

A G E N D A

... for the Regular Meeting of the Farmington City Council to be held at 6:00 p.m., Tuesday, October 11, 2016 in the Council Chamber, City Hall, 800 Municipal Drive, Farmington, New Mexico. . .

1. Roll Call and Convening the Meeting:
2. Invocation: Pastor Ken Weisheit of Aztec Church of the Nazarene.
3. Pledge of Allegiance:
4. Acceptance of Consent Agenda: Those items on the agenda that are marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on without discussion with one motion. If any item proposed does not meet with approval of all Councilors or if a citizen so requests, that item will be heard under Business from the Floor.
5. *Approval of Minutes for:
 - (a) the Regular Meeting of the City Council held September 27, 2016; ----6
 - (b) the Special Meeting of the City Council held September 22, 2016;
and-----7
 - (c) the Regular Work Session of the City Council held September 20,
2016. -----8
6. *Approval of Grant Agreement between the City and the New Mexico Department of Transportation for funding for the following projects: 1) End Driving While Impaired (No. 17-AL-64-035) in the amount of \$79,000; 2) Buckle Up/Click It or Ticket (No. 17-OP-RF-035) in the amount of \$12,400; and 3) Selective Traffic Enforcement Program/100 Days and Nights of Summer (No. 17-ST-02-035) in the amount of \$31,000. Project terms expire September 30, 2017. -----1
7. *Approval for Adoption of Resolution No. 2016-1607 for sponsorship for a Transportation Alternatives Program application and maintenance commitment declaring the eligibility and intent of the City to submit an application to the New Mexico Department of Transportation for funding from the Federal Fiscal Year 2016/2017 Transportation Alternatives Program (TAP) for the Downtown Farmington Revitalization – Complete Streets project. -----2
8. *Approval for Adoption of Resolution No. 2016-1608 for sponsorship for a Transportation Alternatives Program application and maintenance commitment declaring the eligibility and intent of the City to submit an application to the New Mexico Department of Transportation for funding from the Federal Fiscal Year 2017/2018 Transportation Alternatives Program (TAP) for the Anesi Park – Trail Development and Connections project. -----3

8a. *Approval for Adoption of Resolution No. 2016-1609 for sponsorship for a Transportation Alternatives Program application and maintenance commitment declaring the eligibility and intent of the City to submit an application to the New Mexico Department of Transportation for funding from the Federal Fiscal Year 2018/2019 Transportation Alternatives Program (TAP) for the 20th Street Pedestrian Enhancement Project, Phase III (north side of Sullivan Avenue to Dustin Avenue). ----- **3a**

8b. *Approval for Adoption of Resolution No. 2016-1610 for sponsorship for a Transportation Alternatives Program application and maintenance commitment declaring the eligibility and intent of the City to submit an application to the New Mexico Department of Transportation for funding from the Federal Fiscal Year 2018/2019 Transportation Alternatives Program (TAP) for the Foothills Drive Enhancement Project, Phase II (Rinconada Street to Mesa Del Oso). ----- **3b**

9. *Approval of Warrants up to and including October 8, 2016.

10. Proclamation declaring October 13, 2016 as “Desk and Derrick Day.”

11. New Business:

(a) Mayor

(b) Councilors

(c) City Manager

(1) Proposed Ordinance – Discussion

-authorizing the issuance, sale and delivery of the City of Farmington, New Mexico Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016 in an aggregate principal amount not to exceed \$17,500,000 for the purpose of defraying the cost of designing, constructing, installing, equipping and improving Convention Center facilities owned by the City; providing that the bonds will be payable from State shared gross receipts tax revenues distributed to the City pursuant to Section 7-1-6.4 NMSA 1978, hold harmless gross receipts tax revenues distributed to the City pursuant to Section 7-1-6.12 NMSA 1978, and Convention Center fee revenues collected by the City pursuant to Sections 5-13-1 through 5-13-15 NMSA 1978 and City Ordinance No. 2014-1272; providing that the maturity dates, principal amounts, interest rates, redemption provisions and other details of the bonds will be established in a supplemental resolution; providing for the execution of the bonds and other documents and agreements relating to the bonds by authorized officers of the City; ratifying action previously taken in connection therewith; and repealing all ordinances in conflict herewith (Final action October 25, 2016) ----- **4**

(d) City Attorney

(e) City Clerk

12. Business from the Floor:

(1) Items removed from Consent Agenda for discussion.

(2) Any other Business from the Floor.

13. Closed Meeting to discuss request for proposals for a high definition laser scanning survey bundle, pursuant to Section 10-15-1H(6) NMSA 1978.

14. Proposal: Recommendation from the Chief Procurement Officer to commence negotiations on the proposal for a high definition laser scanning survey bundle (Electric) with Vectors, Inc. as the sole proposal is deemed to be advantageous and in the best interest of the City. Proposals opened September 7, 2016. -----5

15. Adjournment.

AGENDA ITEM SUPPORT MATERIALS ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE AT THE OFFICE OF THE CITY CLERK, 800 MUNICIPAL DRIVE, FARMINGTON, NEW MEXICO.

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 599-1106 or 599-1101 prior to the meeting so that arrangements can be made.

CONTRACT NUMBER: _____

GRANTEE DUNS NUMBER: 800376346

GRANT AGREEMENT

This grant agreement is between the New Mexico Department of Transportation (the "**Department**") and City of Farmington (the "**Grantee**"). The Department and the Grantee agree as follows:

1. **Award.** The Department hereby awards the Grantee funding for the following projects:
 - a. End Driving While Impaired ("**ENDWI**"), Project No. 17-AL-64-035, \$79,000.00
 - b. Buckle Up ("**BKLUP**")/Click It or Ticket ("**CIOT**"), Project No. 17-OP-RF-035, \$12,400.00;
 - c. Selective Traffic Enforcement Program ("**STEP**")/100 Days and Nights of Summer ("**DNOS**"), Project No. 17-ST-02-035, \$31,000.00;
 - d. Total Funding awarded per this agreement \$122,400.00.

2. **Scope of Work.** The Grantee shall perform the professional services stated in the following exhibits: ENDWI, exhibit A; BKLUP/CIOT, exhibit B; STEP/DNOS, exhibit C;

3. **Payment.** To be reimbursed for eligible expenses, the Grantee must submit timely, properly prepared reimbursement requests as provided in the Department's Traffic Safety Bureau Financial Management Manual. The Grantee acknowledges that the Department will not pay for any expenses incurred prior to both parties signing the agreement, after termination of the agreement, or in excess of the amount of the award noted in section 1. The Grantee must submit its final reimbursement request no later than thirty days after termination of this agreement, unless otherwise approved by the Department.

4. **Records and Audit.** The Grantee shall strictly account for all receipts and disbursements related to this agreement. The Grantee shall record costs incurred, services rendered and payment received, and shall maintain these financial records during the agreement and for three years from the date of submission of the final reimbursement request. On request, the Grantee shall provide the financial records to the Department and the state auditor, and shall allow the Department and the state auditor to inspect or audit these financial records during business hours at the Grantee's principal office during the agreement and for three years from the date of submission of the final reimbursement request. If the financial records provided by the Grantee are insufficient to support an audit by customary accounting practices, the Grantee shall reimburse the Department for any expense incurred related to the insufficient documentation within thirty days of written notice from the Department. If an audit or inspection reveals that funds were used for expenses not directly related to the project, or otherwise used inappropriately, or that payments were excessive or otherwise erroneous, the Grantee shall reimburse the Department for those funds or payments

within thirty days of written notice.

5. Officials Not to Benefit. The parties intend that no member of the New Mexico legislature or the United States Congress, or any public official, public employee or tribal council member, in that person's individual capacity, will benefit from this agreement.

6. Termination. The Department may terminate this agreement for any reason, by giving the Grantee thirty days written notice. The Grantee may only terminate this agreement based on the Department's uncured, material breach of the agreement. On receipt of a "Notice of Cancellation," the Grantee shall suspend work unless otherwise directed by the Department in writing. The parties acknowledge that termination will not nullify obligations incurred prior to termination.

7. Appropriations. The Grantee acknowledges that:

- a. this agreement is contingent upon sufficient appropriations and authorizations being made by the Congress of the United States or the New Mexico state legislature;
- b. if sufficient appropriations and authorizations are not made, this agreement will terminate upon written notice by the Department to the Grantee; and
- c. the Department will not expend any funds until they are approved for expenditure, and the Department's determination as to whether approval has been granted will be final.

8. Compliance with Law. The Grantee, its employees, agents and contractors, shall comply with the following:

- a. Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, and 49 C.F.R. § 21;
- b. all federal and state laws, rules, and regulations, and executive orders of the Governor of the state of New Mexico pertaining to equal employment opportunity, including the Human Rights Act, NMSA 1978, §§ 28-1-1 through -15 (In accordance with such, the Grantee states that no person, on the grounds of race, religion, national origin, sex, sexual orientation, gender identity, spousal affiliation, serious medical condition, age or handicap, will be excluded from employment with or participation in, denied the benefits of, or otherwise subjected to, discrimination in any activity performed under this agreement. If the Grantee it is found to be in violation of any of these requirements, the Grantee shall take prompt and appropriate steps to correct such violation.);
- c. state laws applicable to workers compensation benefits for the Grantee's employees, including the Workers' Compensation Act, NMSA 1978, §§ 52-1-1 through -70, and related regulations; and
- d. 2 C.F.R. Subpart F §200.500 - §200.521 audit requirements.

9. Notices. For a notice under this agreement to be valid, it must be in writing; be delivered by hand, registered or certified mail return receipt requested and postage prepaid, fax or e-mail; and be addressed as follows:

to NMDOT at:
New Mexico Dept. of Transportation
Attn: Traffic Safety Division
P.O. Box 1149
Santa Fe, NM 87504

to the Grantee at:
City of Farmington
Attn: Sgt. Kenneth Raybon
900 Municipal Dr.
Farmington, NM 87401

10. Severability. The parties intend that if any provision of this agreement is held to be unenforceable, the rest of the agreement will remain in effect as written.

11. Tort Claims. The parties intend that (1) immunity from liability for tortious conduct under NMSA 1978, § 41-4-4(A) will apply to all conduct relating to this agreement, (2) only the waivers of immunity from liability under NMSA 1978, §§ 41-4-4 through -12 will apply, and (3) this agreement does not waive immunity from liability for tortious conduct relating to this agreement of any employee of the Department or the Grantee.

12. Jurisdiction and Venue. The Grantee acknowledges the jurisdiction of the courts of the state of New Mexico for any adversarial proceeding arising out of this agreement, and that venue for any such proceeding will be in the First Judicial District Court for the county of Santa Fe, New Mexico.

13. Project Responsibility. The Grantee acknowledges that it bears sole responsibility for performing the services referred to in section 2.

14. Term. This agreement takes effect upon signature of all parties. If the Grantee does not deliver the signed agreement to the Department within sixty days of the Department's signature, the agreement will be voidable by the Department. The agreement terminates at midnight on September 30, 2017, unless earlier terminated as provided in section 6 or section 7.

15. Applicable Law. The laws of the state of New Mexico, without giving effect to its choice of law principles, govern all adversarial proceedings arising out of this agreement.

16. Amendment. No amendment of this agreement will be effective unless it is in writing and signed by the parties.

17. No Third-party Beneficiary. This agreement does not confer any rights or remedies on anyone other than the Department and the Grantee.

18. Merger. This agreement constitutes the entire understanding between the parties with respect to the subject matter of the agreement and supersedes all other agreements, whether written or oral, between the parties, except that this agreement does not supersede the Grantee's

respect to the subject matter of the agreement and supersedes all other agreements, whether written or oral, between the parties, except that this agreement does not supersede the Grantee's rights under any other grant agreement.

19. Disadvantaged Business Enterprise. The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Each party is signing this agreement on the date stated opposite that party's signature.

DEPARTMENT OF TRANSPORTATION

Date: _____, 2016

By: _____
Cabinet Secretary or Designee

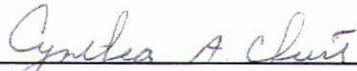
CITY OF FARMINGTON

Date: _____, 2016

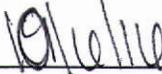
By: _____
Title: Mayor

Approved as to form and legal sufficiency.

Date: 9-22, 2016

By: 
Assistant General Counsel
Department of Transportation

Approved as to form and legal sufficiency.

Date: , 2016

By: 
Counsel for City of Farmington

SCOPE OF WORK, TRAINING, REIMBURSEMENT AND REPORTING

END DRIVING WHILE IMPAIRED ("ENDWI") Project Number: 17-AL-64-035

1. Scope of Work. The Grantee shall conduct sobriety checkpoints (SCs) and DWI directed enforcement patrols (DDEPs) in high crash locations identified in data compiled by local, state or federal government agencies and included the Grantee's Operational Plan. The Department encourages the Grantee to accompany SCs and DDEPs with public information, media and educational activities. SCs must be scheduled to be staffed by at least 6 officers and must last at least 5 hours. If for any reason, the SC is not staffed with the minimum number of officers or was not conducted for the minimum number of hours, the Grantee must submit a justification with the invoice for these services. The Department may chose to deny the invoice for SCs based on the justification. DDEPs must deploy officers in high crash locations consistant with the operational plan. If for any reason, the DDEPs were conducted in areas not consistant with the operational plan, the Grantee must submit a justification with the invoice for these services. The Department may chose to deny the invoice for DDEPs based on the justification. The Grantee is encourage to schedule SCs and DDEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, and National DWI Mobilizations as identified below:

2. Definitions. For purposes of this exhibit, the following definitions apply:

"Winter Superblitz Period" means November 11, 2016 to January 4, 2017.

"St. Patrick's Day Mini Superblitz Period" means March 11 to March 18, 2017.

"Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2017.

"Fourth of July Mini Superblitz Period" means July 1 to July 8, 2017.

"National DWI Mobilization Period" means August 18 to September 3, 2017.

"Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the grant agreement.

"Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistant with the agency's operational plan.

"Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

3. Training and qualifications. The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee

should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. Reimbursement. The Department will pay the Grantee for the actual cost of personnel that worked the SCs and DDEPs. Claims for payment must specify officers' actual hourly rate of pay including overtime pay (hourly rate X 1.5); the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31st 2017. If the final claim is submitted after October 31, 2017, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

- a. pay, including overtime, for officers conducting traffic safety DWI enforcement in areas consistent with the operational plan;
- b. pay, including overtime, for officers attendance at administrative license revocation hearings and court hearings directly related to arrests made while participating in the ENDWI program; and
- c. administrative costs, including overtime costs for officers or civilian employees to dispatch or process paperwork directly related to the project, up to 10 percent of the total monthly claim amount.

5. Reporting. The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department. Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, § 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, § 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. Funding. The Department expects the funding source to be 23 U.S.C. § 164 and the Catalog of Federal Domestic Assistance (CFDA) number to be 20.608. However, both funding source and CFDA number are subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	\$79,000.00
Contractual Services	\$0.00
Commodities	\$0.00
Indirect	\$0.00

Other	\$0.00
TOTAL	\$79,000.00

7. **Goals.** The Department's performance goals for the state are to reduce alcohol-impaired fatalities by 4 percent from 107 in 2014 to 103 by December 31, 2017. (FARS)(5-year averages)

8. **Equipment.** The Grantee may only purchase equipment under this agreement with prior approval of the Department.

SCOPE OF WORK, TRAINING, REIMBURSEMENT AND REPORTING

BUCKLE UP (BKLUP) and CLICK IT OR TICKET ("CIOT") Project Number: 17-OP-RF-035

1. Scope of Work. The Grantee shall conduct occupant protection directed enforcement patrols (ODEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the ODEPs with public information, media and educational activities. ODEPs must deploy officers in high crash locations consistent with the operational plan for occupant protection issues. If for any reason, the ODEPs were conducted in areas not consistent with the operational plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for ODEPs based on the justification. The Grantee is encouraged to schedule ODEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, National DWI Mobilizations and the National Click It or Ticket Mobilizations identified below:

2. Definitions. For purposes of this exhibit, the following definitions apply:

"Winter Superblitz Period" means November 11, 2016 to January 4, 2017.

"St. Patrick's Day Mini Superblitz Period" means March 11 to March 18, 2017.

"Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2017.

"Fourth of July Mini Superblitz Period" means July 1 to July 8, 2017.

"National DWI Mobilization Period" means August 18 to September 3, 2017.

"National Occupant Protection Mobilization Click It or Ticket period" means May 22 to June 4, 2017.

"Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the grant agreement.

"Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

"Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

3. Training and qualifications. The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The

Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. Reimbursement. The Department will pay the Grantee for the actual cost of personnel that worked the ODEPs. Claims for payment must specify officers' actual hourly rate of pay including overtime pay (hourly rate X 1.5); the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31st 2017. If the final claim is submitted after October 31, 2017, the claim must be accompanied by a justification letter. The Department may chose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

- a. pay, including overtime, for officers conducting traffic safety occupant protection focused enforcement in areas consistant with the operational plan;
- b. attendance at, and excess per diem for, operation safe kids training and the four-day NHTSA standardized child passenger safety training; and
- c. assistance at child safety seat clinics or car seat fitting stations.

5. Reporting. The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department. Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, § 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, § 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. Funding. The Department expects the funding source to be state road fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	\$12,400.00
Contractual Services	\$0.00
Commodities	\$0.00
Indirect	\$0.00
Other	\$0.00
TOTAL	\$12,400.00

7. Goals. The Department's performance goals for the state are to:

Traffic Safety Division

a. Reduce unrestrained occupant fatalities by 8 percent from 103 in 2014 to 95 by December 31, 2017. (FARS)(5-year averages)

b. Increase seatbelt use by 0.2 percent from 93.3 percent in 2015 to 93.5 percent by December 31, 2017. (State)(Annual data)

8. Equipment. The Grantee may only purchase equipment under this agreement with prior approval of the Department.

SCOPE OF WORK, TRAINING, REIMBURSEMENT AND REPORTING

SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (“STEP”) and 100 DAYS AND NIGHTS OF SUMMER (“DNOS”) Project Number: 17-ST-02-035

1. Scope of Work. The Grantee shall conduct directed enforcement patrols (DEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee’s Operational Plan. The Department encourages the Grantee to accompany the DEPs with public information, media and educational activities. DEPs must deploy officers in high crash locations consistent with the Operational Plan. If for any reason, the DEPs were conducted in areas not consistent with the Operational Plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DEPs based on the justification.

2. Definitions. For purposes of this exhibit, the following definitions apply:

“Agency Coordinator” means the person assigned by the Grantee to assume direct responsibility for administering all phases of the grant agreement.

“Directed Enforcement Patrols” means activities that enforce traffic laws in areas consistent with the agency’s operational plan.

“Operational Plan” means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

3. Training and qualifications. The Agency Coordinator must attend the Department’s Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee’s participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. Reimbursement. The Department will pay the Grantee for the actual cost of personnel that worked the DEPs. Claims for payment must specify officers’ actual hourly rate of pay including overtime pay (hourly rate X 1.5); the Department will not pay any amount in excess of that rate or for any amount that was not above and beyond the officer’s normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31st 2017. If the final claim is submitted after October 31, 2017, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

a. Pay, including overtime pay, for officers conducting the traffic safety enforcement described in paragraph 1 of this exhibit C; and

b. training for officers not previously trained in STEP.

5. Reporting. The Grantee must submit activity reports by the 10th of each month using the activity report form provided unless otherwise directed by the Department. Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, § 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, § 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. Funding – STEP (Execution of Agreement through September 30, 2017). The Department expects the funding source to be 23 U.S.C. § 402 and the Catalog of Federal Domestic Assistance (CFDA) number to be 20.600. However, both funding source and CFDA number are subject to change at the Department’s discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project’s itemized budget is as follows:

Personal Services	\$23,250.00
Contractual Services	\$0.00
Commodities	\$0.00
Indirect	\$0.00
Other	\$0.00
TOTAL	\$23,250.00

7. Funding – DNOS (June 23rd through September 30th 2017) The Department expects the funding source to be 23 U.S.C. § 402 and the Catalog of Federal Domestic Assistance (CFDA) number to be 20.600. However, both funding source and CFDA number are subject to change at the Department’s discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project’s itemized budget is as follows:

Personal Services	\$7,750.00
Contractual Services	\$0.00
Commodities	\$0.00
Indirect	\$0.00
Other	\$0.00
TOTAL	\$7,750.00

8. Goals. The Department’s performance goals for the state are as follows:

- a. Reduce speeding-related fatalities by 3 percent from 132 in 2014 to 128 by December 31, 2017. (FARS)(5-year averages)
- b. Reduce alcohol-impaired fatalities by 4 percent from 107 in 2014 to 103 by December 31, 2017. (FARS)(5-year averages)
- c. Increase seatbelt use by 0.2 percent from 93.3 percent in 2015 to 93.5 percent by December 31, 2017. (State)(Annual data)
- d. Decrease the number of distracted driving-related fatalities by 10 percent from 114 in 2014 to 103 by December 31, 2017. (State)(5-year averages)

9. Equipment. The Grantee may only purchase equipment under this agreement with prior approval of the Department.

**APPENDIX A TO PART 1300—
CERTIFICATIONS AND ASSURANCES
FOR HIGHWAY SAFETY GRANTS
(23 U.S.C. CHAPTER 4; SEC. 1906, PUB. L. 109-59,
AS AMENDED BY SEC. 4011, PUB. L. 114-94)**

[Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.]

State: New Mexico

Fiscal Year: 2017

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended
- Sec. 1906, Public Law 109-59, as amended by Sec. 4011, Public Law 114-94
- 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201—Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subaward and Executive Compensation Reporting, August 27, 2010, (https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;

- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
 - (i) the entity in the preceding fiscal year received—
 - (I) 80 percent or more of its annual gross revenues in Federal awards;
 - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
 - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), **and Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal aid recipients, sub-recipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities,

- public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100)).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted.
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- Agrees to comply (and require any of its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Insert in all contracts and funding agreements with other State or private entities the following clause:

“During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

 - a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;

- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- e. To insert this clause, including paragraphs a through e, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing a drug-free awareness program to inform employees about:
 - The dangers of drug abuse in the workplace.
 - The grantee's policy of maintaining a drug-free workplace.
 - Any available drug counseling, rehabilitation, and employee assistance programs.
 - The penalties that may be imposed upon employees for drug violations occurring in the workplace.
 - Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
- c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - Abide by the terms of the statement.
 - Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction.
- e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted—

- Taking appropriate personnel action against such an employee, up to and including termination.
 - Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who

fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(applies to subrecipients as well as States)

Instructions for Primary Certification (States)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the

meaning set out in the Definitions and coverage sections of 2 CFR part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification

Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase only steel, iron and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase

foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's Web site at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, DC metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its Web site at www.trafficsafety.org.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.
2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably

equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))

3. The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation. (23 U.S.C. 402(b)(1)(B))
4. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or for the benefit of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and for the benefit of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)
5. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))
6. The State will provide for an evidenced-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. (23 U.S.C. 402(b)(1)(E))
7. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:
 - Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to—
 - Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
 - Increase use of seatbelts by occupants of motor vehicles;
 - Submission of information regarding mobilization participation into the HVE Database;
 - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
 - An annual Statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
 - Development of Statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
 - Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a).
 - (23 U.S.C. 402(b)(1)(F))

8. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))
9. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4))

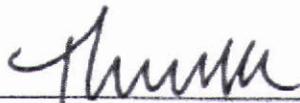
The State: [**CHECK ONLY ONE**]

Certifies that automated traffic enforcement systems are not used on any public road in the State;

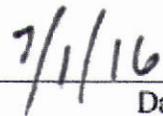
OR

Is unable to certify that automated traffic enforcement systems are not used on any public road in the State, and therefore will conduct a survey meeting the requirements of 23 CFR 1300.13(d)(3) AND will submit the survey results to the NHTSA Regional office no later than March 1 of the fiscal year of the grant.

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.



Signature Governor's Representative for Highway Safety



Date

Tom Church, Secretary, NMDOT

Printed name of Governor's Representative for Highway Safety

RESOLUTION NO. 2016-1607

A RESOLUTION DECLARING THE ELIGIBILITY AND INTENT OF THE CITY OF FARMINGTON TO SUBMIT AN APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR FEDERAL FISCAL YEAR 2016/2017 TRANSPORTATION ALTERNATIVE PROGRAM FUNDS

WHEREAS, the City of Farmington, New Mexico, has the legal authority to apply for, receive and administer federal funds; and

WHEREAS, the City of Farmington is submitting an application for Federal Fiscal Year 2016/2017 ("FFY16/17") New Mexico Transportation Alternative Program ("TAP") funds in the amount of \$2,000,000 as set forth by the Federal legislation, Moving Ahead for Progress in the 21st Century (MAP-21), and as outlined in the FFY16/17 New Mexico TAP Guide; and

WHEREAS, the Downtown Farmington Revitalization-Complete Streets Project named in the TAP application is an eligible project under New Mexico TAP and MAP-21; and

WHEREAS, the City of Farmington acknowledges availability of the required local match of 14.56% and the availability of funds to pay all upfront costs, since TAP is a cost reimbursement program; and

WHEREAS, the City of Farmington agrees to pay any costs that exceed the project amount if the application is selected for funding; and

WHEREAS, the City of Farmington agrees to maintain all projects constructed with TAP funding for the useable life of the project(s).

NOW, THEREFORE BE IT RESOLVED by the governing body of the City of Farmington, New Mexico, that:

1. The City of Farmington authorizes Tommy Roberts as Mayor to submit an application for FFY16/17 New Mexico TAP funds in the amount of \$2,000,000 from the New Mexico Department of Transportation ("NMDOT") on behalf of the citizens of the city of Farmington.
2. The City of Farmington assures NMDOT that if TAP funds are awarded, sufficient funding for the local match and for upfront project costs are available, since TAP is a reimbursement program, and that any costs exceeding the award amount will be paid for by the City of Farmington.
3. The City of Farmington assures NMDOT that if awarded TAP funds, sufficient funding for the operation and maintenance of TAP projects will be available for the life of the projects.
4. The Mayor of the City of Farmington is authorized to enter into a Cooperative Project Agreement with NMDOT for construction of TAP projects using these funds as set forth by MAP-21 on behalf of the citizens of the city of Farmington. The Mayor is also authorized to submit additional information as may be required and act as the official representative of the City of Farmington in this and subsequent related activities.
5. The City of Farmington assures NMDOT that the City of Farmington is willing and able to administer all activities associated with the proposed project.

PASSED, APPROVED, SIGNED AND ADOPTED this 11th day of October, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

RESOLUTION NO. 2016-1608

A RESOLUTION DECLARING THE ELIGIBILITY AND INTENT OF THE CITY OF FARMINGTON TO SUBMIT AN APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR FEDERAL FISCAL YEAR 2017/2018 TRANSPORTATION ALTERNATIVE PROGRAM FUNDS

WHEREAS, the City of Farmington, New Mexico, has the legal authority to apply for, receive and administer federal funds; and

WHEREAS, the City of Farmington, New Mexico, is submitting an application for Federal Fiscal Year 2017/2018 (FFY17/18) New Mexico Transportation Alternative Program ("TAP") funds in the amount of \$1,070,000 as set forth by the Federal legislation, Moving Ahead for Progress in the 21st Century (MAP-21), and as outlined in the FFY 17/18 New Mexico TAP Guide; and

WHEREAS, Anesi Park: Trail Development and Connections named in the TAP application are eligible project(s) under New Mexico TAP and MAP-21; and

WHEREAS, the City of Farmington acknowledges availability of the required local match of 14.56% and the availability of funds to pay all upfront costs, since TAP is a cost reimbursement program; and

WHEREAS, the City of Farmington agrees to pay any costs that exceed the project amount if the application is selected for funding; and

WHEREAS, the City of Farmington agrees to maintain all project(s) constructed with TAP funding for the useable life of the project(s).

NOW, THEREFORE BE IT RESOLVED by the governing body of the City of Farmington, New Mexico, that:

1. The City of Farmington authorizes the Parks, Recreation and Cultural Affairs Department to submit an application for FFY17/18 New Mexico TAP funds in the amount of \$1,070,000 from the New Mexico Department of Transportation ("NMDOT") on behalf of the citizens of the city of Farmington.
2. The City of Farmington assures NMDOT that if TAP funds are awarded, sufficient funding for the local match and for upfront project costs are available, since TAP is a reimbursement program, and that any costs exceeding the award amount will be paid for by City of Farmington.
3. The City of Farmington assures NMDOT that if awarded TAP funds, sufficient funding for the operation and maintenance of the TAP projects will be available for the life of the projects.
4. The Parks, Recreation and Cultural Affairs Department of the City of Farmington is authorized to enter into a Cooperative Project Agreement with NMDOT for construction of TAP projects using these funds as set forth by MAP-21 on behalf of the citizens of the city of Farmington. Parks, Recreation and Cultural Affairs Director Cory Styron is also authorized to submit additional information as may be required and act as the official representative of the Parks, Recreation and Cultural Affairs Department in this and subsequent related activities.
5. The City of Farmington assures NMDOT that the City of Farmington is willing and able to administer all activities associated with the proposed project.

PASSED, APPROVED, SIGNED AND ADOPTED this 11th day of October, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

RESOLUTION NO. 2016-1609

A RESOLUTION DECLARING THE ELIGIBILITY AND INTENT OF THE CITY OF FARMINGTON TO SUBMIT AN APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR FEDERAL FISCAL YEAR 2018/2019 TRANSPORTATION ALTERNATIVES PROGRAM FUNDS.

WHEREAS, the City of Farmington, New Mexico, has the legal authority to apply for, receive and administer federal funds; and

WHEREAS, the City of Farmington is submitting an application for Federal Fiscal Year 2018/2019 (FFY18/19) New Mexico Transportation Alternatives Program (TAP) funds in the amount of Eight Hundred Sixty Seven Thousand Three Hundred dollars (\$867,300), as set forth by the Federal legislation, Moving Ahead for Progress in the 21st Century (MAP-21) and as outlined in the FFY 18/19 New Mexico TAP Guide; and

WHEREAS, the 20th Street Pedestrian Enhancement Project, Phase III, from Sullivan Ave to Dustin Ave (north side), named in the TAP application is an eligible project under New Mexico TAP and MAP-21; and

WHEREAS, the City of Farmington acknowledges availability of the required local match of 14.56%, One Hundred Twenty Six Thousand Two Hundred Eighty dollars (\$126,280) and the availability of funds to pay all upfront costs, since TAP is a cost reimbursement program; and

WHEREAS, the City of Farmington, agrees to pay any costs that exceed the project amount if the application is selected for funding; and

WHEREAS, the City of Farmington, agrees to maintain all project constructed with TAP funding for the useable life of the project.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY of the City of Farmington, New Mexico, that:

1. The City of Farmington authorizes the Mayor to submit an application for FFY18/19 New Mexico TAP funds in the amount of Eight Hundred Sixty Seven Thousand Three Hundred dollars (\$867,300) from the New Mexico Department of Transportation (NMDOT) on behalf of the citizens of Farmington, New Mexico.
2. That the City of Farmington assures the NMDOT that if TAP funds are awarded, sufficient funding for the local match and for upfront project costs are available, since TAP is a reimbursement program, and that any costs exceeding the award amount will be paid for by City of Farmington.
3. That the City of Farmington assures the NMDOT that if awarded TAP funds, sufficient funding for the operation and maintenance of the TAP projects will be available for the life of the projects.
4. The Mayor of City of Farmington is authorized to enter into a Cooperative Project Agreement with the NMDOT for construction of TAP projects using these funds as set forth by MAP-21 on behalf of the citizens of Farmington. The Mayor is also authorized to act as the official representative of the City of Farmington in this and subsequent related activities. The City Engineer will be the contact person for this project and will submit additional information as needed.
5. The City of Farmington assures the NMDOT that the City of Farmington is willing and able to administer all activities associated with the proposed project.

PASSED, APPROVED, SIGNED AND ADOPTED this 11th day October, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

RESOLUTION NO. 2016-1610

A RESOLUTION DECLARING THE ELIGIBILITY AND INTENT OF THE CITY OF FARMINGTON TO SUBMIT AN APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR FEDERAL FISCAL YEAR 2018/2019 TRANSPORTATION ALTERNATIVES PROGRAM FUNDS.

WHEREAS, the City of Farmington, New Mexico, has the legal authority to apply for, receive and administer federal funds; and

WHEREAS, the City of Farmington is submitting an application for Federal Fiscal Year 2018/2019 (FFY18/19) New Mexico Transportation Alternatives Program (TAP) funds in the amount of One Million Two Hundred Ninety One Thousand Four Hundred dollars (\$1,291,400), as set forth by the Federal legislation, Moving Ahead for Progress in the 21st Century (MAP-21) and as outlined in the FFY 18/19 New Mexico TAP Guide; and

WHEREAS, the Foothills Drive Enhancement, Phase II, from Rinconada St to Mesa Del Oso named in the TAP application is an eligible project under New Mexico TAP and MAP-21; and

WHEREAS, the City of Farmington acknowledges availability of the required local match of 14.56%, One Hundred Eighty Eight Thousand Twenty Eight dollars (\$188,028) and the availability of funds to pay all upfront costs, since TAP is a cost reimbursement program; and

WHEREAS, the City of Farmington agrees to pay any costs that exceed the project amount if the application is selected for funding; and

WHEREAS, the City of Farmington agrees to maintain all project constructed with TAP funding for the useable life of the project.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY of the City of Farmington, New Mexico, that:

1. The City of Farmington, authorizes the Mayor to submit an application for FFY18/19 New Mexico TAP funds in the amount of One Million Two Hundred Ninety One Thousand Four Hundred dollars (\$1,291,400) from the New Mexico Department of Transportation (NMDOT) on behalf of the citizens of Farmington, New Mexico.
2. That the City of Farmington assures the NMDOT that if TAP funds are awarded, sufficient funding for the local match and for upfront project costs are available, since TAP is a reimbursement program, and that any costs exceeding the award amount will be paid for by City of Farmington.
3. The City of Farmington assures the NMDOT that if awarded TAP funds, sufficient funding for the operation and maintenance of the TAP projects will be available for the life of the projects.
4. The Mayor of City of Farmington is authorized to enter into a Cooperative Project Agreement with the NMDOT for construction of TAP projects using these funds as set forth by MAP-21 on behalf of the citizens of Farmington. The Mayor is also authorized to act as the official representative of the City of Farmington in this and subsequent related activities. The City Engineer will be the contact person for this project and will submit additional information as needed.
5. The City of Farmington assures the NMDOT that the City of Farmington is willing and able to administer all activities associated with the proposed project.

PASSED, APPROVED, SIGNED AND ADOPTED this 11th day October, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

ORDINANCE NO. 2016-XXXX

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE CITY OF FARMINGTON, NEW MEXICO GROSS RECEIPTS TAX CONVENTION CENTER IMPROVEMENT REVENUE BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,500,000 FOR THE PURPOSE OF DEFRAYING THE COST OF DESIGNING, CONSTRUCTING, INSTALLING, EQUIPPING AND IMPROVING CONVENTION CENTER FACILITIES OWNED BY THE CITY; PROVIDING THAT THE BONDS WILL BE PAYABLE FROM STATE SHARED GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-1-6.4 NMSA 1978, HOLD HARMLESS GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-1-6.12 NMSA 1978, AND CONVENTION CENTER FEE REVENUES COLLECTED BY THE CITY PURSUANT TO SECTIONS 5-13-1 THROUGH 5-13-15 NMSA 1978 AND CITY ORDINANCE NO. 2014-1272; PROVIDING THAT THE MATURITY DATES, PRINCIPAL AMOUNTS, INTEREST RATES, REDEMPTION PROVISIONS AND OTHER DETAILS OF THE BONDS WILL BE ESTABLISHED IN A SUPPLEMENTAL RESOLUTION; PROVIDING FOR THE EXECUTION OF THE BONDS AND OTHER DOCUMENTS AND AGREEMENTS RELATING TO THE BONDS BY AUTHORIZED OFFICERS OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

The City Council is informed that:

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

WHEREAS, the City is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico; and

WHEREAS, pursuant to Section 7-1-6.4 NMSA 1978, the City receives monthly State-Shared Gross Receipts Tax Revenues from the New Mexico Department of Taxation and Revenue equal to one and two hundred and twenty-five thousandths percent (1.225%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978; and

WHEREAS, the Pledged State-Shared Gross Receipts Tax Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding, other than the 2005 Bonds and the 2012 Bonds; and

WHEREAS, pursuant to Section 7-19D-18 NMSA 1978 and Ordinance No. 2015-1278, the City has enacted two one-eighth percent increments of the Hold Harmless Gross Receipts Tax equal to one quarter of one percent (0.25%) of the gross receipts of persons engaging in business within the City, as determined and adjusted under the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978; and

WHEREAS, pursuant to Ordinance Number 2016-1282, the City has pledged the Pledged Hold Harmless Gross Receipts Tax as additional security for the 2005 Bonds and the 2012 Bonds;

WHEREAS, the Pledged Hold Harmless Gross Receipts Tax Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding, other than the 2005 Bonds and the 2012 Bonds; and

WHEREAS, the pursuant to the Convention Center Financing Act, Sections 5-13-1 through 5-13-15 NMSA 1978 (the "Convention Center Financing Act") and Ordinance No. 2014-1272, the City imposes a Convention Center Fee for the use of a room within a lodging facility within the City limits in the amount of \$2.50 per room for each day the room is occupied by a vendee; and

WHEREAS, pursuant to Ordinance No. 2014-1272, the City has dedicated the revenue from the Convention Center Fee, in part, for (1) costs of acquisition of land for and the design, construction, equipping, furnishing, landscaping, operation and maintenance of a convention center located within the City limits, and (2) payments of principal, interest, or prior redemption premiums due in connection with, and any other

charges pertaining to, revenue bonds authorized by the Convention Center Financing Act and ordinance; and

WHEREAS, Pledged Convention Center Fee Revenues are not pledged to the payment of any bonds or other obligations which are presently outstanding; and

WHEREAS, the City Council hereby determines that issuance of the Bonds for the purpose of paying costs of constructing improvements to and installing equipment in the Convention Center facilities owned by the City will provide for the public health, peace and safety of the City and its citizens; and

WHEREAS, the City Council has determined and hereby determines that it is in the best interests of the City and its residents that the Bonds be issued with a first lien, but not an exclusive first lien, on the Pledged State-Shared Gross Receipts Tax Revenues on a parity with the lien thereon of outstanding Parity Bonds; and

WHEREAS, Section 3-31-6(C) NMSA 1978 provides:

"C. Any law which authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978, or which affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor;" and

WHEREAS, the proposed form of this Bond Ordinance has been filed with the City Clerk and presented to the City Council; and

WHEREAS, the City Council anticipates that the Bonds will be sold to the New Mexico Finance Authority pursuant to the Bond Purchase Agreement which, together with the exact principal amounts, interest rates and other final terms of the Bonds, shall be approved by the Sale Resolution supplementing this Bond Ordinance; and

WHEREAS, the City Council has determined that it is in the best interests of the City to authorize the issuance of the Bonds pursuant to this Bond Ordinance.

NOW, THEREFORE, be it ordained by the governing body of the City of Farmington:

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

"2005 Bonds" means the City of Farmington, New Mexico Sales Tax Revenue Bonds, Series 2005, issued in an original principal amount of \$5,725,000.

"2012 Bonds" means the City of Farmington, New Mexico Sales Tax Revenue Improvement and Refunding Bonds, Series 2012, issued in an original principal amount of \$10,665,000.

"Acquisition Fund" means the City of Farmington, New Mexico Gross Receipts Tax Convention Center Improvement Project Revenue Bonds, Series 2016, Acquisition Fund" established by Section 16 of this Bond Ordinance.

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, Sections 5-13-1 through 5-13-15 NMSA 1978, as amended, and enactments of the City Council relating to the Pledged Revenues and the issuance of the Bonds, including this Bond Ordinance.

"Authorized Officer" means the following officers of the City: Mayor, City Manager, Administrative Services Director, or other officer of the City when designated by a certificate signed by the Mayor

of the City from time to time, a certified copy of which shall be delivered to the Paying Agent and the Registrar.

"Bond Account" has the meaning assigned to that term in Section 19 of this Bond Ordinance.

"Bondholder," "holder," "owner" or "Owner" means the registered owner of any Bond as shown on the registration books of the City for the Bonds, from time to time, maintained by the Registrar. Any reference to a majority or a particular percentage or proportion of the Bondholders shall mean the Holders at the particular time of a majority or of the specified percentage or proportion in aggregate principal amount of all Bonds then outstanding.

"Bond Purchase Agreement" means the bond purchase agreement between the City and the Purchaser.

"Bonds" means the "City of Farmington, New Mexico Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016" authorized by this Bond Ordinance.

"Bond Ordinance" means this City Ordinance No. _____.

"Business Day" means a day on which commercial banks in the city in which the principal office of the Paying Agent and Registrar is located are open for conduct of substantially all of their business operations.

"City" means the City of Farmington, in the County of San Juan and State of New Mexico.

"City Council" means the City Council of the City or any future successor governing body of the City.

"Code" means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of the Code, and all applicable regulations whether proposed, temporary or final, including regulations issued and proposed pursuant to the statutory predecessor of the Code, and, in addition, all official rulings and judicial determinations applicable to the Bonds, and under the statutory predecessor of the Code and any successor provisions to those sections or regulations.

"Continuing Disclosure Undertaking" means the continuing disclosure undertaking with respect to the Bonds to be executed on the day of issuance and delivery of the Bonds to the Purchaser.

"Costs of Issuance" means all costs relating to issuance of the Bonds, including, without limitation, costs of advertising and publication, costs of preparing the Bonds, fees and expenses of the financial advisor, bond counsel, the Paying Agent, the Registrar, the Escrow Bank, rating fees and other reasonable and necessary fees and costs, including applicable gross receipts taxes, related to the issuance of the Bonds.

"Convention Center Fee Ordinance" means City Ordinance No. 2014-1272, codified as Chapter 8, Article 16 of the Farmington Municipal Code.

"Convention Center Fee Income Fund" means the fund established in Section 16 of this Ordinance.

"Convention Center Fee Obligations" means bonds or other debt obligations issued or entered into by the City to which Pledged Convention Center Fee Revenues are pledged, in whole or in part, to the repayment of such bonds or other debt obligations.

"Depository" means The Depository Trust Company, New York, New York, or such other securities depository as may be designated by an officer of the City.

"Event of Default" means any of the events stated in Section 25 of this Bond Ordinance.

"Expenses" means the reasonable and necessary fees, costs and expenses incurred by the City with respect to the issuance of the Bonds, including the fees, compensation, costs and expenses paid or to be paid to the Paying Agent and Registrar, and legal fees, financial advisor fees, expenses and applicable gross receipts taxes.

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

"Fitch" means Fitch Ratings Group, its successors and their assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

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

"Hold Harmless Distribution" means the distribution to the City made pursuant to Section 7-1-6.46 NMSA 1978, as that distribution relates to the gross receipts tax revenues received pursuant to Section 7-1-6.4 NMSA 1978, which revenues are reduced pursuant to the deductions under Sections 7-9-92 and 7-9-93 NMSA 1978; provided that the percentage of such distribution decreases annually as provided in Section 7-1-6.46 NMSA 1978 each year beginning on July 1, 2015 until the distribution is eliminated after July 1, 2029.

"Hold Harmless Gross Receipts Tax Income Fund" means the fund established, maintained and continued in Section 16 of this Bond Ordinance.

"Improvement Project" means (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to the City's Convention Center Facilities; and (2) paying Expenses related to the issuance of the Bonds.

"Income Funds" means, collectively, the State-Shared Gross Receipts Tax Income Fund, the Hold Harmless Gross Receipts Tax Income Fund and the Convention Center Fee Income Fund, each established or continued in Section 16 of this Bond Ordinance.

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

"Insured Bank" means any federally or state-chartered savings and loan association or federally or state-chartered commercial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation and which has, or is the lead bank of a parent holding company which has (i) unsecured, uninsured and unguaranteed obligations which are rated AA or better by Fitch and S&P or (ii) combined capital, surplus and undivided profits of not less than \$10,000,000.

"Interest Payment Date" means each [[June15]] and [[December 15]], commencing [[June 15]], 2017.

"Minimum Reserve" means an amount equal to the least of (i) ten percent of the principal amount of the outstanding Bonds, (ii) the maximum annual debt service on the outstanding Bonds, or (iii) 125% of the average annual debt service on the outstanding Bonds. The Minimum Reserve shall be recalculated every year on or about June 1.

"Moody's" means Moody's Investor Service, its successors and their assigns, and, if such corporation is dissolved or liquidated or no

longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

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

"Outstanding" or "Outstanding" when used in reference to bonds means, on any particular date, the aggregate of all Bonds delivered under this Bond Ordinance except:

A. those cancelled at or prior to such date or delivered or acquired by the City at or prior to such date for cancellation;

B. those otherwise deemed to be paid in accordance with Section 28 or Section 31 of this Bond Ordinance;

C. those in lieu of or in exchange or substitution for which other Bonds shall have been delivered, unless proof satisfactory to the City and the Paying Agent is presented that any Bond for which a new Bond was issued or exchanged is held by a bona fide holder or in due course.

"Parity Bonds" means, as the context may require, Parity Convention Center Fee Bonds and/or Parity Gross Receipts Tax Bonds.

"Parity Convention Center Fee Bonds" means the Bonds and any other bonds or other obligations, now outstanding or hereafter issued or incurred, payable from and constituting a lien upon the Pledged Convention Center Fee on parity with the lien thereon of the Bonds, as provided in Section 20 of this Bond Ordinance.

"Parity Gross Receipts Tax Bonds" means the Bonds, the 2005 Bonds and the 2012 Bonds to which the City originally pledged the State-Shared Gross Receipts Tax Revenues and, pursuant to City Ordinance No. 2016-1282, has pledged the Pledged Hold Harmless Gross Receipts Tax Revenues as additional security, and any other bonds or obligations which may in the future be issued with a lien on Pledged State-Shared Gross Receipts Tax Revenues and Hold Harmless Gross Receipts Tax Revenues on parity with the lien thereon of the Bonds, the 2005 Bonds and the 2012 Bonds.

"Paying Agent" means the City Treasurer, as agent for the City for the payment of the Bonds or any other entity at the time appointed Paying Agent by resolution of the City Council.

"Permitted Investments" means, but only to the extent permitted by applicable laws of the State or ordinances of the City, the following:

A. Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations of the principal of and interest on which are unconditionally guaranteed by the United States of America.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (Eximbank)
Direct obligations or fully guaranteed certificates of beneficial ownership.
2. Farmers Home Administration (FmHA)
Certificates of beneficial ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (FHA)
5. General Services Administration
Participation certificates

6. Government National Mortgage Association (GNMA or "Ginnie Mae")
GNMA - guaranteed mortgage-backed bonds
GNMA - guaranteed pass-through obligations
7. U.S. Maritime Administration
Guaranteed Title XI financing
8. U.S. Department of Housing and Urban Development
(HUD)
Project Notes
Local Authority Bonds
New Communities Debentures - U.S. government
guaranteed debentures
U.S. Public Housing Notes and Bonds - U.S.
government guaranteed public housing notes and
bonds

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association (FNMA or "Fannie Mae")
Mortgage-backed securities and senior debt obligations
4. Student Loan Marketing Association (SLMA or "Sallie Mae")
Senior debt obligations
5. Resolution Funding Corp. (REFCORP) obligations
6. Farm Credit System
Consolidated system wide bonds and notes

D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G, AAA-m, or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2.

E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

F. Certificates of deposit, savings accounts, deposits accounts or money market deposits which are fully insured by FDIC, including BIF and SAIF.

G. Investment Agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements.

H. Commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1" or better by S&P.

I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.

J. Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured

and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P.

K. Repurchase Agreements for 30 days or less must follow the following criteria.

Repurchase agreements provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the City in exchange for the securities at a specified date.

1. Repos must be between the City and a dealer bank or securities firm
 - a. Primary dealers on the Federal Reserve reporting dealer list which are rated A or better by S&P and Moody's, or
 - b. Banks rated "A" or above by S&P and Moody's.
2. The written repo contract must include the following:
 - a. Securities which are acceptable for transfer are:
 - (1) Direct U.S. governments, or
 - (2) Federal agencies backed by the full faith and credit of the U.S. government (and FNMA & FHLMC)
 - b. The term of the repo may be up to 30 days
 - c. The collateral must be delivered to the City, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
 - d. Valuation of Collateral
 - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest.
 - (a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.
3. Legal opinion which must be delivered to the City:
 - a. Repo meets guidelines under state law for legal investment of public funds.

L. 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 State Treasurer.

"Pledged Convention Center Fee Revenues" means the revenues derived from Convention Center Fees imposed by the City pursuant to Sections 5-13-1 through 5-13-15 NMSA 1978, as amended, and the Convention Center Fee Ordinance, for the use of rooms in lodging facilities located within the limits of the City, in the amount of \$2.50 per day per vendee, subject to the exceptions set forth in the Convention Center Fee Ordinance.

"Pledged Gross Receipts Tax Revenues" means the Pledged Hold Harmless Gross Receipts Tax Revenues and the Pledged State-Shared Gross Receipts Tax Revenues.

"Pledged Hold Harmless Gross Receipts Tax Revenues" means the revenues from the municipal hold harmless gross receipts tax transferred to the City pursuant to Section 7-1-6.12 NMSA 1978, which municipal hold harmless gross receipts tax is imposed pursuant to Section 7-19D-8 NMSA 1978, and Ordinance No. 2015-1278 imposed on all persons engaging in business in the municipality, subject to certain exemptions referenced in Sections 7-19D-4(A) and 7-19D-5 NMSA 1978 and the deductions specified in 7-19D-7 at the rate of one quarter percent (0.25%) of the gross receipts of a person engaging in business; which amounts are collected, and after any deductions for administrative costs and disbursements for tax credits, refunds and payment of interest applicable to such gross receipts tax and subject to any increase or decrease pursuant to Section 7-1-6.15 NMSA 1978, and are distributed monthly (together with the City's other gross receipts tax revenues not pledged to the Bonds) by the Revenue Division of the Taxation and Revenue Department of the State of New Mexico to the City pursuant to Section 7-1-6.12 NMSA 1978. The City intends that Section 3-31-6(C) NMSA 1978 and Section 7-19D-18(D) NMSA 1978 apply expressly to the amount of revenues pledged pursuant to this Bond Ordinance. The term "Pledged Hold Harmless Gross Receipts Tax Revenues" does not include any other local option gross receipts tax income received by the City.

"Pledged Revenues" means, collectively, the Pledged Convention Center Fee Revenues, the Pledged Hold Harmless Gross Receipts Tax Revenues and the Pledged State-Shared Gross Receipts Tax Revenues.

"Pledged State-Shared Gross Receipts Tax Revenues" means the revenues from the State gross receipts tax derived pursuant to Section 7-9-4 NMSA 1978, imposed on persons engaging in business in the State, which revenues are remitted to the City monthly by the New Mexico Department of Taxation and Revenue pursuant to Section 7-1-6 and 7-1-6.4 NMSA 1978, and which remittances currently equal one and two hundred twenty-five thousandths percent (1.225%) of the taxable gross receipts reported for the City for the month for which such remittances is made; provided that if a greater amount of such gross receipts tax revenues are hereafter provided to be remitted to the City under applicable law, such additional amounts shall be included as revenues pledged pursuant to this Bond Ordinance; and provided further that the amount of revenues pledged pursuant to this Bond Ordinance shall never be less than the greater of: (i) 1.225% of the taxable gross receipts remitted to the City by the State as set forth above, or (ii) the maximum amount at any time provided hereafter to be remitted to the City under applicable law, and includes the Hold Harmless Distribution; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to this Bond Ordinance (the term "Pledged State-Shared Gross Receipts Tax Revenues" does not include any local option gross receipts tax income received by the City).

"Purchaser" means the New Mexico Finance Authority or such other purchaser as may be designated in the Bond Purchase Agreement.

"Rating Category" means a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

"Registrar" means the City Treasurer, as agent for the City for transfer and exchange of the Bonds or any other entity at the time appointed by resolution of the City Council.

"Sale Resolution" means a resolution, and all amendments thereto of the Governing Body setting and approving the principal amounts, maturity dates, interest rates, prices, and other specifications

for the Bonds within the parameters set in this Ordinance, and relating to the issuance, sale and administration thereof.

"S&P" means S&P Global, its successors and their assigns, and, if such entity is dissolved or liquidated or no longer performs the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

"State" means the State of New Mexico.

"State-Shared Gross Receipts Tax Income Fund" means the Pledged Revenue Fund maintained by the City and continued in Section 16 of this Bond Ordinance.

"2005 Bonds" means the "City of Farmington, New Mexico State-Shared Gross Receipts Tax Revenue Bonds, Series 2005" issued in the original aggregate principal amount of \$5,725,000 and authorized by City Ordinance No. 2005-1164 adopted by the City Council on March 8, 2005, as supplemented by Resolution No. 2005-1136 adopted by the City Council on March 22, 2005.

"2012 Bonds" means the "City of Farmington, New Mexico Sales Tax rate Improvement and Refunding Revenue Bonds, Series 2012" issued in the original aggregate principal amount of \$10,665,000 and authorized by City Ordinance No. 2012-1254 adopted by the City Council on February 28, 2012, as supplemented by Resolution No. 2012-1426 adopted by the City Council on March 27, 2012.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Bond Ordinance) by the City Council and the officers of the City, directed toward the Improvement Project, the issuance of the Bonds for the Improvement Project and the sale of the Bonds to the Purchaser be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Improvement Project. The Improvement Project and the method of financing the Improvement Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Bond proceeds and any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds.

Section 4. Findings. The City Council hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Improvement Project is needed to meet the needs of the City and its inhabitants.

B. Moneys available for the Improvement Project from all sources other than the issuance of Revenue Bonds are not sufficient to defray the cost of the Improvement Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment and redemption of the Bonds.

D. It is economically feasible to defray, in part, the cost of the Improvement Project by the issuance of the Bonds.

E. The issuance of the Bonds pursuant to the Act, to provide funds to finance the costs of the Improvement Project, is necessary and in the interest of the public health, safety and welfare of the residents of the City.

F. The City is current in the accumulation of all amounts which are required to have been accumulated in the debt service funds and the reserve funds for the Parity Bonds.

Section 5. Bonds - Authorization and Detail.

A. Authorization. This Bond Ordinance has been adopted by the affirmative vote of at least three-fourths of all of the members of the City Council. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the citizens of the City, it is hereby declared necessary

that the City, pursuant to the Act, issue its negotiable, fully registered, revenue bonds to be designated the "City of Farmington, New Mexico Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016," in an aggregate principal amount not to exceed [[\\$18,100,000]] and the issuance, sale and delivery of the Bonds is hereby authorized. The Bonds shall be payable and collectible, both as to principal and interest, solely from the Pledged Revenues. The Bonds shall be sold by a private sale to the Purchaser pursuant to the Bond Purchase Agreement at the price established in the Sale Resolution and the Bond Purchase Agreement.

B. Parameters Authorized; Details of Bonds. There is hereby authorized and created a series of bonds designated as the City of Farmington, New Mexico Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016.

- (1) The Bonds shall be issued subject to the following parameters:
 - (aa) The Bonds shall be issued in an aggregate principal amount not to exceed [[\\$17,500,000]] for the Improvement Project.
 - (bb) The net effective interest rate on the Bonds shall not exceed 12% per annum.
 - (cc) The final maturity of the Bonds shall not be later than June 15, 2042.
- (2) The forms, terms, and provisions of the Bonds in the form set forth in Section 13 are hereby approved with only such changes therein as are not inconsistent with this Bond Ordinance and as shall be approved in the Sale Resolution.
- (3) The Bonds shall be negotiable instruments but shall be issued only as fully registered bonds, in such numbers and denominations as may be requested by the Purchaser, but exchangeable for other fully registered Bonds of any denominations which are multiples of \$5,000. The Bonds shall be numbered separately and consecutively, shall be dated the date of their delivery to the Purchaser, shall mature on June 1 of each year and shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date, payable semi-annually on June 1 and December 1 in each year commencing on June 1, 2017 until their respective maturities. The Bonds shall bear the rates of interest, maturities and provisions for redemption prior to maturity as shall be established in the Sale Resolution.

Section 6. Prior Redemption.

A. Optional Redemption. The Bonds maturing on and after June 15, 20__, are subject to prior redemption at the City's option in one or more units of principal of \$5,000 on and after June 15, 20__ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each \$5,000 unit of principal so redeemed plus accrued interest to the redemption date. Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in this Bond Ordinance.

B. Notice. Notice of redemption shall be given by the Registrar by sending a copy of such notice in the manner required by the Depository or by first-class, postage prepaid mail at least thirty (30) days prior to the redemption date to the registered owner of each Bond,

or portion thereof, to be redeemed at the address shown as of the close of business of the Registrar on the fifth day prior to the mailing of notice on the registration books kept by the Registrar. The City shall give notice of optional redemption of the Bonds to the Registrar at least forty-five (45) days prior to the redemption date (unless such deadline is waived by the Registrar). The Registrar's failure to give such notice to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bonds for which proper notice was given. Notices of redemption shall specify the maturity dates and the number or numbers of the Bonds to be redeemed (if less than all are to be redeemed) and if less than the full amount of any Bond is to be redeemed, the amount of such Bond to be redeemed, the date fixed for redemption, and that on such redemption date there will become due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount to be redeemed plus accrued interest to the redemption date and that from and after such date interest will cease to accrue on such amount. Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated and if an amount of money sufficient to redeem all Bonds called for redemption shall on the redemption date be on deposit with the Paying Agent, the Bonds to be redeemed shall be deemed not outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of the Bonds to be redeemed at the office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption with funds deposited with the Paying Agent by the City.

C. Conditional Redemption. If money or Defeasance Obligations (as defined in Section 31) sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to subsection B of this Section, such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in the manner deemed reasonable and fair by the City and the Registrar shall give notice, in the manner in which the original notice or optional redemption was given, that such money was not received and the information required by subsection B of this Section. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been optionally redeemed.

Section 7. Filing of Manual Signatures. Prior to the execution of any Bond pursuant to Sections 6-9-1 to 6-9-6 NMSA 1978, as amended, the Mayor or Mayor Pro-Tem and City Clerk shall each file with the New Mexico Secretary of State his or her manual signature certified by him or her under oath; provided that filing shall not be necessary for any officer where any previous filing may have legal application to the Bonds.

Section 8. Execution and Authentication of Bonds.

A. Execution. The Bonds shall be signed with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature, or the manual signature, of the Mayor or Mayor Pro Tem and shall be attested with the facsimile or manual signature of the City Clerk. There shall be affixed to each Bond the printed, engraved, stamped or otherwise placed facsimile of, or imprint of, the City's corporate seal. The Bonds shall be authenticated by the manual signature of an authorized officer of the Registrar. The Bonds when authenticated and bearing the manual or facsimile signatures of the officers in office at the time of signing thereof shall be valid and binding special obligations of the City, notwithstanding that before delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. The Mayor or Mayor Pro-Tem and City Clerk, at the time of the execution of the Bonds and the signature certificate, each may adopt as and for his or her own facsimile signature, the facsimile signature of his or her predecessor in office if such facsimile signature appears upon any of the Bonds or certificates pertaining to the Bonds.

B. Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been fully executed if manually signed and inscribed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

Section 9. Negotiability. The Bonds shall be fully negotiable and shall have all the qualities of negotiable paper and the Bondholders shall possess all the rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code. Except as set forth herein, the Bonds outstanding shall in all respects be equally and ratably secured, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds.

Section 10. Payment and Presentation of Bonds for Payment. Principal and interest on the Bonds shall be payable in lawful money of the United States of America, without deduction for exchange or collection charges. Principal shall be payable in immediately available funds at maturity or redemption thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent or at the designated office of any successor Paying Agent. Upon any partial prior redemption of any Bond, the registered owner, in its discretion, may request the Registrar to authenticate a new Bond or to make a notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. Interest on the Bonds shall be payable by check or draft mailed to the registered owner thereof (or in such other manner as may be agreed upon by the Paying Agent and the registered owner), as shown on the registration books maintained by the Registrar at the address appearing therein on the 15th day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or provided for shall cease to be payable to the owner thereof (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to Bond owners not less than ten (10) days prior thereto. If any Bond presented for payment remains unpaid at maturity or redemption, it shall continue to bear interest at the rate or rates designated in, and applicable to, such Bond from time to time. If any Bond is not presented for payment at maturity or redemption when funds available therefor have been deposited with the Paying Agent, it shall cease bearing interest on and from the date of maturity or redemption.

Section 11. Registration, Transfer, Exchange and Ownership of Bonds.

A. Registration, Transfer and Exchange. The City shall cause books for registration, transfer, and exchange of the Bonds as provided herein to be kept at the principal office of the Registrar. Upon surrender for transfer or exchange of any fully registered Bond at the principal office of the Registrar duly endorsed by the registered owner or his attorney duly authorized in writing, or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Registrar and duly executed, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or registered owner, as appropriate, a new Bond or Bonds in authorized denominations, in fully registered form of the same aggregate principal amount, maturity and interest rate.

B. Limitations. The Registrar shall not be required to transfer or exchange any Bond (i) during the period of fifteen (15) days next preceding the mailing of notice calling any Bonds for redemption as herein provided, or (ii) after the mailing to registered owners of notice calling such Bonds or portion thereof for redemption as herein provided. The Registrar shall close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

C. Owner of the Bonds. The person in whose name any Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of either the principal of or interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative as stated herein, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

D. Lost Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If any such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may request the Paying Agent to pay such bond in lieu of replacement.

E. Additional Bonds. Executed but unauthenticated Bonds are hereby authorized to be delivered to the Registrar in such quantities as may be convenient to be held in custody by the Registrar pending delivery as herein provided.

F. Charges. For each new Bond issued in connection with a transfer or exchange, the Registrar may make a charge to the owner of the Bond requesting such exchange or transfer sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

G. Successor Registrar or Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign or is prohibited by law from continuing as Registrar or Paying Agent, or if the City shall reasonably determine that the Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the City may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholders' equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than \$50,000,000. It shall not be required that the same institution serves as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

H. Book-Entry. The Bonds may be issued or registered, in whole or in part, in book-entry form from time to time with no physical distribution of bond certificates made to the public, with a Depository acting as securities depository for the Bonds. A single certificate for each maturity date of the Bonds issued in book-entry form will be delivered to the Depository and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in authorized denominations, with transfer of ownership effected on the books of the Depository and its participants ("Participants"). As a condition to delivery of the Bonds in book-entry form, the Underwriters will, immediately after acceptance of delivery thereof, deposit, or cause to be deposited, the Bond certificates with the Depository, registered in the name of the Depository or its nominee. Principal, premium, if any, and interest will be paid to the Depository or its nominee as the registered owner of the Bonds. The transfer of principal, premium, if any, and interest payments to Participants will be the responsibility of the Depository; the transfer of principal, premium, if any, and interest payments to the beneficial owners of the Bonds (the "Beneficial Owners") will be the responsibility of Participants and other nominees of Beneficial Owners maintaining a relationship with Participants (the "Indirect Participants"). The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Depository, Participants or Indirect Participants.

If (i) the Bonds are not eligible for the services of the Depository, (ii) the Depository determines to discontinue providing its services with respect to the Bonds or (iii) the City determines that a continuation of the system of book-entry transfers through the Depository ceases to be beneficial to the City or the Beneficial Owners, the City

will either identify another Depository or certificates for the Bonds will be delivered to the Beneficial Owners or their nominees, and the Beneficial Owners or their nominees, upon authentication of Bonds and registration of those Bonds in the Beneficial Owners' or nominees' names, will become the owners of the Bonds for all purposes. In that event, the City shall mail an appropriate notice to the Depository for notification to Participants, Indirect Participants and Beneficial Owners of the substitute Depository or the issuance of bond certificates to Beneficial Owners or their nominees, as applicable.

Officers of the City are authorized to sign agreements with the Depository relating to the matters set forth in this Section.

Notwithstanding any other provision of this Bond Ordinance, so long as all of the Bonds are registered in the name of the Depository or its nominee, all payments of principal, premium, if any, and interest on the Bonds, and all notices with respect to the Bonds, shall be made and given by the Paying Agent, Registrar or the City to the Depository as provided in this Bond Ordinance and by the Depository to its Participants or Indirect Participants and notices to the Beneficial Owners of the Bonds in the manner provided in an agreement or letter of the City to the Depository.

Section 12. Special Limited Obligations. All of the Bonds and all payments of principal, premium, if any, and interest thereon whether at maturity or on a redemption date, together with any interest accruing thereon, shall be special limited obligations of the City and shall be payable and collectible solely from the Pledged Revenues, which revenues are so pledged and are payable as set forth in Section 17 of this Bond Ordinance. The owner or owners of the Bonds may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor. The Bonds shall not constitute an indebtedness or a debt of the City within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or held to be general obligations of the City, and each of the Bonds shall recite that it is payable and collectible solely out of the Pledged Revenues, pledged as set forth in this Bond Ordinance, and that the holders thereof may not look to any general or other municipal fund for the payment of the principal of and interest on the Bonds. Nothing herein shall prevent the City from applying other funds of the City legally available therefor to the payment of the Bonds, in its sole discretion.

Section 13. Form of Bonds. The forms, terms and provisions of the Bonds shall be substantially in the form set forth below, with such changes therein as are not inconsistent with this Bond Ordinance.

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF SAN JUAN

CITY OF FARMINGTON, NEW MEXICO
GROSS RECEIPTS TAX CONVENTION CENTER IMPROVEMENT REVENUE BONDS,
SERIES 2016

Bond No. _____ \$ _____

INTEREST RATE MATURITY DATE DATE OF BOND CUSIP
% per annum June 15, _____ _____, 2016 _____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

The City of Farmington (the "City"), in the County of San Juan and State of New Mexico, a municipal corporation duly organized and existing under the Constitution and laws of the State of New Mexico, for value received, hereby promises to pay, solely from the special funds available for the purpose as hereinafter set forth, to the registered owner named above or registered assigns, on the Maturity Date specified above, upon presentation and surrender hereof at the principal office of the City Treasurer, Farmington, New Mexico, as paying agent, or any successor paying agent (the "Paying Agent"), the Principal Amount stated above, in lawful money of the United States of America, and to pay from such sources interest on the unpaid principal amount at the Interest Rate on June 1, 2017 and each June 1 and December 1 of each year (each an "Interest Payment Date") thereafter to its maturity, or until redeemed if called for redemption prior to maturity. This bond will bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from its date. Interest on this bond is payable by check mailed to the registered owner hereof (or by such other arrangement as may be mutually agreed to by the Paying Agent and the registered owner) as shown on the registration books for this issue maintained by the City Treasurer, Farmington, New Mexico, as registrar, or any successor registrar (the "Registrar") at the address appearing therein at the close of business on the fifteenth day of the calendar month next preceding the Interest Payment Date (the "Record Date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the owner hereof as of the Record Date but shall be payable to the owner hereof at the close of business on a special record date to be fixed by the Paying Agent for the payment of interest. The special record date shall be fixed by the Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to owners of Bonds (defined below) as then shown on the Registrar's registration books not less than ten (10) days prior to the special record date. If, upon presentation at maturity or redemption, payment of this bond is not made as herein provided, interest hereon shall continue at the Interest Rate until the principal hereof is paid in full. The principal, premium, if any, and interest on this bond are payable in lawful money of the United States of America, without deduction for the services of the Paying Agent or the Registrar.

This bond is one of a duly authorized series of fully registered bonds of the City in the aggregate principal amount of \$ _____ issued in denominations of \$5,000 or integral multiples thereof, designated as the City of Farmington Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016 (the "Bonds") issued under and pursuant to City Ordinance No. _____, as supplemented by Resolution No. _____ (together, the "Bond Ordinance").

The Bonds maturing on and after June 15, 20__, are subject to prior redemption at the City's option in one or more units of principal of \$5,000 on and after June 15, 20__ in whole or in part at any time, in such order of maturities as the City may determine (and by lot if less than all of the bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner considered appropriate and fair), for the principal amount of each \$5,000 unit of principal so redeemed plus accrued interest to the redemption date.

Redemption shall be made upon prior notice mailed to each registered owner of each bond selected for redemption as shown on the registration books kept by the Registrar in the manner and upon the conditions provided in this Bond Ordinance.

Notice of redemption of this bond will be given by providing at least thirty (30) days prior written notice in the manner required by the depository for the Bonds or by first-class postage prepaid mail to the owner hereof at the address shown on the registration books as of the fifth day prior to the mailing of notice as provided in this Bond Ordinance. Notices of redemption will specify the number or numbers and maturity date of the Bonds to be redeemed (if less than all are to be redeemed), the date fixed for redemption, the amount of such Bond to be redeemed (if less than the full amount of any Bond is to be redeemed), and shall further state that on such redemption date there will become due and payable upon each Bond to be redeemed at the office of the Paying Agent the principal amount thereof plus accrued interest to the redemption date and that from and after such date, the redemption amount having been deposited and notice having been given, interest will cease to accrue. Upon any partial prior redemption of this bond, the registered owner, in its discretion, may request the Registrar to authenticate a new bond or to make an appropriate notation on this bond indicating the date and amount of prepayment, except in the case of final maturity, in which case this bond must be presented to the Paying Agent prior to payment.

Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer or exchange of a Bond at the principal office of the Registrar, duly endorsed or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver, not more than three (3) business days after receipt of the Bond or Bonds to be transferred, in the name of the transferee or owner a new Bond or Bonds in fully registered form of the same aggregate principal amount, maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond of any tax or other similar governmental charge required to be paid with respect to such exchange or transfer. The Registrar shall not be required (i) to transfer or exchange any Bond during the period of fifteen (15) days next preceding the mailing of notice calling any Bonds for redemption, or (ii) to transfer or exchange any Bond or part thereof called for redemption. The Registrar will close books for change of registered owners' addresses on each Record Date; transfers will be permitted within the period from each Record Date to each Interest Payment Date, but such transfers shall not include a transfer of accrued interest payable.

The person in whose name any Bond is registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of interest in this Bond Ordinance; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar will, upon receipt of such Bond, if mutilated, and such evidence, information or indemnity relating thereto as the Registrar may reasonably require, if lost, stolen or destroyed, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity and interest rate, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

This Bond does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City, and is payable and collectible solely out of the revenues derived from the revenues from the Pledged Revenues (as such term is defined in this

Bond Ordinance) and the bondholders may not look to any other general or other municipal fund for the payment of the interest and principal of this bond. The lien of the Bonds on the Pledged Revenues is an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues. Upon satisfaction of the conditions set forth in this Bond Ordinance, additional bonds may be issued and made payable from the Pledged Revenues having a lien thereon either on a parity with, or subordinate and junior to, the lien on the Pledged Revenues of the Bonds, but additional bonds may not be issued with a lien thereon superior to the lien thereon of the Bonds. Amounts and securities held in the Debt Service Fund and the Reserve Fund, as such terms are defined in this Bond Ordinance, have been exclusively pledged for payment of the principal of, premium, if any, and interest on the Bonds.

The Bonds are issued to provide funds to defray in part the costs of (1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to the City's Convention Center Facilities; and (2) paying Expenses related to the issuance of the Bonds.

The City covenants and agrees with the owner of this Bond and with each and every person who may become the owner hereof that it will keep and perform all of the covenants of this Bond Ordinance.

This Bond is subject to the condition, and every owner hereof by accepting the same agrees with the obligor and every subsequent owner hereof, that the principal of and interest on this bond shall be paid, and this bond is transferable, free from and without regard to any equities, set-offs or crossclaims between the obligor and the original or any other owner hereof.

It is hereby certified that all acts and conditions necessary to be done or performed by the City or to have happened precedent to and in the issuance of the Bonds to make them legal, valid and binding special obligations of the City have been performed and have happened as required by law, and that the Bonds do not exceed or violate any constitutional or statutory limitation of or pertaining to the City.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the Certificate of Authentication.

IN WITNESS WHEREOF, the City of Farmington, New Mexico has caused this bond to be signed and executed on the City's behalf with the facsimile or manual signature of the Mayor or Mayor Pro-Tem and the facsimile or manual signature of the City Clerk and has caused the corporate seal of the City or a facsimile thereof to be affixed hereon, all as of the Date of Bond.

CITY OF FARMINGTON, NEW MEXICO

By _____
Mayor or Mayor Pro-Tem

By _____
City Clerk

(FACSIMILE SEAL)

(Form of Registrar's Certificate of Authentication)

Certificate of Authentication

This is one of the Bonds described in this Bond Ordinance, and this bond has been registered on the registration books kept by the undersigned as Registrar for the Bonds.

Date of Authentication:

City Treasurer of the City of
Farmington,
New Mexico, as Registrar

By _____
Authorized Officer

(End of Form of Registrar's Certificate of Authentication)

(Form of Assignment)

For value received, _____ hereby sells,
assigns and transfer unto _____ the
within bond and hereby irrevocably constitutes and appoints
_____ attorney, to transfer the same on
the books of the Registrar, with full power of substitution in the
premises.

Social Security or Tax Identification No. of Assignee _____

Dated: _____

Signature Guarantee:

NOTE: The assignor's signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

(End of Form of Assignment)

(End of Form of Bond)

Section 14. Period of Improvement Project Usefulness. It is hereby determined and recited that the period of usefulness of the projects financed with the proceeds of the Bonds is not less than the final maturity date of the Bonds.

Section 15. Use of Bond Proceeds and Other Funds; Completion of Project. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds, shall be used and paid solely for the valid costs of the Improvement Project.

A. Expenses. An amount necessary, together with other legally available funds of the City, shall be used to pay Expenses.

B. Acquisition Fund. All remaining proceeds derived from the sale of the Bonds shall be deposited promptly upon the receipt thereof in the Acquisition Fund. Until the completion of the Improvement Project, the money in the Acquisition Fund shall be used and paid out solely for the purpose of the Improvement Project in compliance with applicable law.

C. Improvement Project Completion. As soon as practicable after completion of the Improvement Project, and in any event not more than 60 days after completion of the Improvement Project, any proceeds remaining unspent (other than any amount retained by the City for any Improvement Project costs not then due and payable) shall be transferred and deposited in the Debt Service Fund and used by the City to pay principal and interest on the Bonds as same become due.

D. Purchaser Not Responsible. The Purchaser of the Bonds shall in no manner be responsible for the application or disposal by the City or by its officers of the funds derived from the sale thereof or of any other funds herein designated.

Section 16. Funds and Accounts. The City hereby creates and continues the following special and separate funds and accounts:

A. Acquisition Fund. The "City of Farmington, New Mexico Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016 Acquisition Fund" to be maintained by the City.

B. State-Shared Gross Receipts Tax Income Fund. So long as any of the Bonds or Parity Gross Receipts Tax Obligations shall be outstanding, either as to principal or interest, or both, the State-Shared Gross Receipts Tax Revenues shall be set aside and deposited monthly into a separate fund (which shall be a segregated account) known as the "City of Farmington State-Shared Gross Receipts Tax Income Fund" which Income Fund was created in City Ordinance No. 2001-1126 and is continued herein.

C. Hold Harmless Gross Receipts Tax Income Fund. So long as any of the Bonds or Parity Gross Receipts Tax Obligations shall be outstanding, either as to principal or interest, or both, the Hold Harmless Gross Receipts Tax Revenues shall be set aside and deposited monthly into a separate fund (which shall be a segregated account) known as the "City of Farmington Hold Harmless Gross Receipts Tax Income Fund" which Income Fund [[was created in City Ordinance No. ____]] [[is hereby established]].

D. Convention Center Fee Income Fund. So long as any of the Bonds or Convention Center Fee Obligations shall be outstanding, either as to principal or interest, or both, the Pledged Convention Center Fee Revenues shall be set aside and deposited monthly into a separate fund (which shall be a segregated account) known as the "City of Farmington Convention Center Fee Income Fund" which Income Fund [[was created in City Ordinance No. ____]] [[is hereby established]].

Section 17. Purchaser Not Responsible. The Purchaser of the Bonds shall in no manner be responsible for the application or disposal by the City or by its officers of the funds derived from the sale thereof or any other funds herein designated.

Section 18. Reserved.

Section 19. Administration of Income Funds. So long as any of the Bonds shall remain outstanding, either as to principal or interest or

both, the following payments shall be made monthly from the Pledged Revenues:

A. Bond Account Payments. The following amounts shall be withdrawn, in the order provided in subparagraph (3) of this subsection A, from each of the Income Funds (and on parity with other outstanding Parity Gross Receipts Tax Bonds and Parity Convention Center Fee Bonds), and shall be concurrently credited to the Bond Account:

- (1) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds, and monthly thereafter, commencing on each Interest Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Bonds then outstanding.
- (2) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the outstanding Bonds and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Bonds then outstanding.
- (3) Unless the City determines that such amounts shall be withdrawn from such funds in some other order, for the purpose of making the transfers set forth in subparagraphs (1) and (2) of this subsection A, moneys shall be withdrawn in the following order:

FIRST: from the State-Shared Gross Receipts Tax Income Fund for credit to the Bond Account; to the extent that amounts available for such withdrawal from the State-Shared Gross Receipts Tax Income Fund are not sufficient to pay the amounts required in subparagraphs (1) and (2) of this subsection A,

SECOND: from the Hold Harmless Gross Receipts Tax Income Fund for credit to the Bond Account; to the extent that amounts available for such withdrawal from the State-Shared Gross Receipts Tax Income Fund are not sufficient to pay the amounts required in subparagraphs (1) and (2) of this subsection A,

THIRD: from the Convention Center Fee Income Fund for credit to the Bond Account, to the extent that amounts available for such withdrawal from the State-Shared Gross Receipts Tax Income Fund and the Hold Harmless Gross Receipts Tax Income Fund are not sufficient to pay the amounts required in subparagraphs (1) and (2) of this subsection A.

B. Credit. In making the deposits required to be made into the Bond Account, if there are any amounts then on deposit in the Bond Account available for the purpose for which such deposit is to be made, the amount of the deposit to be made pursuant to subsection A above shall be reduced by the amount available in such fund for such purpose.

C. Transfer of Money out of Bond Account. Each payment of principal and interest becoming due on the Bonds shall be transferred from the Bond Account to the Paying Agent on or before two Business Days prior to the due date of such payment.

D. Defraying Delinquencies in the Bond Account. If, in any month, the City shall, for any reason, fail to pay into the Bond Account the full amount required, the difference between the amount paid and the amount so stipulated shall be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied.

E. Payment of Parity Obligations. Concurrently with the payment of the Pledged Revenues required by subsections A and D of this Section, any amounts on deposit in the State-Shared Gross Receipts Tax Income Fund and the Hold Harmless Gross Receipts Tax Income Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to outstanding Parity Gross Receipts Tax Bonds payable from such Pledged Gross Receipts Tax Revenues, as the same become due, and any amounts on deposit in the Convention Center Fee Income Fund shall be used by the City for the payment of the principal of, interest on and debt service reserve deposits relating to outstanding Parity Convention Center Fee Bonds. If funds on deposit in the respective Income Funds are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the Bonds and any other outstanding Parity Bonds, then the available funds in the Income Funds will be used, first, on a pro-rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Bonds, for the payment of principal of and interest on all series of outstanding Parity Bonds and, second, to the extent of remaining available funds in the Income Funds on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Bonds, for the required debt service reserve fund deposits for all series of outstanding Parity Bonds; provided, that in no event shall the City be required to (i) use Pledged Gross Receipts Tax Revenues to pay the principal of or interest on Parity Convention Center Fee Revenue Bonds which do not also constitute a lien on the Pledged Gross Receipts Tax Revenues, or (ii) use Pledged Convention Center Fee Revenues to pay the principal of or interest on Parity Gross Receipts Tax Revenue Bonds which do not also constitute a lien on the Pledged Convention Center Fee Revenues.

F. Termination upon Deposits to Maturity. No payment shall be made into the Bond Account if the amounts in such funds total a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest, on the Bonds to their respective maturities or applicable redemption dates, in which case moneys in the Bond 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 the Bond Account may be used as provided below.

G. Payment of Subordinate Lien Obligations. Subsequent to the payments required by subsections A, D and E of this Section, any balance remaining in the Income Funds, after making the payments hereinabove provided shall be used by the City for the payment of interest on and the principal of additional bonds or other obligations, if any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of the Bonds hereafter authorized, issued and payable from the Pledged Revenues, as the same become due. Payments with respect to principal, interest and reserve funds for any such subordinate lien obligations may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations.

H. Surplus Revenues. After making all the payments hereinabove required to be made by this Section, the remaining Pledged Revenues, if any, may be applied to any other lawful purpose, as the City may from time to time determine.

Section 20. General Administration of Funds. The funds and accounts designated in this ordinance shall be administered as follows:

A. Investment of Money. Any moneys in any fund or account designated in Sections 16 through 19 hereof may be invested in any Permitted Investment then permitted by New Mexico law, except as is provided in Section 26 hereof with respect to defeasance. The obligations so purchased as an investment of moneys in any such fund or account shall be deemed at all times to be part of said fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund or account, and any loss resulting from each investment shall be charged to the fund or account. The City Treasurer

shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund or account.

B. Deposits of Funds and Accounts. The moneys and investments comprising each of the funds and accounts hereinabove designated in Sections 16 through 19 of this Ordinance shall be maintained and kept separate from all other funds and accounts in an Insured Bank or Insured Banks. The amounts prescribed shall be paid to the appropriate funds or accounts as specified in Sections 16 through 19. Each payment shall be made into the proper bank account and credited to the proper fund or account not later than the last day designated; provided that when the designated date is a Saturday, Sunday or a legal holiday, then such payment shall be made on the next preceding business day. Nothing herein shall prevent the establishment of one such bank account or more (or consolidation with any existing bank account), for all of the funds and accounts in said Sections 16 to 19, both inclusive, of this Ordinance.

Section 21. First Lien on Pledged Revenues. The Bonds constitute an irrevocable and first lien (but not necessarily an exclusively first lien) on the Pledged Revenues.

Section 22. Lien on Pledged Revenues. The Pledged Revenues and the amounts and securities on deposit in the Bond Account, and the proceeds thereof, are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein for, the payment of the principal of, premium, if any, and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, this Bond Ordinance. The Bonds constitute an irrevocable and first lien, but not an exclusive first lien on the Pledged Revenues on parity with the lien thereon of the 2005 Bonds, the 2012 Bonds, as related to the Pledged Gross Receipts Tax Revenues, and additional Parity Bonds, if any, hereafter authorized to be issued and payable from the Pledged Revenues.

Section 23. Additional Bonds and Other Obligations.

A. Limitations upon Issuance of Other Parity Gross Receipts Tax Obligations. Nothing in this ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Pledged Gross Receipts Tax Revenues and constituting a lien upon said revenues on a parity with, but not prior nor superior to, the lien of the Bonds herein authorized, nor to prevent the issuance of bonds or other obligations refunding all or a part of the Bonds herein authorized, provided, however, that before any such additional Parity Gross Receipts Tax Obligations are authorized or actually issued, including those refunding obligations which refund subordinate bonds or other subordinate obligations, as permitted in subsection C of this Section 23 (but excluding any Parity Gross Receipts Tax Obligations which refund outstanding Parity Gross Receipts Tax Bonds and other parity lien obligations as permitted by Sections 23C(1) and 23E(1) hereof):

- (1) The City is then current in all of the accumulations required to be made into the Bond Account pursuant to Section 19 of this Authorizing Ordinance; and
- (2) The Pledged Gross Receipts Tax Revenues received by the City for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding Bonds, all other then outstanding Parity Gross Receipts Tax Obligations and the Parity Gross Receipts Tax Obligations proposed to be issued (excluding any accumulation for reserves therefor).

For purposes of the tests set forth in clauses (1) and (2) above, if on the date of issuance of any such Parity Gross Receipts Tax Obligations

the full amount of a reserve fund requirement for the Parity Gross Receipts Tax Obligations is immediately funded or capitalized from the proceeds of such Parity Gross Receipts Tax Obligations, the amount of such reserve fund requirement so funded shall be deducted from the principal and interest coming due in the final Fiscal Year for the proposed additional Parity Gross Receipts Tax Obligations.

B. Limitations upon Issuance of Other Parity Convention Center Fee Obligations. Nothing in this ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Pledged Convention Center Fee Revenues and constituting a lien upon said revenues on a parity with, but not prior nor superior to, the lien of the Bonds herein authorized, nor to prevent the issuance of bonds or other obligations refunding all or a part of the Bonds herein authorized, provided, however, that before any such additional Parity Convention Center Fee Obligations are authorized or actually issued, including those refunding obligations which refund subordinate bonds or other subordinate obligations, as permitted in subsection C of this Section 23 (but excluding any Parity Convention Center Fee Obligations which refund outstanding Parity Convention Center Fee Bonds and other parity lien obligations as permitted by Sections 23C(1) and 23E(1) hereof):

- (1) The City is then current in all of the accumulations required to be made into the Bond Account pursuant to Section 19 of this Authorizing Ordinance; and
- (2) The Pledged Convention Center Fee Revenues received by the City for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Convention Center Fee Obligations shall have been sufficient to pay an amount representing at least 200% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then outstanding Bonds, all other than outstanding Parity Convention Center Fee Obligations and the Parity Gross Convention Center Fee Obligations proposed to be issued (excluding any accumulation for reserves therefor).

For purposes of the tests set forth in clauses (1) and (2) above, if on the date of issuance of any such Parity Convention Center Fee Obligations the full amount of a reserve fund requirement for the Parity Convention Center Fee Obligations is immediately funded or capitalized from the proceeds of such Parity Convention Center Fee Obligations, the amount of such reserve fund requirement so funded shall be deducted from the principal and interest coming due in the final Fiscal Year for the proposed additional Parity Convention Center Fee Obligations.

C. Certificate or Opinion of Earnings. A written certification or opinion by an Independent Accountant or the City's Administrative Services Director that said annual Gross Receipts Tax Pledged Revenues or Convention Center Fee Revenues, as applicable, for such preceding Fiscal Year are sufficient to pay the amounts set forth in Subsection A(2) or B(2) of this Section, as applicable, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver said additional bonds or other obligations on parity with the Bonds herein authorized.

D. Subordinate Obligations Permitted. Nothing in this ordinance contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, and constituting a lien upon said Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as

applicable, subordinate or junior in all respects to the lien of the Bonds herein authorized.

E. Superior Obligations Prohibited. Nothing herein contained shall be construed so as to permit the City to issue bonds or other obligations payable from the Pledged Gross Receipts Tax Revenues or Convention Center Fee Revenues having a lien thereon prior and superior to the Bonds.

Section 24. Refunding Bonds. The provisions of Section 23 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after the Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from Pledged Gross Receipts Tax Revenues or Pledged Convention Center Fee Revenues, such bonds or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the bonds or other obligations, at the time of their required surrender for payment shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, is changed (except as provided in subsection E of Section 23 and in subsections B and C of this Section).

B. Limitations Upon Issuance of Parity Refunding Obligations. No refunding bonds or other refunding obligations payable from the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, shall be issued on parity with the Bonds herein authorized, unless:

- (1) The lien on the Pledged Gross Receipts Tax Revenues or Pledged Convention Fee Revenues, as applicable, of the outstanding obligations so refunded is on a parity with the lien thereon of the Bonds herein authorized; or
- (2) The refunding bonds or other refunding obligations are issued in compliance with Subsection A of Section 23 hereof.

C. Refunding Part of an Issue. The refunding bonds or other obligations so issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any there be; and the registered owner or owners of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the registered owner or owners of the bonds or other obligations of the same issue refunded thereby.

D. Limitations Upon Issuance of any Refunding Obligations. Any refunding bonds or other refunding obligations payable from the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, shall be issued with such details as the City may by ordinance or resolution provide, subject to the inclusion of any such rights and privileges designated in Subsection C of this Section, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including but not necessarily limited to the issue herein authorized). If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, is refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

- (1) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations, or

- (2) The refunding bonds or other refunding obligations are issued in compliance with Subsection A of Section 23 hereof, or
- (3) The lien on the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

Section 25. Equality of Parity Gross Receipts Tax Bonds and Parity Convention Center Fee Bonds. The Parity Bonds from time to time outstanding shall not be entitled to any priority one over the other in the application of the Pledged Gross Receipts Tax Revenues or Pledged Convention Center Revenues, as applicable, regardless of the time or times of their issuance or the date incurred, it being the intention of the City Council that, except as set forth herein, there shall be no priority among Parity Gross Receipts Tax Bonds or Parity Convention Center Fee Bonds, as applicable, regardless of whether they are actually issued and delivered or incurred at different times.

Section 26. Protective Covenants. The City hereby covenants and agrees with each and every holder of the Bonds issued hereunder:

A. Use of Bond Proceeds. The City will proceed without delay to apply the proceeds of the Bonds as set forth in Section 15 of this Bond Ordinance.

B. Payment of Bonds Herein Authorized. The City will promptly pay the principal of and the interest on every Bond at the place, on the date and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

C. City's Existence. The City will maintain its corporate identity and existence so long as any of the Bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any owner of the Bonds.

D. Extension of Interest Payments. In order to prevent any accumulation of claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of time for the payment of any claim for interest on any of the Bonds, and the City will not directly or indirectly be a party to or approve any arrangements for any such extension.

E. Records. So long as any of the Bonds remain outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

F. Audits and Budgets. The City will, within two hundred and seventy (270) days following the close of each Fiscal Year, cause an audit of its books and accounts relating to the Pledged Revenues to be commenced by an Independent Accountant showing the receipts and disbursements in connection with such revenues.

G. Other Liens. Other than as described and identified by this Bond Ordinance, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues.

H. Impairment of Contract. The City agrees that any law, ordinance or resolution of the City that in any manner affects the Pledged Revenues or the Bonds shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Bonds outstanding, unless such Bonds have been discharged in full or provision has been fully made therefor or unless the required consents of the holders of the then outstanding Bonds are obtained pursuant to Section 30 of this Bond Ordinance.

I. Bond Account. The Bond Account shall be used solely and only, and those funds are hereby pledged, for the purposes set forth in this Bond Ordinance.

J. Surety Bonds. Each municipal official and employee being responsible for receiving Pledged Revenues shall be bonded at all times, which bond shall be conditioned upon the proper application of such funds.

K. Performing Duties. The City will faithfully and punctually perform all duties with respect to the Bonds required by the Constitution and laws of the State of New Mexico and the ordinances and resolutions of the City relating to the Bonds.

L. Tax Covenants. The City covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. The Mayor, Mayor Pro-Tem and other officers of the City having responsibility for the issuance of the Bonds shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Bonds.

The City covenants that it (a) will take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments, yield reduction payments or payments of alternative amounts in lieu of rebate to the federal government, if required, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor, Mayor Pro Tem and other appropriate officers are hereby authorized and directed to take any and all actions, make calculations and rebate payments, and make or give reports and certifications, if any, as may be required or appropriate to assure such exclusion of that interest.

In furtherance of the covenants set forth above, the City hereby establishes a fund separate from any other funds established and maintained hereunder designated as the Rebate Fund (the "Rebate Fund"). Money and investments in the Rebate Fund shall not be used for the payment of the Bonds and amounts credited to the Rebate fund shall be fee and clear under any pledge under this Bond Ordinance. Money in the Rebate Fund shall be invested in a manner provided in Section 18 for investment of money, and all amounts on deposit in the Rebate Fund shall be held by the City, or a designated trustee, in trust, to the extent required to pay rebatable arbitrage to the United States of America. The City shall unconditionally be entitled to accept and rely upon the recommendation, advice, calculation and opinion of an accounting firm or other person or firm with knowledge of or experience in advising with respect to the provisions of the Code relating to rebatable arbitrage. The City shall remit all rebate installments and the final rebate payment to the United States of America as required by the provisions of the Code. Any moneys remaining in the Rebate Fund after redemption and payment of all the Bonds and payment and satisfaction of any rebatable arbitrage shall be withdrawn and remitted to the City.

Section 27. Continuing Disclosure Undertaking. The officers of the City are authorized to sign such documents and to take such actions in the future with respect to the City's continuing disclosure obligations as are necessary or desirable to comply with the Continuing Disclosure Undertaking and the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Notwithstanding any other provisions of this Bond Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an "event of default" under Section 25 hereof, and holders and beneficial owners of Bonds shall be entitled to exercise only such rights with respect thereto as are provided in the Continuing Disclosure Undertaking.

Section 28. Events of Default. Each of the following events is hereby declared an "event of default":

A. Nonpayment of Principal. Failure to pay the principal of any of the Bonds when the same becomes due and payable, either at maturity, or by proceedings for redemption, or otherwise.

B. Nonpayment of Interest. Failure to pay any installment of interest when the same becomes due and payable.

C. Incapable of Performing. If the City shall for any reason be rendered incapable of fulfilling its obligations hereunder.

D. Default of any Provision. Default by the City in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the Bonds or in this Bond Ordinance on its part to be performed (other than a default set forth in subsections A and B of this Section), and the continuance of such default for thirty (30) days after written notice specifying such default and requiring the same to be remedied has been given to the City by the holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding.

E. Bankruptcy. The City (i) files a petition or application seeking reorganization or arrangement of debt under Federal Bankruptcy law, or other debtor relief under the laws of any jurisdiction, or (ii) is the subject of such petition or application which the City does not contest or is not dismissed or discharged within sixty (60) days.

Section 29. Remedies upon Default. Upon the happening and continuance of any of the events of default as provided in Section 28 of this Bond Ordinance, then and in every case, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City, the City Council and its agents, officers and employees, but only in their official capacities, to protect and enforce the rights of any holder of Bonds under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award relating to the execution of any power herein granted for the enforcement of any legal or equitable remedy as such holder or holders may deem most effectual to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of any Bondholder, or to require the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the Bonds then outstanding. The failure of any Bondholder so to proceed shall not relieve the City or any of its officers, agents or employees of any responsibility for failure to perform, in their official capacities, any duty. Each right or privilege of such holder (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege.

Section 30. Duties upon Default. Upon the happening of any of the events of default provided in Section 28 of this Bond Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the owners of the Bonds to protect and preserve the security created for the payment of the Bonds and to insure the payment of the principal of and interest on the Bonds promptly as the same become due. All proceeds derived therefrom, so long as any of the Bonds, either as to principal or interest, are outstanding and unpaid, shall be applied as set forth in Section 17 of this Bond Ordinance. In the event the City fails or refuses to proceed as provided in this Section, the holder or holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding, after demand in writing, may proceed to protect and enforce the rights of the owners of the Bonds as hereinabove provided.

Section 31. Bonds Not Presented When Due. If any Bonds shall not be duly presented for payment when due at maturity or on the redemption date thereof, and if moneys sufficient to pay such Bonds are on deposit with the Paying Agent for the benefit of the owners of such Bonds, all liability of the City to such owners for the payments of such Bonds shall

be completely discharged, such Bonds shall not be deemed to be outstanding and it shall be the duty of the Paying Agent to segregate and to hold such moneys in trust, without liability for interest thereon, for the benefit of the owners of such Bonds as may be provided in any agreement hereafter entered into between the Paying Agent and an officer of the City.

Section 32. Delegated Powers. The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the title and general summary of this Bond Ordinance set out in Section 39 (with such changes, additions and deletions as they may determine), the printing of the Bonds, the execution of the Continuing Disclosure Undertaking and of such documents or certificates as may be required by the Purchaser or bond counsel.

Section 33. Amendment of Bond Ordinance. This Bond Ordinance may be amended without the consent of the holder of any Bond to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision contained herein. Prior to the date of the initial delivery of the Bonds to the Purchaser, the provisions of this Bond Ordinance may be amended with the written consent of the Purchaser, with respect to any changes which are not inconsistent with the substantive provisions of this Bond Ordinance. In addition, this Bond Ordinance may be amended without receipt by the City of any additional consideration, but with the written consent of the holders of seventy-five percent (75%) of the Bonds then outstanding (not including Bonds which may be held for the account of the City); but no ordinance adopted without the written consent of the holders of all outstanding Bonds shall have the effect of permitting:

- A. An extension of the maturity of any Bond; or
- B. A reduction of the principal amount or interest rate of any Bond; or
- C. The creation of a lien upon the Pledged Revenues ranking prior to the lien or pledge created by this Bond Ordinance; or
- D. A reduction of the principal amount of Bonds required for consent to such amendatory ordinance; or
- E. The establishment of priorities as between Bonds issued and outstanding under the provisions of this Bond Ordinance; or
- F. The modification of or otherwise affecting the rights of the holders of less than all the outstanding Bonds.

Section 34. Defeasance. When all principal and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien on the Pledged Revenues for the payment of the Bonds shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Bond Ordinance. Payment shall be deemed made with respect to any Bond or Bonds when the City has placed in escrow with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Obligations, as defined below) to meet all requirements of principal and interest as the same become due to their final maturities or upon designated redemption dates. Any Defeasance Obligations shall become due when needed in accordance with a schedule agreed upon between the City and such bank at the time of the creation of the escrow. Defeasance Obligations within the meaning of this Section shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series - "SLGs"), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

Section 35. Bond Ordinance Irrepealable. After any of the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided, or there has been defeasance of the Bonds as herein provided.

Section 36. Severability Clause. If any Section, paragraph, clause or provision of this Bond Ordinance shall for any reason be held to be

invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 37. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 38. Effective Date. Upon due adoption of this Bond Ordinance, it shall be recorded in the book of ordinances of the City kept for that purpose, authenticated by the signatures of the Mayor or Mayor Pro-Tem and City Clerk, and the title and general summary of the subject matter contained in this Bond Ordinance (set out in Section 36 below) shall be published in a newspaper which maintains an office and is of general circulation in the City and this Bond Ordinance shall be in full force and effect in accordance with law.

Section 39. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Farmington, New Mexico

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in an ordinance duly adopted and approved by the City Council of the City of Farmington, on October 25, 2016, relating to the authorization and issuance of the City's Gross Receipts Tax Convention Center Improvement Revenue Bonds, Series 2016. Complete copies of the Ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Farmington City Hall, 800 Municipal Drive, Farmington, New Mexico.

The title of the Ordinance is:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE CITY OF FARMINGTON, NEW MEXICO GROSS RECEIPTS TAX CONVENTION CENTER IMPROVEMENT REVENUE BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,500,000 FOR THE PURPOSE OF DEFRAYING THE COST OF DESIGNING, CONSTRUCTING, INSTALLING, EQUIPPING AND IMPROVING CONVENTION CENTER FACILITIES OWNED BY THE CITY; PROVIDING THAT THE BONDS WILL BE PAYABLE FROM STATE SHARED GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-1-6.4 NMSA 1978, HOLD HARMLESS GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-1-6.12 NMSA 1978, AND CONVENTION CENTER FEE REVENUES COLLECTED BY THE CITY PURSUANT TO SECTIONS 5-13-1 THROUGH 5-13-15 NMSA 1978 AND CITY ORDINANCE NO. 2014-1272; PROVIDING THAT THE MATURITY DATES, PRINCIPAL AMOUNTS, INTEREST RATES, REDEMPTION PROVISIONS AND OTHER DETAILS OF THE BONDS WILL BE ESTABLISHED IN A SUPPLEMENTAL RESOLUTION; PROVIDING FOR THE EXECUTION OF THE BONDS AND OTHER DOCUMENTS AND AGREEMENTS RELATING TO THE BONDS BY AUTHORIZED OFFICERS OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

A general summary of the Ordinance is contained in its title. This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary for Publication)

DONE AND APPROVED this 25th day of October, 2016.

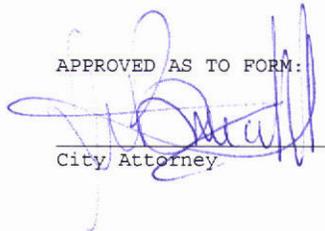
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

CITY OF FARMINGTON
INTER-OFFICE MEMORANDUM

TO: Mayor Roberts and City Council

FROM: Kristi Benson, CPPO, CPPB *KB*
Chief Procurement Officer

DATE: September 30, 2016

SUBJECT: High Definition Laser Scanning Survey Bundle for the Farmington Electric
Utility System, RFP #17-116702

USING DEPARTMENT: Electric Utility
=====

A proposal opening was held on September 7, 2016 for High Definition Laser Scanning Survey Bundle for the Farmington Electric Utility System. One (1) offer was submitted.

The name of the business submitting the sole response is Vectors, Inc. in Albuquerque, NM.

The Central Purchasing Department concurs with the recommendation from the evaluation committee to begin negotiations with Vectors, Inc. as a qualified firm submitting the only responsive proposal which is deemed to be advantageous and in the best interest of the City. The single response documentation memo is attached.

Kristi Benson (Presenter)
Council Meeting October 11, 2016 Close/Reopen

xc: H. Andrew Mason, Administrative Services Director
Hank Adair, Electric Utility Director
John Armenta, Electric Engineering Manager
File – 17-116702

Evaluation Committee:
Herb Blair, Electric Utility
Dalton James, Electric Utility
Mitchell Betonie, Electric Utility
Jerri Bluehouse, Electric Utility
Melvin Cline, Public Works

CITY OF FARMINGTON
CENTRAL PURCHASING
INTER-OFFICE MEMORANDUM

TO: High Definition Laser Scanning Survey Bundle for the Farmington Electric Utility System, RFP #17-116702

FROM: Emily Milne, Buyer II

DATE: September 9, 2016

SUBJECT: Single Response Documentation

=====
Twenty two (22) companies were notified of this solicitation.

The following firms were contacted regarding this solicitation and requested information regarding their decision not to respond to the above RFP.

Their decision was based on the following:

- (1) Geoshack, Inc.: Chad Long - Did not receive our Notice to Offerors. The address on file is correct.
- (2) Allen Precision: Frank Frazier – Did not receive our Notice to Offerors. The address we have on file is incorrect. We mailed the notice to the corporate address. I had the address updated in our system to go to Frank in Scottsdale, AZ.
- (3) Advanced Geodetic Surveys: Laura Boehm – Did not receive our Notice to Offerors. The address on file is correct.
- (4) Holman's Inc.: Eric Evans – Did receive our Notice to Offerors. Their proposal arrived at 2:45 pm on September 7, 2016, but was not accepted and considered late after 2:00 pm.

xc: Kristi Benson, CPPO, CPPB, Chief Procurement Officer


(Initial/Concur)

Regular Meeting of the City Council, City of Farmington, New Mexico, held in the Council Chamber at City Hall at 6:00 p.m. on Tuesday, September 27, 2016. The open regular session was held in full conformity with the laws and ordinances and rules of the Municipality.

Upon roll call, the following were found to be present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett

constituting all members of said Governing Body.

Also present were:

ASSISTANT CITY MANAGER	Julie Baird
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie

The meeting was convened by the Mayor. Thereupon the following proceedings were duly had and taken:

INVOCATION: The invocation was offered by Deacon Bill Allen of Mountain Vista Baptist Church.

Councilor Rodgers led the Pledge of Allegiance.

CONSENT AGENDA: The Mayor announced that those items on the agenda marked with an asterisk (*) have been placed on the Consent Agenda and will be voted on without discussion by one motion. He stated that if any item did not meet with approval of all Councilors or if a citizen so requested, that item would be removed from the Consent Agenda and heard under Business from the Floor.

*MINUTES: The minutes of the Regular Meeting of the City Council held September 13, 2016.

*DECLARATION OF SURPLUS PROPERTY: The Chief Procurement Officer recommended that worn-out, unusable or obsolete vehicles (General Services) be declared surplus to the needs of the City and not essential for municipal purposes and that the City Manager or his designee be authorized to dispose of such surplus property pursuant to State Statutes.

*DECLARATION OF SURPLUS PROPERTY: The Chief Procurement Officer recommended that worn-out, unusable or obsolete distribution transformers, a substation transformer and a substation control building (Electric) be declared surplus to the needs of the City and not essential for municipal purposes and that the City Manager or his designee be authorized to dispose of such surplus property pursuant to State Statutes.

*RE-BID: The Chief Procurement Officer recommended that the re-bid for Penny Lane low head dam modifications (Public Works) be awarded to Kimo Constructors, Inc. on its low bid meeting specifications after application of the five percent in-state and Veterans preferences of \$1,123,152.30. Bids opened September 20, 2016 with three bidders participating.

*WAIVER TO THE 300-FOOT SEPARATION REQUIREMENT FROM A CHURCH for a new Restaurant Liquor License (beer and wine) for Zebadiah's Restaurant, 2210 East 20th Street, Farmington, New Mexico.

*WARRANTS PAYABLE for the time period of September 11, 2016 through September 24, 2016, for current and prior years, in the amount of \$7,980,404.66.

There being no requests to remove any items, a motion was made by Councilor Duckett, seconded by Councilor Rodgers to approve the Consent Agenda, as presented, and upon voice vote the motion carried unanimously.

SUICIDE PREVENTION MONTH PROCLAMATION

Mayor Roberts presented Rick Quevedo of Desert View Counseling and Ryan and Amber Hale, the surviving parents of Thad Hale, with a Proclamation declaring September, 2016 as "Suicide Prevention Month."

Ms. Hale thanked the Council for recognizing suicide as a problem for our community and stated that she and her husband miss their son dearly.

Councilor Sharer introduced Miss Pre-Teen Brooke Sona who lost her father to suicide.

Mayor Roberts thanked those service organizations that offer educational programs and materials to increase awareness about the warning signs of suicide and he also recognized those individuals in the audience who have been personally affected by suicide.

RECOMMENDATIONS FROM THE PLANNING AND ZONING COMMISSION:

- (1) Adoption of the recommendation from the Planning and Zoning Commission as contained within the Community Development Department Petition Report to approve Petition No. SUP 16-66 from Heather Stotz requesting a Special Use Permit to keep 30 chickens and one rooster on 5.00 acres of property located at 6116 Jackrabbit Junction in the RE-2, Residential Estates, District.

Mayor Roberts announced that tonight's consideration of Petition No. SUP 16-66 will be conducted as a quasi-judicial hearing that will require all parties and their witnesses offering testimony to first be sworn to tell the truth by the City Clerk. He stated that the order of the presentation of evidence will be 1) staff, 2) the proponents, 3) the opponents and 4) the proponent's rebuttal. At the request of Mayor Roberts, City Clerk Dianne Smylie asked for all parties wishing to give testimony in response to the subject petition to stand, raise their right hand and swear to tell the truth. The following individuals were administered an oath: Community Development Director Mary Holton, Associate Planner Steven Saavedra, Zoning Compliance Officer Leona Sims, Chief Building Official Derrick Childers, Public Works Director David Sypher, Petitioner Heather Stotz, proponent DeeAnn Stotz, and opponents SuzAnne and Fernando Gil.

Thereupon, Mayor Roberts asked for testimony from staff.

Utilizing a Powerpoint presentation [Exhibit A], Mr. Saavedra reported that the petitioner is requesting to keep up to 30 chickens and one rooster on five acres of land located at 6116 Jackrabbit Junction in the RE-2 District, which requires a Special Use Permit. He noted that the aerial view of the property does not show the residential unit or the chicken coop that are currently located on the property where the petitioner is housing one rooster and 16 chickens. He reported that based on Section 11.1 of the Unified Development Code ("UDC"), the petitioner would be allowed to keep 250 chickens on the property based upon the chicken-to-land equivalency ratio of 0.02 per acre. Mr. Saavedra stated that the existing chicken coop is 64 square feet in size with an additional 32 square foot chicken run and pointed out that the petitioner has assured staff that she will regularly dispose of feces and will mitigate any nuisances that arise. He reviewed the conditions (located on page 6.12 of the agenda materials) that were recommended by the members of the Planning and Zoning Commission ("P&Z") which state: 1) regular cleaning of the chicken coop and yard is required so that the use will not become detrimental to the health, welfare and safety of the surrounding neighborhood; 2) a screening fence around the chicken coop is required, which encloses the coop and will provide some separation of the use from neighboring properties; 3) the petitioner needs to ensure any chicken waste does not runoff onto the neighboring properties; 4) the keeping of chickens onsite cannot be used for commercial purposes; and 5) the Special Use Permit will be reconsidered should this property of five acres be subdivided. Mr. Saavedra noted that the Community Development Department has, historically, recommended against roosters because of their noise, but noted that there are no City Codes that specifically

prohibit the keeping of roosters. He played two videos that were submitted by the petitioner demonstrating how the rooster's crow is muffled with a collar and he also played a video that was taken by himself during a site visit to the property which indicates that the rooster's crow can only be faintly heard from about 150 to 200 feet away. Mr. Saavedra advised that the subject petition was initially considered by P&Z on August 11, 2016 where issues of noise, smell and drainage were brought up by the surrounding property owners. As a result, he noted that action on the petition was tabled to afford the P&Z members an opportunity visit the site. He stated that on September 9, 2016, five members of P&Z, the Community Development Director, staff from the Planning Division, the Chief Building Inspector, the Deputy City Attorney and a City Drainage Engineer visited the subject site which ultimately resulted in the recommendation from P&Z to approve Petition No. SUP 16-66 subject to the five stated conditions.

Councilor Duckett pointed out that in the last three years the Council has granted six Special Use Permits for the keeping of chickens, but noted that the maximum number of chickens allowed on one piece of property has been limited to 12 and stated that a rooster has never been requested nor considered. In response to inquiry from Councilor Duckett, Mr. Saavedra stated that it is his opinion that P&Z approved the subject petition because there was no issue of noise or smell during the site visit.

In response to further inquiry from Councilor Duckett, Public Works Director David Sypher noted that he did not attend the site visit, but stated that he understands from the Drainage Engineer that the chicken coop is covered with a roof and that the surrounding property is fairly flat in nature which would make it difficult for feces to flow onto surrounding properties.

Referring to the minutes of the P&Z meeting, Mayor Roberts questioned whether the barn located on the property meets the residential construction standards. In response, Mr. Saavedra confirmed that there are living quarters within the barn which qualify it as a residence and stated that the keeping of chickens is an ancillary use of the property. Responding to a question from Councilor McCulloch, Mr. Childers confirmed that the barn does meet the building code requirements for a residential use since half of it contains sleeping and eating quarters.

Noting that he was contacted by three of the adjacent property owners, Councilor Duckett stated that Elaine Whitehorn perceives the rooster to be the main area of concern and does not believe that the collar is working to muffle his crow. Furthermore, he stated that Ms. Whitehorn thinks that there were four roosters on the property earlier this year. Councilor Duckett reported that Carrie Thompson indicated to him that the roosters were crowing out of control earlier in the summer but stated that the one rooster seems to be acceptable to her. He noted that her primary concern is that the petitioner is living in a barn and that she can hear dogs barking. In response to inquiry from Mayor Roberts, City Attorney Jennifer Breakell stated that the Council cannot consider the comments made by Ms. Whitehorn and Ms. Thompson because there is not an opportunity for the petitioner to cross-examine them which is a violation of the quasi-judicial process. Councilor Duckett explained that the Gils were the third property owner to contact him, but noted that they are present in the audience and will directly address their concerns.

The Mayor asked for testimony from the petitioner.

Addressing the Council, Ms. Stotz reported that this particular breed of rooster, the Öländsk dvärghöna, is from Sweden and is endangered of becoming extinct as there are fewer than 100 of them left. Noting that she has five breeds of Swedish chickens and had five breeds of roosters at the beginning of the summer, she reported that she has since rehomed four of the roosters because of the noise and their desire to compete with one another. Ms. Stotz stated that she recently moved to Farmington from Aztec because her house flooded and noted that she kept these chickens and roosters on her smaller lot in Aztec without any complaints. She also pointed out that none of the adjoining property owners made her aware of the noise issues until she received notice from the City that a Special Use Permit was necessary. Ms. Stotz stated that with the collar, the rooster reaches about 55 decibels at two to three feet away, which is comparable to speaking, and noted that when the distance is doubled, the decibel level decreases by 6dBa. She contended

that a dog barking is about 90dBa and the operation of her air condition is around 60dBa. She explained that she only keeps and breeds Swedish chickens because the first one was given to her by her boyfriend who passed away two years ago. Announcing that she is a vegetarian and does not eat the eggs or the chickens, she stated that she only keeps them as pets and for breeding purposes and stated that she will not replace the other four breeds once the chickens pass. With regard to drainage, she stated that the barn has been built-up with railroad ties for erosion purposes with the chicken coop being located on the flat area below. She also confirmed that the chicken coop is covered and is surrounded by railroad ties which prevents water from running down on the properties below. In response to inquiry from Mayor Roberts, Ms. Stotz reported that the rooster typically crows three times in the morning and in the evening and at other times during the day when he feels threatened. She stated that when she first applied for the Special Use Permit she had five roosters and 25 hens which is why she requested the number 30, but stated that she has since rehomed four of the roosters and ten of the hens and explained that preserving the breeds is her primary concern. She announced that the hens that she retained are pets and that she intends to keep them throughout their lifespan because they were gifts from her boyfriend. She also noted that she exchanges fertilized eggs with other breeders in an effort to sustain the gene pool and plans to hatch approximately 10 of the Bantam eggs in the future and maintain that flock on her property. In response to further inquiry from the Mayor, Ms. Stotz stated that she would probably rehome all of the hens if she is not allowed to keep the one rooster.

Acknowledging that Farmington does not receive a lot of rain fall throughout the year, Councilor Sharer pointed out that flooding is often a problem when major rain events occur and stated that he is concerned that the feces will be spread to other properties as a result.

Responding to inquiry from Councilor Rodgers, Ms. Stotz reported that she does have an individual that will take the one remaining rooster if the Special Use Permit is not granted. She also stated that the highest decibel level that she recorded with the single rooster crowing was 65 dBa at approximately 3 p.m. In response to further inquiry from Councilor Rodgers, she reported that the chickens are released from the coop during the day into the covered run but are not allowed to freely roam on the property for safety reasons.

Councilor Duckett announced that he has historically voted in favor of petitions requesting the keeping of chickens, but stated that he wants to find a solution that works for all of the affected property owners. He also pointed out that 30 chickens more than doubles the amount that have been approved by the Council in the past. In response to inquiry from Councilor Duckett, Ms. Stotz reported that she typically cleans the coop once per week and disposes of the waste in a trash bag that is placed in her polycart. She also noted that she uses a stall deodorizer and wood chips to help control odors.

In response to inquiry from Mayor Roberts, Mr. Saavedra explained that the only limitation for the keeping and breeding of chickens on property located in the RE-2 District is the Special Use Permit and the approved conditions.

The Mayor asked for testimony from the opponents.

SuzAnne and Fernando Gil, 6110 Jackrabbit Junction, voiced their opposition to the subject petition due to noise and drainage concerns. Ms. Gil explained that they did not make contact with the petitioner regarding the noise because they did not know how to handle the situation. She stated that when they starting having problems with the noise, they researched the city's ordinances and realized that a Special Use Permit was necessary; that is when they made contact with the Community Development Department to determine whether such permit had been granted. She noted that the noise has improved since the other four roosters were rehomed, but explained that they are still concerned about their health since Ms. Stotz's property drains onto theirs which sometimes results in puddles of standing water.

Mr. Gil speculated that the P&Z members did not observe any foul odors on the day of the site visit because Ms. Stotz was expecting them and had cleaned the chicken coop right before they arrived. He also wondered who would be responsible for monitoring the number of chickens being kept and the condition of the coop if the Special Use Permit is

granted. In response, Mayor Roberts pointed out that the Code Compliance Division is responsible for responding to complaints that are made by the surrounding property owners. Mr. Gil also stated that he believes that the crow collar is cruel and he questioned the status of the electric fence that was being used by the petitioner. Furthermore, Mr. Gil announced that he has been flooded in the past and stated that he is afraid that he will be exposed to chicken feces if it happens again. He stated that he would not be opposed to the hens if the petitioner were to build a retaining wall that would prevent the flooding and provide him some privacy from the barn and chicken coop. With regard to the electric fence, Ms. Gil contended that she and her husband had announced at the first P&Z meeting that they were concerned that it would catch on fire, but stated that she could not find where that was reported in the minutes of that meeting. She also stated that she is not happy with being tasked with the responsibility of reporting her complaints to the City each time that she believes that the petitioner is not complying with the conditions of the Special Use Permit.

With regard to Mr. Gil's comment about the retaining wall, Mayor Roberts pointed out that condition 3, as recommended by P&Z, states that the petitioner needs to ensure that any chicken waste does not runoff onto the neighboring properties and explained that if Mr. Gil can prove that such incident is occurring, then the petitioner would be in violation of the Special Use Permit which could result in revocation of the permit.

Councilor McCulloch argued that it is financially unreasonable to expect the petitioner to construct a retaining wall that is 666 feet in length, but questioned whether a retaining wall on the south end of the chicken coop could solve the problem. In response, Mr. Gil contended that a berm around the chicken coop would prevent the water from running off on both sides. Responding to inquiry from Councilor McCulloch and Mayor Roberts, City Attorney Jennifer Breakell confirmed that the Gils will be responsible for proving that the petitioner is not complying with the conditions of the Special Use Permit.

In response to inquiries from Councilor Rodgers, Ms. Gil announced that neither she nor her husband have spoken to the petitioner regarding options for remedying the situation and she confirmed that they were not made aware of the P&Z meeting that was held on September 15, 2016. Mr. Gil reiterated that noise from the rooster is annoying but that drainage onto his property is his primary concern. In closing, Mr. Gil reported that he only learned of tonight's meeting one hour before it started and stated that he believes that other neighbors would have been in attendance of tonight's meeting voicing their opposition had they known about it in advance.

Councilor Sharer questioned whether a condition could be added to require the rooster to wear the collar at all times. Ms. Breakell reported that it could be.

Responding to inquiry from Ms. Stotz, Mr. Gil confirmed that the site visit performed by Ms. Sims whereby she smelled strong odors coming from the subject property while standing on his balcony were not made a part of the record that was presented to the Council this evening. Ms. Stotz clarified that she only cleaned the chicken coop on the Sunday before the site visit on Friday due to a migraine and she offered to give Mr. and Mrs. Gil a tour of the property.

In response to a question from Mayor Roberts, Mr. Sypher restated that the chicken coop is completely covered which would make it difficult for the drainage water to be contaminated. However, he noted that a berm could be constructed around the chicken coop to retain the sheet water runoff. Responding to further inquiry from the Mayor, Ms. Stotz reported that she has turned off the hotwire fence that was referred to by the Gils and Mr. Saavedra explained that the fence is permitted provided that the wire is inactivated.

With respect to condition 3, as recommended by P&Z, Mayor Roberts suggested that the words "needs to" be replaced with the word "shall."

Councilor Duckett announced that he does not support the rooster being allowed on the property and stated that he would prefer that the number of chickens be reduced to 16 and that the Special Use Permit be reconsidered within 3 to 5 years.

Councilor Sharer stated that it is his understanding, based upon the testimony of the petitioner, that the hens are not needed if there is no rooster. In response, Ms. Stotz stated that she would like to keep the first hen that was given to her even if the Special Use Permit is not granted as requested.

There being no further discussion, a motion was made by Councilor McCulloch, seconded by Councilor Duckett to approve the recommendation from the Planning and Zoning Commission and to grant a Special Use Permit allowing the keeping of up to 16 chickens and no roosters on 5.00 acres of property located at 6116 Jackrabbit Junction in the Re-2 District, subject to:

- (1) the chicken coop and yard being regularly cleaned so that the use will not become detrimental to the health, welfare and safety of the surrounding neighborhood;
- (2) a screening fence being installed around the chicken coop for the purpose of enclosing the coop and providing separation from the neighboring properties;
- (3) The petitioner shall ensure that chicken waste does not runoff onto the neighboring properties;
- (4) the onsite keeping of chickens cannot be used for commercial purposes; and
- (5) the Special Use Permit being reconsidered after five years from the date of issuance.

The roll was called with the following result:

Those voting aye:	Gayla A. McCulloch Nate Duckett
Those voting nay:	Linda G. Rodgers Sean E. Sharer

The Mayor voted against the motion and declared the motion failed.

Mayor Roberts stated for the record that it is his opinion based on the testimony that has been presented that the rooster is appropriate, but believes that it should be collared at all times.

The Mayor asked each Councilor to explain the reasons for their vote.

Councilor Duckett announced that he voted in favor of the motion because the Council has granted Special Use Permits in the past under similar conditions but with no roosters. Furthermore, he stated that he believes that Mr. Sypher's testimony indicates that there is decent drainage and that there are a number of homes in the area that are keeping chickens without a Special Use Permit.

Councilor McCulloch stated that she voted in favor of the motion because it prohibits the rooster.

Councilor Rodgers indicated that she voted in against the motion because there is no City ordinance that prohibits the keeping of roosters. She stated that it is her opinion that the petitioner has made reasonable attempts to abate the noise with the crow collar, but noted that she would prefer that it be collared at all times. She also pointed out that the conditions require regular cleaning of the chicken coop and indicated that the fact that the chickens cannot roam freely on the property was also a deciding factor.

Councilor Sharer announced that he is not opposed to the rooster since its crow can be muffled with the collar and stated that he finds it sad that an individual is being forced to give up her pet. He expressed his hope that the drainage and noise issues can be resolved in an amicable manner between the two parties.

Mayor Roberts announced that he typically does not make motions, but feels compelled to formulate a motion that he can support if, in fact, he is called upon to break a tie vote of the Council.

Thereupon, a motion was made by Mayor Roberts, seconded by Councilor Sharer to approve the recommendation from the Planning and Zoning Commission and to grant a Special Use Permit to allow 16 chickens

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor McCulloch to table Petition No. PPJ 16-01 indefinitely, and upon voice vote the motion carried unanimously.

APPOINTMENT TO THE PARKS, RECREATION & CULTURAL AFFAIRS COMMISSION

The Mayor asked the Council's consideration of the appointment of Thomas Hawkins (term to September, 2017) as a member of the Parks, Recreation and Cultural Affairs Commission.

Thereupon, a motion was made by Councilor McCulloch, seconded by Councilor Rodgers to confirm the appointment of Thomas Hawkins as a member of the Parks, Recreation & Cultural Affairs Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

REAPPOINTMENTS TO THE PARKS, RECREATION & CULTURAL AFFAIRS COMMISSION

The Mayor asked the Council's consideration of the reappointments of Ellyn Dimond, Sherry Galloway, Patricia Baca and Jane Banes (terms to September, 2019) as members to the Parks, Recreation & Cultural Affairs Commission.

Thereupon, a motion was made by Councilor Rodgers, seconded by Councilor McCulloch to confirm the reappointments of Ellyn Dimond, Sherry Galloway, Patricia Baca and Jane Banes as members to the Parks, Recreation & Cultural Affairs Commission, as recommended by the Mayor, and upon voice vote the motion carried unanimously.

RECOGNITION OF COUNCILOR DUCKETT/ELECTED OFFICIAL OF THE YEAR/NEW MEXICO PARKS AND RECREATION ASSOCIATION

Parks, Recreation & Cultural Affairs Director Cory Styron proudly announced that Councilor Duckett was selected as the Elected Official of the Year by the New Mexico Parks and Recreation Association for his support of the accreditation process, development of the Master Plan, community engagement, the Mayor's Volunteer Program and the improvements at Lake Farmington.

Mayor Roberts stated that he believes that Councilor Duckett is a true advocate for the Parks and Recreation Department and has offered several ideas to expand and improve those services and programs.

Councilor Duckett thanked Mr. Styron and Community Center Manager Natalie Spruell for the nomination and stated that he is overwhelmed and honored for the recognition. He announced that he is committed to making Farmington a place where people want to stay, live, work and play.

There being no further business to come before the Council, the meeting was adjourned at 8:21 p.m.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 2013-1466, et seq.

Approved this 11th day of October, 2016.

Entered in the permanent record book this day of , 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

Special Meeting of the City Council, City of Farmington, New Mexico, held in the Executive Conference Room at City Hall at 9:00 a.m. on Thursday, September 22, 2016. The open regular session was held in full conformity with the laws and ordinances and rules of the Municipality.

Upon roll call, the following were found to be present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Sean E. Sharer Gayla A. McCulloch Nate Duckett
PRESENT BY TELEPHONE PURSUANT TO RESOLUTION NO. 2013-1483	Linda G. Rodgers, Councilor

constituting all the members of said Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie
DEPUTY CITY CLERK	Andrea Jones

Michael Rico, Assistant Treasurer for PNM Resources, Craig Scully of Katten Muchin Rosenman LLP, bond counsel for PNM, and David Lucas of Sherman and Howard, special bond counsel to the City, were also present at the meeting.

Councilor Rodgers was absent from today's meeting but was contacted by speaker telephone for participation in the meeting, pursuant to paragraph C, Section 10-15-1, NMSA 1978, and City of Farmington Resolution No. 2013-1483.

The meeting was convened by the Mayor. Thereupon the following proceedings were duly had and taken:

The Mayor announced that at this meeting the City Council was to consider adoption of a wrap-up resolution in connection with two series of City of Farmington, New Mexico Pollution Control Revenue Refunding Bonds, 2016 Series (Public Service Company of New Mexico San Juan and Four Corners Projects) as follows: (a) 2016 Series A in the principal amount of \$46,000,000 and (b) 2016 Series B in the principal amount of \$100,000,000 (collectively, the "Bonds") which were authorized by Ordinance Nos. 2016-1291 and 2016-1292.

The Mayor announced that the Council was being asked to consider the adoption of the resolution providing for the sale and certain terms of the Bonds, the execution and delivery of certain instruments and documents pertaining to the Bonds and other matters relating thereto. Ms. Smylie announced that copies of such proposed resolution in preliminary draft form previously were filed with her on September 15, 2016 and were available to the Mayor and each Councilor. Thereupon, there was officially filed with the City Clerk a copy of the resolution in its final form together with the exhibits and schedules identified therein, which is in substantially the form filed with the City Clerk on September 15, 2016 all of which were available to the Mayor and each Councilor. Councilor McCulloch thereupon introduced the resolution, entitled as follows:

RESOLUTION NO. 2016-1606

PERTAINING TO ISSUANCE OF THE CITY'S POLLUTION CONTROL REVENUE REFUNDING BONDS 2016 SERIES A (PUBLIC SERVICE COMPANY OF NEW MEXICO SAN JUAN AND FOUR CORNERS PROJECTS) AND 2016 SERIES B (PUBLIC SERVICE COMPANY OF NEW MEXICO SAN JUAN AND FOUR CORNERS PROJECTS), INCLUDING BUT NOT LIMITED TO ESTABLISHING THE RESPECTIVE PRINCIPAL AMOUNTS THEREOF AND

SPECIFYING CERTAIN MATTERS WITH RESPECT THERETO, AUTHORIZING THEIR SALE; AUTHORIZING EXECUTION AND DELIVERY OF CERTAIN INSTRUMENTS IN CONNECTION THEREWITH; RELATING TO THE PRIOR BONDS BEING REFUNDED BY THE AFORESAID BONDS; AND RATIFYING CERTAIN ACTIONS TAKEN PREVIOUSLY.

Councilor Duckett then moved that said resolution be passed and adopted and Councilor Sharer seconded the motion.

The question being upon the passage and adoption of the resolution, the roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett
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Those voting nay:	None
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The Mayor thereupon declared that four Councilors having voted in favor thereof, the said motion was carried and the resolution was duly passed and adopted.

Mr. Rico thanked the Council for their willingness to hold today's special meeting and he happily reported that PNM was able to secure an interest rate of 1.875 percent which will result in a savings of several million dollars per year and make the San Juan and Four Corners Power Plants more competitive.

There being no further business to come before the Council, the meeting was adjourned at 9:05 a.m.

The telephone call with Councilor Rodgers was terminated.

The City Clerk certified that notice of the foregoing meeting was given by posting pursuant to Resolution No. 2013-1466, et seq.

Approved this 11th day of October, 2016.

Entered in the permanent record book this day of , 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk

Work Session of the City Council, City of Farmington, New Mexico, held Tuesday, September 20, 2016 at 9:00 a.m. in the Executive Conference Room at City Hall, 800 Municipal Drive, Farmington, New Mexico, in full conformity with the rules, regulations and ordinances of the municipality.

At such meeting the following were present, constituting a quorum:

MAYOR	Tommy Roberts
COUNCILORS	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch Nate Duckett

constituting all the members of the Governing Body.

Also present were:

CITY MANAGER	Rob Mayes
ASSISTANT CITY MANAGER	Julie Baird
CITY ATTORNEY	Jennifer Breakell
CITY CLERK	Dianne Smylie
DEPUTY CITY CLERK	Andrea Jones

PRESENTATION/SAN JUAN COUNTY PARTNERSHIP NEEDS ASSESSMENT

Pamela Drake, Executive Director for San Juan County Partnership ("SJCP"), introduced Dr. Natalie Salvatore and Shannon Dee who compiled the data and wrote the Community Needs Assessment which is a report that has been completed every four years since 1996. Utilizing a PowerPoint presentation, she explained that the purpose of the 2016 San Juan County Needs Assessment is to identify a relatively unbiased list of needs perceived by members of the community, noting that participants were provided access to online and paper surveys. In addition, Ms. Drake stated that social indicator data is reviewed as part of the needs assessment and contended that it is a valuable resource for service agencies, government entities, schools, businesses and organizations throughout the county for planning, prioritizing and for funding applications. She reported that the top three concerns (alcoholism, drunken driving and drug abuse) have remained the same since 1996 but pointed out that suicide is currently the second leading cause of death among teens and that San Juan County is ranked sixth in New Mexico for teen suicide which is two and one-half times greater than the national average. Ms. Drake reviewed the historical alcohol and non-alcohol-involved traffic fatality rates for the county and happily reported that alcohol-involved traffic accidents have decreased from 331 per 100,000 population in 1996 to 141 in 2014. She discussed the overall resident ratings for services and amenities available in the county and answered various questions from the Council concerning available housing which was listed as the top concern.

Mayor Roberts contended that the needs assessment suggests a gap in services available to combat the perceived problems and questioned how the service organizations addressing these problems could augment their services in the current economic climate. Ms. Drake acknowledged that while the county does have organizations attempting to address these problems it is possible that there may not be enough adequate resources and pointed out that SJCP does not provide treatment services but focuses on prevention and underage drinking.

Continuing with the presentation, Ms. Drake highlighted that residents ranked parks and trails as the top service and amenities available in the county and she commended the City for their large role in attaining this ranking. Ms. Drake reported that the Red Apple Transit was included within the needs assessment survey and announced that its satisfaction rate is "good" with most riders utilizing the service. Noting that 90 key informants participated, she reviewed their perceived top service needs and provided a brief content overview of the needs assessment. Ms. Drake pointed out that there are five areas of priority

and reported that the complete needs assessment is available on SJCP's website for download.

Responding to the Mayor and Councilor Rodgers' inquiries, Dr. Salvatore explained that the survey results and the social indicator data determined the five areas of priority and confirmed that strengthening the economy could result in reduced alcoholism since all of the areas of priority are interrelated. In response to Councilor Duckett's question, Ms. Drake reported that the survey did not include a question regarding household demographics such as single parent or two parent families.

PRESENTATION/CIVIC CENTER FINAL CONCEPTUAL DESIGN AND COST ESTIMATE

Parks, Recreation & Cultural Affairs Director Cory Styron stated that today's presentation provides the final conceptual design and cost estimate for the Civic Center renovations and he introduced Sergio Meza and Scott Stafford of Greer Stafford/SJCF Architecture and Dennis Wilkinson of MRWM Landscape Architects.

At the request of the Mayor, Mr. Meza reviewed the public input process and announced that the overall community's feeling toward the project was positive once the funding source was explained. Mayor Roberts reiterated that the Metropolitan Redevelopment Area Plan adopted in 2009 calls for the renovation of the Civic Center in the near-term and addresses the concept of building a new facility in the far-term and he briefly reviewed how the project will be funded utilizing monies collected from fees authorized through the Convention Center Financing Act.

Utilizing a PowerPoint presentation, Mr. Meza presented the exhibition hall expansion that entails a 5,500 square foot addition to the north side of the facility which extends the existing hallway, creates a new storage space and increases the seating capacity from 420 to 620. He reviewed the improvements to the existing corridors, meeting rooms A and C through F, administrative offices, kitchen, restrooms and ballrooms and reported that two new single-occupant ADA (Americans with Disabilities Act) accessible restrooms and a 750 to 1,000 square foot storage room will be added. In response to Mayor Roberts, Mr. Meza confirmed that the stage cannot be centered in the expanded exhibition hall due to the existing exit way but pointed out that the stage can be extended to be more centered. Mr. Stafford noted that adding flat screen televisions throughout the room could help alleviate outer edge participants from feeling "left out" of an event.

Mr. Meza presented the theater building's improvements to the existing corridors, back of house, front of house, restrooms and theater and he reviewed the theatrical improvements, noting that an assisted listening system will be added to meet ADA compliance regulations. Responding to Councilor Duckett's inquiry, Mr. Meza reported that removable seating is not included because of its cost (approximately \$2 million) and he stated that new ADA compliant and companion seating will be included within the seating rows. In response to Mayor Roberts' question, Mr. Meza explained that adding the fly space required by large productions would necessitate extending the height of the building 35 feet which cannot be supported due to the natural ground water system located beneath the Civic Center. Mr. Styron pointed out that the Civic Center Foundation is no longer subsidizing large productions which renders these uneconomical for the community to support so additional fly space is unnecessary.

Continuing with the presentation, Mr. Meza presented illustrations of the proposed exterior and reported that the auditorium entrance has a solid top while the event hall entrance and the outdoor space at the south end of the exhibition hall are trellises that can be covered with removable fabric during warmer months to provide shade. Mr. Wilkinson reviewed the proposed landscaping which includes free form space, rounded areas of grass, patterned concrete, a dry deck fountain located in the center of an open plaza, enclosed courtyard space at the south end of the exhibition hall, space outside the theater to accommodate food and beverage and handicap accessible parking along the east side and south side of the property. He provided renderings of the landscaping plan from different views of the property and answered various questions from the Council. Mr. Wilkinson reiterated that the openness of the plan provides flexibility to accommodate various types of outdoor events and noted that the landscaping plan includes benches near the dry deck fountain for seating.

Mr. Meza reported that the total cost estimate for the renovations presented today is \$11,367,000 which includes the dry deck fountain as an additive alternate and stated that the ballpark range to replicate the facility at a new location is approximately \$20 to 25 million. In response to the Mayor's inquiry, Mr. Meza explained that the landscaping could go out to bid by itself in the spring of 2017 and be completed by September of 2017 just in time for the Totah Festival. Mr. Styron stated that he anticipates all construction to be complete by spring of 2018. Responding to Councilor McCulloch's inquiry, City Manager Rob Mayes stated that the City will have \$11.5 million from the sale of bonds within 30 to 60 days and reminded the Council that fees collected from the Convention Center Financing Act (approximately \$850,000 per year) will pay the annual debt service of \$720,000. In response to Councilor Sharer's concern over the public's misconception of the project's funding source, Mr. Mayes reported that the most recent article in the Daily Times about the project was very informative; stated that public service announcements have been shared on the City's Facebook page; and noted that the filming of the Mayor's Table today will cover this topic and be aired in the future.

Following further discussion, a motion was made by Councilor McCulloch, seconded by Councilor Rodgers that staff initiate Phase II of the Civic Center renovation project with the addition of a final public meeting to present the conceptual design and cost estimates to the community for feedback. The roll was called with the following result:

Those voting aye:	Linda G. Rodgers Sean E. Sharer Gayla A. McCulloch
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Those voting nay:	Nate Duckett
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The presiding officer thereupon declared that three Councilors having voted in favor thereof, the said motion carried.

Councilor Duckett clarified that he voted against the motion because he believes that the public has had ample opportunity to comment on the project.

In response to Mr. Mayes' request for clarification, Mayor Roberts directed staff to use their judgement on whether to bring any public input received at the public meeting to the Council for review.

ACKNOWLEDGEMENT OF APPROVAL OF THE CITY'S FY17 BUDGET

City Manager Rob Mayes reported that Section 6-6-5 of New Mexico State Statutes requires the City Council to acknowledge in a public meeting that the Department of Finance and Administration has approved its Fiscal Year 2017 budget. On behalf of the Council, Mayor Roberts acknowledged that the Department of Finance and Administration has approved the City's Fiscal Year 2017 budget.

CANCELLATION OF NOVEMBER 22, 2016 AND DECEMBER 27, 2016 REGULAR CITY COUNCIL MEETINGS

Due to the Thanksgiving and Christmas holidays, Mr. Mayes requested that the November 22, 2016 and the December 27, 2016 regular City Council meetings be cancelled and that a Special Work Session of the City Council be scheduled for December 6, 2016.

Thereupon, a motion was made by Councilor McCulloch, seconded by Councilor Duckett to cancel the November 22, 2016 and the December 27, 2016 regular City Council meetings and to direct staff to schedule a Special Work Session of the City Council on December 6, 2016, and upon voice vote the motion carried unanimously.

COUNCIL BUSINESS

Possible Bear Sighting at Apple Ridge Apartments

In response to Councilor McCulloch's inquiry, Police Chief Steve Hebbe stated that he was unaware of any reports of a bear on the front porch of a resident's home at Apple Ridge Apartments.

INTRODUCTION OF ELECTRIC UTILITY DIRECTOR

City Manager Rob Mayes introduced Hank Adair as the new Electric Utility Director. Mr. Adair stated that he is already learning a lot and expressed his excitement with this new opportunity. Mayor Roberts and the Council welcomed Mr. Adair to the City. Additionally, Mr. Mayes acknowledged the excellent job that Acting Electric Utility Director Rodney Romero has done in managing the Electric Utility and proudly announced that Mr. Romero has been promoted to Deputy Director. Mayor Roberts expressed his appreciation to Mr. Romero for his efforts and positive attitude during this selection and hiring process.

There being no further business to come before the Council, the meeting was adjourned at 10:56 a.m.

APPROVED this 11th day of October, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk