority and the Trustee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The Trustee shall recalculate the Loan Agreement Payments due under this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

Defeasance. Should the Governmental Unit pay or make provision for Section 8.2 payment of the Loan such that all amounts due pursuant to this Loan Agreement shall be deemed to have been paid and defeased, then the Loan Agreement Payments hereunder shall also be deemed to have been paid, the Governmental Unit's payment obligations hereunder shall be terminated, this Loan Agreement and all obligations contained herein shall be discharged and the pledge hereof released. Such payment shall be deemed made when the Governmental Unit has deposited with an escrow agent, in trust, (i) moneys sufficient to make such payment, and/or (ii) noncallable Government Obligations maturing as to principal and interest in such amount and at such times as will ensure the availability of sufficient moneys to make such payment and when all necessary and proper expenses of the Finance Authority have been paid or provided for. In the event the Governmental Unit makes provisions for defeasance of this Loan Agreement, the Governmental Unit shall cause to be delivered (1) a report of an independent nationally recognized certified public accountant verifying the sufficiency of the escrow established to pay this Loan Agreement in full when due or upon an irrevocably designated prepayment date, and (2) an opinion of Bond Counsel to the effect that this Loan Agreement is no longer outstanding, each of which shall be addressed and delivered to the Finance Authority. Obligations within the meaning of this Section 8.2, unless otherwise approved by the Finance Authority, shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series - "SLGs"), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

# ARTICLE IX INDEMNIFICATION

From and to the extent of the Pledged Revenues, to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the Finance Authority and the Trustee harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition or operation of the Project during the Loan Agreement Term, from: (i) any act of negligence or other misconduct of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan Agreement proceeds and interest on the investment thereof. The Governmental Unit shall indemnify and save the Finance Authority and the Trustee harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Trustee, shall defend the Finance Authority or the Trustee, as applicable, in any such action or proceeding.

## ARTICLE X EVENTS OF DEFAULT AND REMEDIES

- Section 10.1 Events of Default Defined. Any one of the following shall be an Event of Default under this Loan Agreement:
- (a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable;
- (b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Governmental Unit by the Finance Authority or the Trustee unless the Finance Authority and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority or the Trustee but cannot be cured within the applicable thirty (30) day period, the Finance Authority and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default);
- (c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect;

- (d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;
- (e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or
- (f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.
- Section 10.2 <u>Remedies on Default</u>. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the Finance Authority or the Trustee may take any or all of the following actions as may appear necessary or desirable to collect the payments then due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement or the Intercept Agreement:
- (a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the Finance Authority and the Trustee under this Loan Agreement and the Intercept Agreement against the Governmental Unit, and compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or
- (b) By suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Finance Authority or the Trustee; or
- (c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or
- (d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues; or
- (e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or to enforce any other of its rights thereunder; or
- (f) Apply any amounts in the Program Account toward satisfaction of any of the obligations of the Governmental Unit under this Loan Agreement.

Section 10.3 <u>Limitations on Remedies</u>. A judgment requiring a payment of money entered against the Governmental Unit may reach only the available Pledged Revenues.

Section 10.4 No Remedy Exclusive. Subject to Section 10.3 hereof, no remedy herein conferred upon or reserved to the Finance Authority or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority or the Trustee to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.

Section 10.5 <u>Waivers of Events of Default</u>. The Finance Authority or the Trustee may in its discretion waive by written waiver any Event of Default hereunder and the consequences of such an Event of Default provided, however, that there shall not be waived: (i) any Event of Default in the payment of the principal of this Loan Agreement at the date when due as specified herein; or (ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver or rescission, all arrears of interest, with interest at the rate borne by this Loan Agreement on all arrears of payments of principal and all expenses of the Finance Authority or the Trustee, in connection with such Event of Default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Finance Authority or the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Finance Authority and the Trustee shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 <u>No Additional Waiver Implied by One Waiver</u>. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Governmental Unit shall default under any of the provisions hereof and the Finance Authority or the Trustee shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit herein contained, the Governmental Unit agrees that it shall on demand therefor pay to the Finance Authority or the Trustee, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

#### ARTICLE XI MISCELLANEOUS

- Section 11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows: if to the Governmental Unit, 700 East Roosevelt, Suite 50, Grants, New Mexico 87020, Attention: County Clerk; if to the Finance Authority, New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and if to the Trustee, BOKF, NA, 100 Sun Avenue NE, Suite 500, Albuquerque, New Mexico 87109, Attention: Trust Division. The Governmental Unit, the Finance Authority, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.
- Section 11.2 <u>Binding Effect</u>. This Loan Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Governmental Unit and their respective successors and assigns, if any.
- Section 11.3 <u>Amendments</u>. The Governmental Unit agrees that this Loan Agreement will not be amended without the prior written consent of the Finance Authority, and, if the Loan has been pledged under the Indenture (as defined herein), without the prior written consent of the Trustee (as defined herein), the Finance Authority and the Governmental Unit, pursuant to the Indenture.
- Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Finance Authority, either directly or through the Finance Authority, or against any officer, employee, director, trustee or member of the Governing Body, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director, trustee or member of the Governing Body or of the Finance Authority is hereby expressly waived and released by the Governmental Unit and by the Finance Authority as a condition of and in consideration for the execution of this Loan Agreement.
- Section 11.5 <u>Severability</u>. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- Section 11.6 <u>Execution in Counterparts</u>. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- Section 11.7 <u>Assignment by the Finance Authority</u>. Pursuant to the Indenture, this Loan Agreement and the Intercept Agreement may be assigned and transferred by the Finance

Authority to the Trustee, which assignment and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 <u>Compliance with Governing Law</u>. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 <u>Applicable Law</u>. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 <u>Captions</u>. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

(Signature pages follow)

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and as approved by the Board of Directors of the Finance Authority on December 16, 2021, has executed this Loan Agreement in its corporate name by its duly authorized officer; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed and attested by its duly authorized officers. All of the above are effective as of the date first above written.

	NEW MEXICO FINANCE AUTHORITY
	By: Marquita D. Russel, Chief Executive Officer
	Marquita D. Russel, Chief Executive Officer
PREPARED FOR EXECUTION BY OFF OF THE NEW MEXICO FINANCE AUT Sutin, Thayer & Browne A Professional C As Loan Counsel	THORITY:
Ву:	
Suzanne Wood Bruckner	
APPROVED FOR EXECUTION BY OF THE NEW MEXICO FINANCE AUTHO	
Ву:	
Daniel C. Opperman	
Chief Legal Officer	

## CIBOLA COUNTY, NEW MEXICO

	By:
	Daniel J. Torrez, Chairman
[SEAL]	· · · · · · · · · · · · · · · · · · ·
ATTEST:	
By: Michelle Dominguez, County Clerk	

#### EXHIBIT "A"

#### TERM SHEET

New Mexico Finance Authority Loan No. PPRF-5708

Governmental Unit:

Cibola County, New Mexico

Project Description:

To purchase and install an HVAC system in the Governmental Unit's administration building for use by the

Governmental Unit.

Loan Agreement

Principal Amount:

\$1,777,778

Disadvantaged Funding Amount:

\$177,778

Pledged Revenues:

The revenues of the one-eighth of one percent (0.125%) of County Local Option Gross Receipts Tax enforceable under Section 7-20E-9, NMSA 1978, as amended, and Ordinance No. 88-3 approved by the Governmental Unit on August 4, 1988 as amended by Ordinance 02-03, approved

by the Governmental Unit on July 22, 2002.

Coverage Ratio:

125%

Distributing State Agency:

State of New Mexico Taxation and Revenue Department

Authorizing Legislation:

Ordinance No. adopted on February 24, 2022

Closing Date:

April 8, 2022

Blended Interest Rate:

1.460301%

Program Account Deposit:

\$1,600,000

Loan Agreement Reserve

Account Deposit:

\$177,777.80

Finance Authority Debt Service

Account Deposit:

\$0.20

First Interest Payment Date:

May 1, 2022

First Principal Payment Date:

May 1, 2022

Final Payment Date:

May 1, 2031

PROGRAM ACCOUNT DEPOSITS MUST BE USED WITHIN THREE YEARS UNLESS A LATER DATE IS APPROVED IN WRITING TO THE TRUSTEE AND THE FINANCE AUTHORITY BY BOND COUNSEL TO THE FINANCE AUTHORITY

### EXHIBIT "B"

# DEBT SERVICE SCHEDULE FOR LOAN REPAYMENT

[SEE ATTACHED]

## EXHIBIT "C"

## FORM OF REQUISITION

RE:	\$1,777,778 Loan Agreement by and between Cibola County, New Mexico, and the New Mexico Finance Authority (the "Loan Agreement").
TO:	BOKF, NA c/o New Mexico Finance Authority PPRF@nmfa.net
You a (2022 follow	re hereby authorized to disburse from the Program Account – Cibola County, New Mexico Building HVAC Loan), with regard to the above-referenced Loan Agreement the ring:
LOAN	NO.: PPRF-5708 CLOSING DATE: April 8, 2022
REQU	JISITION NUMBER:
NAM	E AND ADDRESS OF PAYEE:
	UNT OF PAYMENT: \$
	OSE OF PAYMENT:
Each o	obligation, item of cost or expense mentioned herein is for costs of the Project, is due and e, has not been the subject of any previous requisition and is a proper charge against the m Account – Cibola County, New Mexico (2022 Building HVAC Loan).
uue ai	presentations contained in the Loan Agreement and the related closing documents remained correct and Cibola County, New Mexico, is not in breach of any of the covenants ned therein.
Cibora	is the final requisition, payment of costs of the Project is complete or, if not complete, County, New Mexico, shall, and understands its obligation to, complete the acquisition of ject from other legally available funds.
Capita	lized terms used herein, are used as defined or used in the Loan Agreement.
DATE	D: By:
	D: By: Authorized Officer of Borrower Title:

Print Name and Title

#### EXHIBIT "D"

#### CERTIFICATE OF COMPLETION

RE: \$1,777,778 Loan Agreement by and between Cibola County, New Mexico, and the New Mexico Finance Authority (the "Loan Agreement").

TO: New Mexico Finance Authority <u>PPRF@nmfa.net</u>

> Susen Ellis Vice President, Corporate Trust BOKF, NA 100 Sun Avenue NE, Suite 500 Albuquerque, New Mexico 87109

LOAN NO.: PPRF-5708

CLOSING DATE: April 8, 2022

In accordance with Section 6.3 of the Loan Agreement, the undersigned states, to the best of his or her knowledge, that the acquisition of the Project has been completed and accepted by the Governmental Unit, and all costs have been paid as of the date of this Certificate. Notwithstanding the foregoing, this certification is given without prejudice to any rights against third parties which exist at the date of this Certificate or which may subsequently come into being.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED:	By:	
		Authorized Officer of Governmental Unit
	Title:	
	-	Print Name and Title



#### EXHIBIT "B"

#### NEW MEXICO FINANCE AUTHORITY TAX REPRESENTATIONS CERTIFICATE

The undersigned hereby certifies as follows with respect to the \$1,777,778 Loan Agreement dated April 8, 2022 (the "Loan") from the New Mexico Finance Authority (the "Finance Authority") to Cibola County, New Mexico (the "Governmental Unit");

- 1. The Finance Authority is making the Loan for its own account (and not on behalf of another) in the principal amount of \$1,777,778, without accrued interest. The Finance Authority is not acting as an Underwriter with respect to the Loan. The Finance Authority has no present intention to sell, reoffer, or otherwise dispose of the Loan (or any portion of the Loan or any interest in the Loan). The Finance Authority has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Loan and the Finance Authority has not agreed with the Governmental Unit pursuant to a written agreement to sell the Loan to persons other than the Finance Authority, therefore the "issue price" of the Loan is \$1,777,778.
- 2. The Arbitrage Yield on the Loan, calculated in accordance with the applicable U.S. Treasury Regulations from interest to be paid on the Loan, is 1.4628%.
- 3. Funding the Loan Agreement Reserve Account with proceeds of the Loan in the amount of \$177,777.80 was required by the Finance Authority as a condition of making the Loan, and is, in the best judgment of the undersigned, reasonably required to provide the Loan at a reasonable interest rate for the Governmental Unit and is, in the best judgment of the undersigned, established at a level of funding comparable to that found for obligations of similar credit quality as the Loan which were issued or originated within the past year.
- 4. The Weighted Average Maturity of the Loan, calculated in accordance with the applicable U.S. Treasury Regulations, is 5.152 years.
- 5. The undersigned understands that the statements made herein will be relied upon by the Governmental Unit in its effort to complete the Information Return for Tax-Exempt Governmental Obligations (Form 8038-G), required to be filed for the Loan pursuant to the Internal Revenue Code of 1986, as amended, and with regard to establishing facts and circumstances relied on by the Governmental Unit and bond counsel in connection with the execution and delivery of the Loan and the exclusion of interest on the Loan from gross income for federal income tax purposes. Such reliance is hereby authorized and approved.

Dated this 8th day of April, 2022.

NEW	MEXICO	FINANCE A	UTHORITY

By:
Marguita D. Russel, Chief Executive Officer



# \$1,777,778 CIBOLA COUNTY, NEW MEXICO NEW MEXICO FINANCE AUTHORITY PUBLIC PROJECT REVOLVING FUND LOAN Loan No. PPRF-5708

Closing Date: April 8, 2022

# TRANSCRIPT OF PROCEEDINGS INDEX

1.	Open Meeting Act Resolution No adopted, 20
2.	Loan Ordinance No, adopted February 24, 2022, Agenda, and the Affidavits of Publication of the Notice of Intent to Adopt Ordinance and the Notice of Adoption of Ordinance in the Cibola Citizen
3.	Loan Agreement
4.	Intercept Agreement
5.	General and No Litigation Certificate
6.	Arbitrage and Tax Certificate with Form 8038-G and evidence of filing and Finance Authority Tax Representations Certificate
7.	Delivery, Deposit and Cross-Receipt Certificate
8.	Approving Opinion of Sutin, Thayer & Browne A Professional Corporation, Loan Counsel to the Finance Authority
9.	Finance Authority Application and Project Approval (informational only)

#### TRANSCRIPT DISTRIBUTION LIST

Cibola County, New Mexico New Mexico Finance Authority BOKF, NA Sutin, Thayer & Browne A Professional Corporation



# CIBOLA COUNTY, NEW MEXICO RESOLUTION NO.

DECLARING THE INTENT OF THE BOARD OF COUNTY COMMISSIONERS OF CIBOLA COUNTY, NEW MEXICO (THE "COUNTY") TO CONSIDER FOR ADOPTION AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE COUNTY AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE COUNTY TO PAY A PRINCIPAL AMOUNT NOT TO EXCEED \$1,777,778, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COSTS OF PURCHASING AND INSTALLING AN HVAC SYSTEM IN THE COUNTY ADMINISTRATION BUILDING LOCATED IN GRANTS, NEW MEXICO AND TO FUND A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL OF, AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE DISTRIBUTION OF A ONE-EIGHTH OF ONE PERCENT INCREMENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX; AND AUTHORIZING AND DIRECTING THE PUBLICATION OF A NOTICE OF MEETING TO CONSIDER FINAL PASSAGE OF AN ORDINANCE AUTHORIZING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY.

WHEREAS, Sections 4-62-1 through 4-62-10, NMSA 1978 (the "Act"), authorize New Mexico counties to issue gross receipts tax revenue bonds which, pursuant to the Act, may include loan agreements; and

WHEREAS, pursuant to the Act, the County may secure its gross receipts tax revenue bonds with the revenues of a one-eighth of one percent (0.125%) increment of County Local Option Gross Receipts Tax originally imposed by Ordinance No. 88-3 adopted on August 4, 1988 pursuant to Section 7-20E-9, NMSA 1978, as amended, which Ordinance has been amended by Ordinance No. 02-03 adopted on July 22, 2002; and

WHEREAS, the County desires to consider for adoption an ordinance authorizing, in accordance with the Act (the "Ordinance"), the execution and delivery of a Loan Agreement and an Intercept Agreement by and between the Finance Authority and the County in a principal amount of up to \$1,777,778; and

WHEREAS, Section 4-37-7, NMSA 1978, requires that publication of the title and general summary of the subject matter of any proposed ordinance be made in a newspaper of general circulation within the County at least two weeks prior to the meeting of the Board of County Commissioners at which the ordinance is proposed for final passage.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, THE GOVERNING BODY OF CIBOLA COUNTY, NEW MEXICO:

Section 1. All action (not inconsistent with the provisions hereof) heretofore taken by the Board of County Commissioners of Cibola County and the officers thereof directed toward the authorization, execution and delivery of the Loan Agreement and Intercept Agreement for such purposes, be and the same is hereby ratified, approved and confirmed.

Section 2. The publication, in accordance with Section 4-37-7, NMSA 1978, as amended, in the *Cibola Citizen*, a newspaper of general circulation within the County, of the following Notice at least two weeks prior to the meeting at which the Board of County Commissioners will consider the Ordinance, is hereby authorized.

[Form of Notice for Publication]

# CIBOLA COUNTY, NEW MEXICO NOTICE OF MEETING AND INTENT TO ADOPT ORDINANCE

Cibola County, New Mexico, hereby gives notice of a regular Board of County Commissioners meeting for Thursday, February 24, 2022 at 5:00 p.m., in the Cibola County Commission Chamber Room, located at 700 East Roosevelt Avenue, Grants, New Mexico. At such meeting the Board of County Commissioners will hold a public hearing concerning and will consider for adoption the Ordinance described below. Complete copies of the proposed Ordinance are available for public inspection during the normal and regular business hours of the County Clerk, 700 East Roosevelt Avenue, Grants, New Mexico.

The title of the proposed Ordinance is:

# CIBOLA COUNTY, NEW MEXICO ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN CIBOLA COUNTY, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND **MEXICO** FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$1,777,778 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING AND INSTALLING AN HVAC SYSTEM IN THE COUNTY ADMINISTRATION BUILDING LOCATED IN GRANTS, NEW MEXICO AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM ONE-EIGHTH OF ONE PERCENT OF COUNTY LOCAL OPTION GROSS RECEIPTS TAX IMPOSED PURSUANT TO SECTION 7-20E-9, NMSA 1978, DISTRIBUTED TO THE GOVERNMENTAL UNIT BY THE STATE TAXATION AND REVENUE DEPARTMENT; PROVIDING FOR THE DISTRIBUTION TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON

THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

This Notice constitutes compliance with Section 4-37-7, NMSA 1978, as amended.

Michelle Dominguez, County Clerk Cibola County, New Mexico

## [End of Form of Notice for Publication]

Section 3. The Loan Agreement provides a principal loan amount of up to \$1,777,778, and shall evidence a special, limited obligation to pay its principal amount, together with interest due under the Loan Agreement.

Section 4. The Ordinance shall be filed with the County Clerk, and shall be considered by the County at a regular meeting of the County on Thursday, February 24, 2022 at 5:00 p.m., or as soon thereafter as the matter may be heard, in the Cibola County Commission Chamber Room, 700 East Roosevelt Avenue, Grants, New Mexico.

[Remainder of page intentionally left blank]

[Signature page follows]

# PASSED AND ADOPTED this 27<sup>th</sup> day of January, 2022.

## CIBOLA COUNTY, NEW MEXICO

	By:
	Daniel J. Torrez, Chairman
	Board of County Commissioners
[SEAL]	
ATTEST:	
By:	
Michelle Dominguez, County C	lerk

STATE OF NEW MEXICO	)
	) ss.
COUNTY OF CIBOLA	)

- I, Michelle Dominguez, County Clerk of Cibola County, New Mexico, do hereby certify:
- 1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the "Board") of the County, constituting the governing board of the County, had and taken at a duly called regular, open meeting of the Board held in the County Commission Chamber Room, 700 East Roosevelt Avenue, Grants, New Mexico, being the regular meeting place of the Board on January 27, 2022 beginning at 5:00 p.m., insofar as the same relate to the publication of the title and general summary of a proposed ordinance, a copy of which is set forth in the official records of the proceedings of the County kept in my office. None of the action taken has been rescinded, repealed, or modified.
- 2. Said proceedings were duly had and taken as therein shown, the meeting thereon was duly held, and the persons therein named were present at said meeting as therein shown.
- 3. Notice of said meeting was given in compliance with the permitted methods of giving notice of meetings of the Board as required by the open meetings standards then in effect.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County of Cibola, New Mexico, this 27<sup>th</sup> day of January, 2022.

Michelle Dominguez, County Clerk	-

[SEAL]