



# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 6Ordinance/Resolution# 17-087For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)For Meeting of November 7, 2016  
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

**TITLE:** A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO GRANT AWARDS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENT; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE FOLLOWING: PROJECT NAME: HEALTH FACILITY AT MESILLA VALLEY COMMUNITY OF HOPE (MV COH) LEGISLATIVE APPROPRIATION 15-0764; GRANTING AGENCY: THE NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION (NMDFA); TOTAL GRANT AWARD OF \$505,000.00; AND PROJECT NAME: HEALTH FACILITY AT MV COH LEGISLATIVE APPROPRIATION 15-1123; GRANTING AGENCY: NMDFA; TOTAL GRANT AWARD OF \$50,000.00.

**PURPOSE(S) OF ACTION:**

To accept grant agreements and adjust the City budget and CIP, as applicable.

<b>COUNCIL DISTRICT: ALL</b>		
<b><u>Drafter/Staff Contact:</u></b> Amy Johnson Bassford	<b><u>Department/Section:</u></b> Finance/Grants	<b><u>Phone:</u></b> 575-541-2281
<b><u>City Manager Signature:</u></b>		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing. Also, it is necessary for City Council to accept the funds as well as the conditions that are associated with the grant funding.

The Grants staff works with City department personnel to process the grant agreements when provided notice by the granting agency and to ensure the departments are able to meet the conditions of the grant award. The nature of grant funding agreements is similar in most cases;

(Continue on additional sheets as required)

therefore, the grant agreements listed in Exhibit "A" of this proposed resolution can be accepted together.

The request for City Council is to: 1) accept all the grant agreements listed in Exhibit "A"; and 2) amend the budget showing receipt of these new funds for the current fiscal year (FY2017). Additionally, the City is required to maintain a CIP that lists all capital improvement projects that City Council has authorized on the City's behalf. This action will, therefore, also approve the addition of any of the grant agreements which involve capital improvements to the current FY2017 CIP, as necessary. Once accepted these funds will be used by the departments listed in Exhibit "A" for the scope of work as defined by each grant agreement.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Listing of Grant Agreements to be accepted.
3. Exhibit "B", Budget Adjustment.
4. Exhibit "C", CIP.
5. Exhibit "D-E, Grant Agreements.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input checked="" type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
<b>Does this action create any revenue?</b>  See Exhibit "B"	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>4100</u> in the amount of <u>\$555,000.00</u> for <u>FY2017</u> .
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

Grant funds in the amount of \$555,000.00, will be deposited into Fund 4100, (Capital Projects Reimb Grants), under project numbers 11565 and 11559 to be used for the renovation and construction of the health facility at the Community of Hope campus for St. Luke's Health Care Clinic.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Capital Projects Reimb Grants	45515007-801000-11559	\$50,000.00	\$50,000.00*	\$0.00	N/A
Capital Projects Reimb Grants	45515007-801000-11565	\$505,000.00	\$505,000.00*	\$0.00	N/A

\* Pending approved budget adjustment.

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the resolution to accept the grant agreements presented and adjust the City's FY2017 budget and FY2017 CIP, as applicable.
2. Vote "No"; this will not approve the resolution to accept the grant agreements presented and return the funds to the granting agency.
3. Vote to "Amend"; will delay the process of spending the grant funds within the predetermined grant schedule and require direction to staff.
4. Vote to "Table"; this will impact the implementation of the grant agreements, the City department's ability to utilize the funds and return the grant funds will be returned to the granting agency.

**REFERENCE INFORMATION:**

N/A



# City of Las Cruces®

PEOPLE HELPING PEOPLE

## COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

For Meeting of November 7, 2016  
 (Adoption Date)

**TITLE:** A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO GRANT AWARDS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENT; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE FOLLOWING: PROJECT NAME: HEALTH FACILITY AT MESILLA VALLEY COMMUNITY OF HOPE (MV COH) LEGISLATIVE APPROPRIATION 15-0764; GRANTING AGENCY: THE NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION (NMDFA); TOTAL GRANT AWARD OF \$505,000.00; AND PROJECT NAME: HEALTH FACILITY AT MV COH LEGISLATIVE APPROPRIATION 15-1123; GRANTING AGENCY: NMDFA; TOTAL GRANT AWARD OF \$50,000.00.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes  No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		X2281	10-4-16
Department Director		X2080	10/6/16
Other		X3136	10/6/16
Assistant City Manager /CAO Management & Budget Manager		X2062 X2022	10/11/16 10/10/16
Assistant City Manager/COO			10/14/16
City Attorney		EXT 2128	19 October 2016
City Clerk		X2115	10-2016

RESOLUTION NO. 17-087

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO GRANT AWARDS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENT; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE FOLLOWING: PROJECT NAME: HEALTH FACILITY AT MESILLA VALLEY COMMUNITY OF HOPE (MV COH) LEGISLATIVE APPROPRIATION 15-0764; GRANTING AGENCY: THE NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION (NMDFA); TOTAL GRANT AWARD OF \$505,000.00; AND PROJECT NAME: HEALTH FACILITY AT MV COH LEGISLATIVE APPROPRIATION 15-1123; GRANTING AGENCY: NMDFA; TOTAL GRANT AWARD OF \$50,000.00.

The City Council is informed that:

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

**WHEREAS**, these grants will be used as designated in the scope of work and within the specified time period as shown in the attached grant agreements.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

(I)

**THAT** the City hereby accepts all the grant agreements as shown in the Grant Acceptance Summary, Exhibit "A", attached hereto and made part of this Resolution.

(II)

**THAT** the City Manager's or Mayor's signature, as required by the granting agency, is hereby ratified on the attached grant agreements, as shown in Exhibit "D and E", attached hereto and made a part of this Resolution.

(III)

**THAT** the FY2017 adopted budget is hereby amended, as shown in Exhibit "B",

attached hereto and made part of this Resolution.

(IV)

THAT the FY2017 CIP, as applicable, is hereby amended as outlined in Exhibit "C", attached hereto and made part of this Resolution.

(V)

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

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

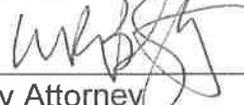
\_\_\_\_\_  
City Clerk

(SEAL)

Moved by \_\_\_\_\_

Seconded by \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

VOTE:

- Mayor Miyagishima: \_\_\_\_\_
- Councillor Gandara: \_\_\_\_\_
- Councillor Smith: \_\_\_\_\_
- Councillor Pedroza: \_\_\_\_\_
- Councillor Eakman: \_\_\_\_\_
- Councillor Sorg: \_\_\_\_\_
- Councillor Levatino: \_\_\_\_\_

### GRANT ACCEPTANCE SUMMARY

*Exhibit #: D*

**Grant Title: Community of Hope Health Facility**

*Department: Public Works - Facilities*

*Grant/Agreement #: 15-0764*

*Grant Type: State Capital*

*Granting Agency: NM Department of Finance & Administration (DFA)*

*Grant Amount: \$ 505,000.00*

*Cash Match Amount: \$ 0.00*

*Total Grant Project Amount: \$ 505,000.00*

*In-Kind Match Amount: \$ 0.00*

*Grant Start Date: 11/07/2016*

*Grant End Date: 06/30/2019*

*Grant Agreement Signer Authority:*  *City Manager*  *Mayor*

*CIP Project Amendment Needed:*  *Yes*  *No*

*Use of Funds Description:*

The City was awarded Legislative Appropriation 15-0764 funding through State of New Mexico Severance Tax Bonds through NMDFA in the amount of \$505,000.00, with no local match required. Funds will be used to plan, design, construct, renovate, furnish and equip improvements, including a heating, ventilation and air conditioning system, an alarm system and improved accessibility for a health facility at the MV COH. This project is for the St. Luke's Health Care Clinic located at the MV COH. This project will amend the CIP.

*Exhibit #: E*

**Grant Title: Community of Hope Health Facility**

*Department: Public Works - Facilities*

*Grant/Agreement #: 15-1123*

*Grant Type: State Operating*

*Granting Agency: NM Department of Finance & Administration (DFA)*

*Grant Amount: \$ 50,000.00*

*Cash Match Amount: \$ 0.00*

*Total Grant Project Amount: \$ 50,000.00*

*In-Kind Match Amount: \$ 0.00*

*Grant Start Date: 11/07/2016*

*Grant End Date: 06/30/2018*

*Grant Agreement Signer Authority:*  *City Manager*  *Mayor*

*CIP Project Amendment Needed:*  *Yes*  *No*

*Use of Funds Description:*

The City was awarded Legislative Appropriation 15-1123 funding through State of New Mexico Severance Tax Bonds through NMDFA in the amount of \$50,000.00, with no local match required. Funds will be used to plan, design, construct, renovate, equip, and furnish a health facility at the MV COH. This project is for the St. Luke's Health Care Clinic located at the MV COH. This project will amend the CIP.

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**CITY OF LAS CRUCES**  
**BUDGET ADJUSTMENT REQUEST**  
**BUDGET FISCAL YEAR 2016-17**

Exhibit "B"

	4100 CAPITAL PROJECTS REIMB GRANTS			
	2016-17			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
<b>RESOURCES</b>				
Beginning Balance	\$ 279,052	279,052	0	279,052
<b>Revenues</b>				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cigarette Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	143,300	423,256	0	423,256
State Grants	3,793,473	4,267,843	555,000	4,822,843
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Operating Transfers In	0	0	0	0
<b>Total Revenues</b>	<b>3,936,773</b>	<b>4,691,099</b>	<b>555,000</b>	<b>5,246,099</b>
<b>TOTAL RESOURCES</b>	<b>\$ 4,215,825</b>	<b>4,970,151</b>	<b>555,000</b>	<b>5,525,151</b>
<b>Expenditures</b>				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Operations	25,000	25,000	0	25,000
Transportation	519,761	567,635	0	567,635
Parks & Recreation	677,960	534,672	0	534,672
Community Development	0	0	0	0
Community & Cultural Services	166,000	164,590	0	164,590
Public Works	2,548,052	3,145,418	555,000	3,700,418
Legislative Reserve	0	0	0	0
Operating Transfers Out	0	0	0	0
<b>Total Expenditures</b>	<b>\$ 3,936,773</b>	<b>4,437,315</b>	<b>555,000</b>	<b>4,992,315</b>
Accrual Adjustments	0	0	0	0
<b>ENDING BALANCE</b>	<b>\$ 279,052</b>	<b>532,836</b>	<b>0</b>	<b>532,836</b>
<b>Required Reserve:</b>				
State Required 1/12th				
Local CLC 1/12th				
<b>UN-RESERVED BALANCE</b>	<b>\$</b>			

**BUDGET ADJUSTMENT REQUEST (BAR)**

<u>Department and Section</u>	149 <u>Permanent or Temporary</u>	<b>EXHIBIT "B"</b>	
Public Works/Grants	Temporary	<b>Council/Board Resolution No.</b>	

**Justification for Request**

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO GRANT AWARDS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENT; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP) FOR THE FOLLOWING:  
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**MUNIS Comment:** ACCEPT TWO GRANT AWARDS

Erika Jaquez	541-2102	FY 2017	10/10/2016
<b>Prepared by</b>	<b>Phone No.</b>	<b>FY to be Adjusted</b>	<b>Date</b>

Fund	Org	Object	Project	Object Name	Increase \$	Decrease \$
4100	45515007	599200	11565	STATE GRANTS	505,000	
4100	45515007	801000	11565	BUILDING/BUILDING IMPROVEMENTS	505,000	
4100	45515007	599200	11559	STATE GRANTS	50,000	
4100	45515007	801000	11559	BUILDING/BUILDING IMPROVEMENTS	50,000	
<b>Totals</b>					\$1,110,000	\$0

<i>By signing, I verify balances and accounts are available in MUNIS.</i>			<i>For use by Administration and Office of Mgmt &amp; Budget</i>		
	Date		Date		Date
Administrator / Manager		Audrey Evins, CPA, CFE, Interim ACM/CAO			
Director		Daniel Avila, PE, ACM/COO			
<b>For use by Office of Mgmt &amp; Budget</b> <i>Revised 08/26/2016</i>					
			<i>David Dollahon</i> 10/27/2016		
			David Dollahon, AICP, Interim City Manager		
<b>Budget Adjustment Number</b>	<b>Posted By</b>	<b>Date</b>			
Period:	JE#		<b>Budget and Grant Manager</b>		
			Date		

CITY OF LAS CRUCES  
Capital Improvements Program

FY 2017-22  
11/7/2016

EXHIBIT C

DEPARTMENTS	Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)				Source / Cum Total *
			2018	2019	2020	2021	
<b>PUBLIC WORKS</b>							
	Public Works-Streets and Flood						
	2nd Street - Picacho Ave to Hadley Ave	510,000					Bonds
	3rd St - Picacho Ave to Hadley Ave	648,000					Bonds
	4th St - Picacho Ave to Hadley Ave	700,000					Bonds
	6th Street - Parker to Palmer	261,600					Bonds
	6th Street - Picacho Ave to Hadley Ave	700,000					State
	Amador/Melendres Signal	550,000					Local
	Bellamah Drive - Lees to Luna St.			825,000			Local
	Bencomo Lane - Clark Rd to western dead end	270,000		110,000			State, Bonds
	Bex - Farney Ln to Desert Rose Ct	198,000					State, Bonds
	Boston Dr - Montana to Missouri	455,200					Bonds
	Brown Road - Valley to Circle	795,000					Bonds
	Brownlee Ave - Valley Dr to First St	210,000					State, Bonds
	Calle del Sol - Brown to Avenida Blanco	180,000					Bonds
	Cambridge Drive - Main to eastern dead end	7,000,000					TIDD, Bonds
	Church and Water-Two-Way Conversion	175,000					Bonds
	Clark Road - Bruins In to Mayfield Rd		50,000	50,000	50,000	50,000	Sales Tax, Flood Control
	Co-op match (pending council approval)						Bonds
	Court Ave - Melendres to Water	460,500					Bonds
	Crescent Drive - Farney to Apollo	465,711					Bonds
	Elephant Butte Irrigation District Drains/Laterals	1,500,000					Flood Control, Bonds
	Elks Dr- widening from Reina to Hatfield	756,000					Bonds
	El Paseo Safety Imp LC00130Main-Univ	500,000					State
	El Paseo/Idaho Intersection Improvements						Local
	El Prado Ave. - Brown Rd to Melendres	295,200					Bonds
	Ethel Ave-Alameda Blvd to Miranda				350,000		Local
	Evelyn Street p Madrid Ave to Ash St				655,000		Local
	Farney Lane - Espina to Main	205,000					State, Bonds
	Flood Control Infrastructure			140,000	160,000	360,000	Flood Control
	Hadley Ave. - Raymond St to Mesilla St	475,000					Bonds
	Hadley Ave. - Water to Armijo	522,600					Bonds
	Jody Drive - Richard Dr to Karen Ave	250,000					Bonds
	Karen Drive - Dona Ana Rd to east end	375,000					Bonds
	Land Acquisition - Flood Control Property		50,000	50,000	50,000	50,000	Flood Control
	Lavender Drive - Elks to South side of Sandhill Arroyo	248,400					State, Bonds
	Lees Drive - Idaho to Montana	522,600					Bonds
	Madrid Ave Extension - Martha to Triviz	700,000					Bonds
	MAP match (pending council approval)		150,000	150,000	150,000	150,000	Sales Tax, Flood Control
	McFie Ave - Valley Dr to First St		820,000				Bonds
	Melendres Ave - Hadley to Las Cruces						Bonds
	Mesquite/Tornillo Drainage	482,760					Bonds
	Metro Verde Voluntary Assessment District-Phase I		1,630,000				Bonds
	1. Sanitary Sewer Infrastructure	740,984					



**CITY OF LAS CRUCES  
Capital Improvements Program**

FY 2017-22  
11/7/2016

Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Source / Cum Total *
		2018	2019	2020	2021	2022	
Citywide LED Streetlight Retrofit	1,500,000						Bonds
Citywide Residential Lighting Retrofit		1,800,000					Bonds
Energy Efficiency Projects	3,051,394	500,000	500,000	500,000	500,000	500,000	CIR, Bonds
Local Energy Efficiency Performance (LEEP) Program	4,400,000						Bonds
Solar Energy Photo Voltaic Projects							Bonds
<b>Total Public Works-Sustainability Projects</b>	<b>9,051,394</b>	<b>2,300,000</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>	<b>500,000</b>	
<b>Public Works-Facilities Management</b>							<b>TRUE</b>
Amador Hotel - Ceiling Asbestos Remediation	6,500,000						SAP, Bonds
Amador, The	1,218,500						SAP
Amador Hotel	100,000						HHGRT, TIDD
Amador Hotel - Ceiling Asbestos Remediation	30,000						CIR
Art in Public Places							ALTS
Benavidez Community Center Project		150,000	100,000			75,000	CIR
Boxing Club - Roof Replacement		70,000					
Branigan Cultural Center - Asbestos Removal & Ceiling Repl.		2,000		60,000			CIR
Branigan Cultural Center - Basement Pipes			10,000				CIR, Local
Branigan Cultural Center - Exterior Lintels and Woodwork				30,000			CIR, Local
Branigan Cultural Center - Re-glaze Windows				10,000			CIR, Local
Branigan Cultural Center - Security Bars		12,000					Local
Branigan Cultural Center - Security Cameras							SAP, Bonds
Branigan Cultural Center - Stucco Repair and Exterior Repainting					100,000		
Branigan Library - Circulation Desk, Electrical/Date and Re-carpet		50,000					Local, Bonds
Branigan Library - Expansion - Phase 2		2,500,000					Bonds
Branigan Library - Exterior Repainting				200,000			CIR
Branigan Library - First Floor Re-carpeting		150,000					SAP, CIR
Branigan Library - Interior Repainting	40,000					100,000	CIR
Branigan Library - Monument Signs			30,000				Local
Branigan Library - New Branch							SAP, Bonds
Branigan Library - Parking Lot Resurfacing and Repainting		350,000					Local
Branigan Library - Sliding Window		25,000					SAP, Bonds
Caboose - Lead Paint/Asbestos Abatement	25,000						CIR
Castañeda Bldg./Welding Shop/Svs Station - HVAC Upgrades		130,000					Local
Castañeda Bldg - IT Generator		200,000					SAP, Bonds
Central Kitchen - Design/Construction				5,000,000			CIR
Cinematic Infrastructure and Soundstage		5,000,000					ALTS, SAP, Bonds
City Building Roof Replacement Program	980,071		325,000	325,000	325,000	325,000	SAP, Bonds, HHGRT
City Clerk's Office Remodel		65,000					CIR
Convention Center Expansion - Phase I	9,000,000		670,000	6,700,000			Bonds
Convention Center Expansion - Phase II							Bonds
Convention Center - Public Space Repainting	15,000						Local
CVB Permanent Location (Amador Hotel)		3,000,000					Lodgers Tax Fund Balance

# CITY OF LAS CRUCES Capital Improvements Program

FY 2017-22  
11/7/2016

Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Source / Cum Total *
		2018	2019	2020	2021	2022	
Downtown Parking Garage - Design/Construction	650,000			5,000,000			TIDD, Bonds
Downtown Parking Lot 7 Redesign	9,138,961			25,000			TIDD, Bonds
East Mesa Public Safety - Furniture, Fixtures & Equipment					5,000,000		SAP, Bonds
East Mesa Public Safety Complex - Design/Construct				1,000,000	70,000		SAP, Bonds, PSDIF
East Mesa Recreation Center - Design/Construct							SAP, Bonds
Eastside Center Project		80,000					ALTSD
Fire Department Administration Building - Design/Construct					1,650,000		PSDIF, Bonds
Fire Department Administration Building - Furn,Fix,Equip					165,000		PSDIF, Bonds
Fire Station 1 - Bathroom Remodel		40,000					CIR
Fire Station 1 - HVAC Replacement		300,000					CIR, State Fire Fund
Fire Station 1 - Exterior Wall Repair		50,000					CIR
Fire Station 2 - Kitchen Remodel (2 counters)				20,000			State Fire Fund, CIR
Fire Station 3 - Kitchen Improvement	20,000						SAP
Fire Station 3 - Repairs				30,000			State Fire Fund
Fire Station 4 - Bathroom Remodel		25,000					CIR
Fire Station 4 - Kitchen Remodel				20,000			State Fire Fund
Fire Station 5 - Parking Lot		100,000					CIR
Fire Station 9 - Design/Construct			2,750,000				PSDIF
Fire Station 9 - Furniture, Fixtures and Equipment	250,000		275,000				PSDIF
Fire Station Equipment	280,000						SAP
Fleet Services - Castaneda Building Roof Replacement	500,000						CIR
Fleet Services - Parking Lot Improvement							CIR
Food Enterprise and Garden Center							Bonds
Frank O'Brien Papan Center - Dry Storage Area Renovation		100,000				5,000	Local
Frank O'Brien Papan Center - Roof Replacement		50,000					CIR
Gateway Entry Points Signage	40,000		50,000				CIR
General Building Investments	811,896						Bonds
General Building Renovation Program	97,000		750,000				CIR, Bonds
HVAC Upgrade Program	115,000		325,000				CIR
ITS Amador Fiber		1,150,000	1,500,000				CIR
JU - A Mountain Microwave Link		500,000					SAP
Main Street Bollards Project		30,000					TBD
Meerscheidt Rec. Center - Remodel/Expansion			200,000				TIDD, Bonds
Municipal Court				50,000			SAP, Bonds
Municipal Operations Center - Fleet				1,800,000			Bonds
Municipal Operations Center - Transit				6,000,000			Bonds
Munson/Benavidez - Dumpster Enclosure				1,200,000			CIR, Bonds
Munson/Benavidez - Monument Signs		5,750,000	5,750,000				FED, Local, Bonds
Munson Outdoor Recreation Area	42,715						Local
Munson Fitness Room	139,590						Local
Munson Project		300,000					ALTSD
Museum of Art - Gallery Flooring		300,000					ALTSD
Museum of Art - Courtyard Entrance - Redesign/Construct			70,000				SAP, Bonds
Museum of Art - Security Cameras			80,000				Bonds
		18,000					Local
							CIR

CITY OF LAS CRUCES  
Capital Improvements Program

FY 2017-22  
11/7/2016

Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)				Source / Cum Total *
		2018	2019	2020	2021	
Museum of Art - Stucco Repair and Exterior Repainting		7,000			45,000	Local
Museums - LED Lighting - Exhibit Track Lighting System		7,500,000				SAP, Bonds
Museums - Collection Storage/MoNAS Expansion/MofArt		2,000				CIR, Local
Museums - Pigeon Repellent Devices						CIR
Museums - Storage						CIR
Parking Lot Renovation Program	110,000	250,000	350,000	300,000	10,000	CIR
Police Crime Lab - Design/Construct/Props/Equipment		6,000,000			323,000	CIR
Police Department Main Building Stucco Renovation		95,000				CIR
Police Department Main Building Briefing Room Renovation		45,000				CIR
Police Department Main Building Supervisor Office Renovation		20,000				SAP, FED, Bonds
Police Department Main Building Bathroom Renovation		125,000				Bonds
Police Department Parking Lot Area Canopy Renovation		90,000				TBD
Police Department - Roof Replacement		50,000				Bonds
Police/Fire Training Facility - Design/Construct		6,900,000				CIR
Police/Fire Training Facility - Furniture, Fixtures and Equipment		2,100,000				SAP, Bonds
Public Safety Regional Communication System Improvements		884,036				Local, SAP
Public Safety Smart Technologies		210,000				Bonds
Public Safety Vehicles		250,000	250,000	250,000	250,000	PSIF
Public Works Remodel		100,000				CIR
Railroad Museum - Exterior Repainting		600,000				SAP, Bonds
Railroad Museum - Reroof		400,000				CIR
Safety, Health, Environmental & Emergency	95,350	400,000	430,000	700,000	700,000	CIR
Sage Café Senior Center Multipurpose Room		400,000				ALTSD
Sage Café Project		50,000			30,000	CIR
Sage Café Senior Center Multipurpose Room		2,000,000				SAP
Security Access and Locks			1,000,000			TBD
Sinking Fund		8,000				TBD
Streets Building - Roof Repair		120,000				CIR
Traffic Building - Bathroom and Office Remodel		35,000				CIR
Traffic Building - HVAC Upgrades						CIR
Transit - Maintenance Shop Repairs and Improvements	26,000					FED, Local
Transit - MVITT Finish room, Signage & Kiosks Projects	126,400					FTA, Local
<b>Total Public Works-Facilities Management</b>	<b>29,571,483</b>	<b>51,203,036</b>	<b>14,915,000</b>	<b>31,070,000</b>	<b>18,513,000</b>	<b>18,963,000</b>
<b>PARKS AND RECREATION</b>						
<b>Parks</b>						
Alameda and Las Cruces Arroyo Enhancement		1,000,000				Bonds
Albert Johnson Park Improvements		70,000				PIF, Local
Airplane Remote Control Park	18,793					PIF
Archery Range	22,201					PIF
Bailfield/Soccer Field Renovations & Upgrades			125,000	4,200,000	125,000	SAP, Bonds, Local
Benavidez Ball Field		500,000				PIF

# CITY OF LAS CRUCES Capital Improvements Program

FY 2017-22  
11/7/2016

Project Title	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)				Source / Cum Total *
	2018	2019	2020	2021	
Burn Lake/Esslinger Park - Additional Phases	125,000		3,200,000		Bonds, SAP
Butterfield Shooting Range				375,000	SAP
Chandler Tank Park - Phase I	15,000				SAP, PIF
Community Gardens	300,000				SAP, FED
Downtown Bathroom Reconstruction		250,000	250,000		TIDD
Downtown Gateways		100,000			TIDD, SAP, FED, Bonds
Downtown Projects					TIDD
East Mesa Public Safety Area Park	3,450,000	250,000			SAP, PIF, Bonds
Future Neighborhood Parks		275,000	500,000	1,025,000	PIF
General Park Renovations	400,000		31,500	250,000	SAP, Bonds, Local
Hadley Complex Recreation Rehabilitation	100,000	540,000		318,500	SAP, Bonds
Highland Park		200,000			PIF, SAP
Klein Park - Improvements	1,500,000	80,000			SAP
La Placita Electrical Improvements	60,000				SAP, FED, Bonds
Lighting Rehab and Upgrades - Sports Fields					Bonds
Median Landscaping					PIF
Metro Verde Neighborhood Parks					PIF
North Del Rey Neighborhood Park					PIF
Oro Vista Park	150,000				PIF
Outdoor Swimming Pool Amenities					SAP, Local
Parks, Sports Fields and Recreation Facilities Enhancement	3,500,000	2,150,000	105,000		Bonds
Parking Lot/Pathways		580,000			SAP, Bonds, Local
Playground/Amenity Renovations/Enhancements		1,275,000	1,125,000		SAP, Bonds, Local
Pueblos at Alameda					PIF PA
Purple Heart Memorial	3,000				SAP
Regional Rec & Aquatic Cntr - Ph II - Competitive Pool					
Construction					
Regional Rec & Aquatic Cntr- Ph III - Competitive Pool	3,500,000	1,000,000	6,000,000		SAP, Bonds, Local
Enclosure					
Regional Rec & Aquatic Center - Phase IV	75,000				SAP, Bonds, Local
Special Needs/ ADA Compliant Playground- Young Park			685,000	125,000	SAP, PIF
Structure Renovations				85,000	SAP, CIR
Synthetic Turf					SAP
Trail Renovations		580,000	50,000		SAP
Utilities/Irrigation Upgrades		800,000	200,000	200,000	SAP, Bonds
Vehicle Remote Control Park					PIF
Veteran's Park - Parking Lot					Bonds
Veteran's Park - Plaques					SAP
Veteran's Park - Women Veterans Monument					SAP
Waterfalls Park					SAP, PIF
West Mesa Park			1,200,000		SAP, Bonds
<b>TOTAL PARKS AND RECREATION</b>	<b>14,748,000</b>	<b>8,205,000</b>	<b>17,546,500</b>	<b>1,478,500</b>	
				<b>600,000</b>	
				<b>1,825,000</b>	

# CITY OF LAS CRUCES Capital Improvements Program

FY 2017-22  
11/7/2016

Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Source / Cum Total *
		2018	2019	2020	2021	2022	
ASCMV - Expansion/Remodel of Public Administration area	40,000	510,000					SAP
La Casa Inc. - Lighting		110,000					SAP
La Casa Inc. - Parking Lot		240,000					SAP
La Clinica Renovation - Furniture, Fixtures and Equipment	643,000	357,000				3,920,000	SAP
Metro Narcotics Building - Relocate/Expansion							SAP
MV Community of Hope - Building 1, St. Luke's - Solar Project			500,000				SAP
MV Community of Hope - Casa de Peregrinos Roofing		100,000					SAP
MV Community of Hope - El Caldito - Front Patio Awning		20,000					SAP
MV Community of Hope - El Caldito - New Vent and Fan System		3,000					SAP
MV Community of Hope - Food Rescue Warehouse		2,700,000					SAP, CDBG
MV Community of Hope - Flooring		20,000		100,000			SAP
MV Community of Hope - Health Facility Phase I	1,116,492	400,000					SAP, CDBG
MV Community of Hope - Health Facility Phase II							SAP
MV Community of Hope - Jardin de los Ninos - Kitchen & Laundry		60,000					SAP
MV Community of Hope - Case Management Office Remodel		200,000					SAP
Rio Grande Theatre - Energy Efficiency Improvements		85,000					TIDD
Rio Grande Theatre - Front Marquee		30,000					TIDD
Rio Grande Theatre - North Lobby Remodeling		40,000					TIDD
Rio Grande Theatre - Rear Electronic Marquee		20,000					TIDD
Rio Grande Theatre - Safety Improvements		20,000					TIDD
Rio Grande Theatre - Security Equipment		15,000					TIDD
Rio Grande Theatre - Sound Console		15,000					TIDD
<b>Total City Fiscal Agent to Administer Funds</b>	<b>1,799,492</b>	<b>4,945,000</b>	<b>600,000</b>	<b>-</b>	<b>3,920,000</b>		
<b>TOTAL PROJECTS MANAGED BY PUBLIC WORKS</b>	<b>94,480,590</b>	<b>82,446,036</b>	<b>31,420,000</b>	<b>60,031,500</b>	<b>28,601,500</b>	<b>33,973,000</b>	
<b>TRANSPORTATION</b>							
<b>Transportation- Airport</b>							
Airfield Electrical Vault Rehabilitation	455,000				1,000,000		FED, State, CIR
Airport Maintenance Equipment Storage Facility							FED, State, CIR
Apron Rehabilitation - Construction Phase 1			1,350,000				FED, State, CIR
Apron Rehabilitation - Construction Phase 2				1,750,000			FED, State, CIR
Apron Rehabilitation - Design		400,000					FED, State, CIR
Apron Sealing		120,000					State, Local
Rwy 8/26 Extension - Construction						11,310,000	FED, State, CIR
Rwy 8/26 Extension - EA & Design					500,000		FED, State, CIR
Rwy 8/26 Rehabilitation - Construction			3,360,000				FED, State, CIR
Rwy 8/26 Rehabilitation - Design		631,000					FED, State, CIR
Security Fence/Gates Rehab		200,000					FED, State, CIR
Taxi lane Rehabilitation		200,000		50,000		50,000	Local, Bonds

**CITY OF LAS CRUCES  
Capital Improvements Program**

FY 2017-22  
11/7/2016

Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)				Source / Cum Total *
		2018	2019	2020	2021	
Taxiway "A" Seal Coat	319,000					FED, State, CIR
Taxiways "B" & "C" Rehabilitation				1,750,000		FED, State, CIR
West End Apron Rehabilitation					980,000	FED, State, CIR
West End Taxiway					500,000	FED, State, CIR
Wildlife Perimeter Fence			1,280,000			FED, State, CIR
<b>Total Transportation - Airport</b>	<b>774,000</b>	<b>1,351,000</b>	<b>4,960,000</b>	<b>3,300,000</b>	<b>12,840,000</b>	
<b>Transportation- Streets &amp; Traffic</b>						
Alameda Depot Neighborhood Lighting	100,000					SAP
Mesquite Historic District Lighting	111,730					SAP
Road Maintenance Program	598,000	275,000	275,000	275,000	275,000	Sales Tax
Sidewalk Program	380,200	250,000	250,000	250,000	250,000	Sales Tax, Flood Control
Traffic Signal Program	350,000	1,000,000	1,000,000	650,000	650,000	Local, Sales Tax
Transportation System Modernization (ITS Traffic Synchronization)	2,517,702	1,500,000	2,000,000	8,754,691	227,559	Local, SAP, DOT, Bonds
<b>Total Transportation - Streets &amp; Traffic</b>	<b>4,057,632</b>	<b>3,025,000</b>	<b>3,525,000</b>	<b>10,279,691</b>	<b>9,175,000</b>	
<b>Transportation-Transit</b>						
MVITT - Finish Room, Signage & Kiosks Projects	126,400	95,000				Local
MVITT Passenger Shelters						Local
Transit System Routes Modifications	200,000					Local
Transit System Improvements - Bus Shelters	130,000					SAP
<b>Total Transportation - Transit</b>	<b>456,400</b>	<b>95,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>TOTAL TRANSPORTATION</b>	<b>5,288,032</b>	<b>4,471,000</b>	<b>8,485,000</b>	<b>13,359,691</b>	<b>12,475,000</b>	<b>14,242,559</b>
<b>UTILITIES</b>						
<b>GAS</b>						
Gas Rehabilitation Low Pressure	550,000	566,500	583,495	601,000	619,030	637,601
Gas Rehabilitation High Pressure	250,000	257,500	265,225	273,182	281,377	289,819
SCADA Rehabilitation	25,000					
Street Utility Rehabilitation	1,545,000	1,591,350	1,639,091	1,688,263	1,738,911	1,791,078
Street Improvement Projects	750,000	772,500	795,675	819,545	844,132	869,456
Gas Bond Projects 2015	4,107,000					
<b>Total Gas Rehabilitation Projects</b>	<b>7,227,000</b>	<b>3,187,850</b>	<b>3,283,486</b>	<b>3,381,990</b>	<b>3,483,450</b>	<b>3,587,953</b>
<b>Gas Development - Low Pressure</b>	250,000	257,500	265,225	273,182	281,377	289,819
<b>Gas Development - High Pressure</b>	2,369,000	2,440,070	2,513,272	2,588,670	2,666,330	2,746,320
Line Extension	300,000	309,000	318,270	327,818	337,653	347,782
Phase I AMR Implementations	1,000,000					
<b>Total Gas Development Projects</b>	<b>3,919,000</b>	<b>3,006,570</b>	<b>3,096,767</b>	<b>3,189,670</b>	<b>3,285,360</b>	<b>3,383,921</b>
<b>TOTAL GAS</b>	<b>11,146,000</b>	<b>6,194,420</b>	<b>6,380,253</b>	<b>6,571,660</b>	<b>6,768,810</b>	<b>6,971,874</b>
<b>WATER</b>						

**CITY OF LAS CRUCES  
Capital Improvements Program**

FY 2017-22  
11/7/2016

Project Title	FUNDED CAPITAL PROJECTS (\$) 2017	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)				Source / Cum Total *
		2018	2019	2020	2021	
Drill Replacement Wells	150,000					NMFA
Drill Replacement Wells - 2007 NMFA	446,079					NMFA
Drill Replacement Wells - NMED Grant	1,250,000					SAP
Pump Station for Well		463,500		491,727		Rates
Rehab Pump/PRV - 2007 NMFA			72,100		74,263	Rates
Pump Station Rehabilitation	70,000					Rates
Reservoir Rehabilitation	410,000					Rates
SCADA Rehabilitation	15,000					Rates
Line Extension		787,500	826,875	868,219	911,630	Rates
Street Utility Rehabilitation - Capital Improvements	750,000					Rates
Street Utility Rehabilitation - NMFA	89,700					NMFA
Street Improvement Projects	1,193,750					Bonds
Water Bond Projects 2015	8,763,000					Bonds
<b>Total Water Rehabilitation Projects</b>	<b>13,137,529</b>	<b>1,251,000</b>	<b>898,975</b>	<b>1,359,946</b>	<b>985,893</b>	<b>1,463,690</b>
<b>Water Development Projects</b>						
Zone 1 Interconnect Phase B - NMFA	1,560,914					NMFA
Transmission Lines West Mesa - 05 A Bonds	202,500					Bonds
Transmission Lines		5,385,600	5,547,168	5,713,583	5,884,991	Rates
Booster Pump Station New		4,145,458	4,269,822	4,397,916	4,529,854	Rates
East Mesa Water System - 06 Bonds	1,445,000					Bonds
East Mesa Water System - NMFA 2007	138,692					NMFA
WWTP Laboratory	999,833					Bonds
<b>Total Water Development Projects</b>	<b>4,346,939</b>	<b>-</b>	<b>9,531,058</b>	<b>9,816,990</b>	<b>10,111,499</b>	<b>10,414,845</b>
<b>TOTAL WATER</b>	<b>17,484,468</b>	<b>1,251,000</b>	<b>10,430,033</b>	<b>11,176,935</b>	<b>11,097,392</b>	<b>11,878,535</b>
<b>WASTEWATER</b>						
Lift Station Renovations- WW Capital Improvements	330,000		339,900		350,097	Rates
Force main Rehabilitation	200,000	173,476		178,680		Rates
Line Rehabilitation - Extension - WW Capital Improvements	141,100	145,333	149,693	154,184	158,809	Rates
Line Rehabilitation - Extension - 06 Bonds	30,900	30,900	30,900	30,900	30,900	Bonds
SCADA Rehabilitation	100,000					Rates
Line & Manhole Rehabilitation - WW Capital Improvements	100,000	103,000	106,090	109,273	112,551	Rates
Line & Manhole Rehabilitation - 06 Bonds	1,591,350					Bonds
Street Utility Rehabilitation - WW Capital Improvements	1,170,548	1,639,091	1,688,263	1,738,911	1,791,078	Rates
Street Improvement Project	5,011,438					Bonds
Wastewater Bond Projects 2015	3,226,565					Bonds
WWTP Rehabilitation		3,323,362	3,423,063	3,525,755	3,631,527	Rates
WWTP Odor Control						Rates
WW Jake Hands Treat Plant Operations	100,000	100,000	100,000	100,000	100,000	Rates
East Mesa Water Reclamation	225,000	225,000	225,000	225,000	225,000	Rates
WWTP Primary Clarifier	1,200,000					Bonds
<b>Total Wastewater Rehab Projects</b>	<b>13,425,901</b>	<b>5,740,161</b>	<b>6,062,909</b>	<b>6,062,703</b>	<b>6,399,963</b>	<b>6,404,726</b>
<b>Wastewater Development Projects</b>						

# CITY OF LAS CRUCES Capital Improvements Program

FY 2017-22  
11/7/2016

Project Title	INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (\$)					Source / Cum Total *
	2017	2018	2019	2020	2021	
<b>FUNDED CAPITAL PROJECTS (\$)</b>						
New Interceptors	1,372,000	1,413,160	1,455,555	1,499,221	1,544,198	1,590,524
Lift Station Upgrade WW	490,000	504,700	519,841	535,436	551,499	568,044
Septic Systems - WW Capital Improvements (High Priority)	200,000	206,000	212,180	218,545	225,102	231,855
Septic Systems - NMED Grant (Powers Dr & Walls Ave)	171,510					
Septic Systems - NMED Grant (High Priority)	1,054,059					
Septic Systems - NMED Grant (16-0501)	170,000	3,214,400	3,310,832	3,410,157	3,512,462	3,617,836
Septic Systems - NMED Grant (16-A2258)	540,000					
Water Reclamation - Lift Station	20,000					
Water Reclamation - Booster & Pipe	2,199,050					
WWTP Laboratory	1,964,000					
EMWR Solar Photovoltaic - 15 Bonds	8,180,719	5,338,260	5,498,408	5,663,360	5,833,261	6,008,259
<b>Total Wastewater Development Projects</b>						
	21,607,620	11,078,421	11,561,317	11,726,063	12,233,224	12,412,985
<b>TOTAL WASTEWATER PROJECTS</b>						
	50,238,088	18,523,841	28,371,602	29,474,658	30,099,426	31,263,394
<b>TOTAL UTILITIES</b>						
	150,006,710	105,440,877	68,276,602	102,865,849	71,175,926	79,478,953
<b>GRAND TOTAL</b>						
						577,244,918

**\*ABBREVIATIONS AND HIGHLIGHTING\***  
 ALTSD-Aging and Long-Term Services Department  
 CDBG-Community Development Block Grant  
 CIR-Capital Improvement Reserves  
 CP-Council Priority  
 DOT-Department of Transportation  
 EGRT-Environmental Gross Receipts Tax

FED-Federal Grant  
 FLCM-Foundation for Las Cruces Museums  
 FTA-Federal Transit Authority  
 NMFA-New Mexico Finance Authority Loan  
 PIF-Park Impact Fees  
 PIF PA-Park Impact Fees-Pueblos at Alameda

PSDF-Public Safety Development Fees  
 SAP-State Appropriations  
 State-State Grants  
 TBD-To be determined  
 TIDD-Tax Increment Development District  
 Indicates a change from previous CIP

STATE OF NEW MEXICO  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
FUND 89200 CAPITAL APPROPRIATION PROJECT

LOCAL GOVERNMENT DIV.  
2018 SEP 12 PM 4:08  
BATAAN MEMORIAL BLDG. RM 202  
SANTA FE, NM 87501

THIS AGREEMENT is made and entered into as of this 13 day of September, 2018, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "LGD", and the City of Las Cruces, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2015, Chapter 3, Section 28, Para. 116 the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

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

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

15-0764     \$505,000.00     Appropriation Reversion Date: 30-JUN-19  
Laws of 2015, Chapter 3, Section 28, Paragraph 116, five hundred five thousand dollars (\$505,000) to plan, design, construct, renovate, furnish and equip improvements, including a heating, ventilation and air conditioning system, an alarm system and improved accessibility, for a health facility at the Mesilla Valley community of hope health complex in Las Cruces in Dona Ana county;

The Grantee's total reimbursements shall not exceed the appropriation amount Five Hundred Five Thousand Dollars (\$505,000.00) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>[1]</sup>, if applicable, Zero Dollars (\$0.00), which equals Five Hundred Five Thousand Dollars (\$505,000.00) (the "Adjusted Appropriation Amount").

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

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

## ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse<sup>[2]</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- a. must be approved by the applicable oversight entity (if any) in accordance with law; or
- b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
- c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 3.
- d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

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

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT  
DESIGNATED REPRESENTATIVES

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

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

Grantee: City of Las Cruces  
 Name: Victoria Fredrick  
 Title: Director of Financial Services  
 Address: P.O. Box 20000, Las Cruces, NM, 88011  
 Email: vfredrick@las-cruces.org  
 Telephone: 575-541-2080  
 FAX: 575-541-2105

Department: DFA/Local Government Division  
 Name: Ms. Ariana Vigil  
 Title: Project Manager  
 Address: Bataan Memorial Bldg Rm 202, Santa Fe, New Mexico, 87501  
 Email: arianam.vigil@state.nm.us  
 Telephone: 505-827-8074  
 FAX: 505-827-4948

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2019**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* "expended" and an "expenditure" has *not* occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

## ARTICLE V. EARLY TERMINATION

### A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

### B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

### C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

## ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

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

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

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

**ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

**ARTICLE VIII. REPORTS**

**A. Paper Periodic Reports**

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

**B. Paper Final Report**

The Grantee shall submit to the Department a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**C. Paperless Reporting**

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department may require directly

into a database maintained by the Department. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**D. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this article VIII.

**ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

(i) The Grantee must submit one original and one copy of each Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

**B. Deadlines**

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

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

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

#### ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).

(ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."

(iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance written approval.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable

time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

#### ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

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

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records

sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

**ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

**ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

**ARTICLE XIV. SCOPE OF AGREEMENT**

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

**ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

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

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

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

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

"This contract is funded in whole or in part by funds made available under Department of Finance and Administration, Local Government Division (DFA/LGD) Grant Agreement. Should DFA/LGD early terminate the

grant agreement, the City of Las Cruces may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Las Cruces's only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

#### **ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA**

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

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

#### **ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES**

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

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

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STATE OF NEW MEXICO  
 CAPITAL GRANT PROJECT  
 PAPER PERIODIC/FINAL REPORT  
 EXHIBIT 1

PERIODIC REPORT     FINAL REPORT

Grantee: \_\_\_\_\_

Project Number: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

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

*A. Third Party Obligations*

Purchase Order or Contract # \_\_\_\_\_

Name of Contractor or Vendor: \_\_\_\_\_

Amount of Third Party Obligation: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Termination Date: \_\_\_\_\_

*B. Project Phase*

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

2. Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

Total Amount of all Notices of Obligation to Reimburse: \_\_\_\_\_

Total Grant Amount Expended by Grantee to Date: \_\_\_\_\_

Grant Balance as of this Date: \_\_\_\_\_

Amount of Other Unexpended Funding Sources: \_\_\_\_\_

PERIODIC REPORT

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

FINAL REPORT

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

\_\_\_\_\_  
 Grantee Representative/Title

\_\_\_\_\_  
 Date

STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 2

I. Grantee Information

(Make sure information is complete & accurate)

- A. Grantee: \_\_\_\_\_
- B. Address: \_\_\_\_\_  
Complete Mailing, including Suite, if applicable
- City State Zip
- C. Phone No: \_\_\_\_\_
- D. Grant No: \_\_\_\_\_
- E. Project Title: \_\_\_\_\_
- F. Grant Expiration Date: \_\_\_\_\_

II. Payment Computation

- A. Grant Amount: \_\_\_\_\_
- B. AIPP Amount (If Applicable) \_\_\_\_\_
- C. Funds Requested to Date: \_\_\_\_\_
- D. Amount Requested this Payment: \_\_\_\_\_
- E. Grant Balance: \_\_\_\_\_ \$0.00
- F.  GF  GOB  STB (attach wire if 1st draw)
- G. Payment Request No. \_\_\_\_\_

III. Fiscal Year Expenditure Period Ending:

(check one)

- (Jan-Jun)  Fiscal
- (Jul-Dec)  Year

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

Grantee Fiscal Officer  
or Fiscal Agent (if applicable)

Grantee Representative

Printed Name  
Date: \_\_\_\_\_

Printed Name  
Date: \_\_\_\_\_

SWORN TO AND SUBSCRIBED  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

SWORN TO AND SUBSCRIBED  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission expires \_\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission expires \_\_\_\_\_

(Department Use Only)

Vendor Code: \_\_\_\_\_  
Loc No.: \_\_\_\_\_

Fund No.: \_\_\_\_\_

Division Fiscal Officer	Date
I certify that the Grantee financial and vendor file information agree with the above submitted information.	

Division Project Manager	Date
I certify that the Grantee records and related appropriation laws agree with the above submitted information.	

<p><b>STATE OF NEW MEXICO CAPITAL GRANT PROJECT NOTICE OF OBLIGATION TO REIMBURSE GRANTEE EXHIBIT 3</b></p>
---

DATE: \_\_\_\_\_

TO: Grantee Representative: \_\_\_\_\_

FROM: Department Representative: \_\_\_\_\_

SUBJECT: Notice of Obligation to Reimburse Grantee  
Project Number: 15-0764

As the designated representative of the Department for the Grant Agreement number 15-0764 entered into between Grantee and the Department, I certify that the Grantee has submitted to the department the following third party obligation executed in writing, by the third party's authorized representative:

Third Party Obligation (includes purchase orders and contract)#: \_\_\_\_\_  
 Vendor of Contractor: \_\_\_\_\_  
 Third party Obligation amount: \_\_\_\_\_  
 Termination Date: \_\_\_\_\_

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

Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_  
 The Amount of this notice of Obligation to Reimburse: \_\_\_\_\_  
 The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_  
 The Total Amount of all Notices of Obligation to Reimburse as of this Date: \_\_\_\_\_

Department Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW MEXICO  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
FUND 89200 CAPITAL APPROPRIATION PROJECT

RECEIVED  
LOCAL GOVERNMENT  
2016 SEP 12 PM 4:08  
BATAAN MEMORIAL BUILDING  
SANTA FE, NM 87501

THIS AGREEMENT is made and entered into as of this 13 day of September, 2016, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "LGD", and the City of Las Cruces, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2015, Chapter 147, Section 25 the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

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

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

15-1123     \$50,000.00     Appropriation Reversion Date: 30-JUN-18  
Laws of 2015, Chapter 147, Section 25, Fifty Thousand Dollars (\$50,000.00) The unexpended balance of the appropriation to the local government division in Subsection 98 of Section 22 of Chapter 66 of Laws 2014 for a child crisis health facility in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish a health facility at the Mesilla Valley community of hope in Las Cruces.

The Grantee's total reimbursements shall not exceed the appropriation amount Fifty Thousand Dollars (\$50,000.00) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>(1)</sup>, if applicable, Zero Dollars (\$0.00), which equals Fifty Thousand Dollars (\$50,000.00) (the "Adjusted Appropriation Amount").

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

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

## ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse<sup>(2)</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- a. must be approved by the applicable oversight entity (if any) in accordance with law; or
- b. if no oversight entity is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.

- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.

- c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 3.

- d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

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

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

**ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES**

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

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

Grantee: City of Las Cruces  
 Name: Victoria Fredrick  
 Title: Director of Financial Services  
 Address: P.O. Box 20000, Las Cruces, NM, 88011  
 Email: vfredrick@las-cruces.org  
 Telephone: 575-541-2080  
 FAX: 575-541-2105

Department: DFA/Local Government Division  
 Name: Ms. Ariana Vigil  
 Title: Project Manager  
 Address: Bataan Memorial Bldg Rm 202, Santa Fe, New Mexico, 87501  
 Email: arianam.vigil@state.nm.us  
 Telephone: 505-827-8074  
 FAX: 505-827-4948

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

**ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION**

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2018**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* "expended" and an "expenditure" has *not* occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

## ARTICLE V. EARLY TERMINATION

### A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

### B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

### C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

## ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

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

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

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

**ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

**ARTICLE VIII. REPORTS**

**A. Paper Periodic Reports**

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

**B. Paper Final Report**

The Grantee shall submit to the Department a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**C. Paperless Reporting**

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report periodic and final Project activity by entering such Project information as the Department may require directly

into a database maintained by the Department. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**D. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this article VIII.

**ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

(i) The Grantee must submit one original and one copy of each Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

**B. Deadlines**

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

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

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

#### ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).

(ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."

(iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance written approval.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable

time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

#### **ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS**

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

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records

sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

**ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

**ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

**ARTICLE XIV. SCOPE OF AGREEMENT**

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

**ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

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

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

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

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

"This contract is funded in whole or in part by funds made available under Department of Finance and Administration, Local Government Division (DFA/LGD) Grant Agreement. Should DFA/LGD early terminate the

grant agreement, the City of Las Cruces may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Las Cruces's only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

**ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA**

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

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

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

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

**ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES**

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

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

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the Grantee and the Division do hereby execute this Grant Agreement as of the date of the first above written.

THIS GRANT AGREEMENT has been approved by:

City of Las Cruces

[Signature]  
Signature of Official with Authority to Bind Grantee

9/7/2016  
Date

DAVID DOLLAHON  
(Type or Print Name)

APPROVED AS TO FORM:

[Signature]  
City Attorney

STATE OF NEW MEXICO )  
  )ss  
COUNTY OF Doña Ana )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of Sept., 2016,  
by David Dollahon

seal [Signature]  
Notary Public

My Commission Expires: 11-03-19

DEPARTMENT OF FINANCE AND ADMINISTRATION  
LOCAL GOVERNMENT DIVISION

By: [Signature]  
Rick Lopez, Director

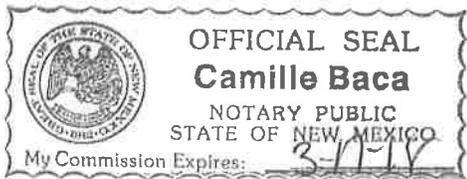
9/13/16  
Date

STATE OF NEW MEXICO )  
  )ss  
COUNTY OF SANTA FE )

The foregoing instrument was acknowledged before me this 13 day of September, 2016,  
by Rick Lopez

seal [Signature]  
Notary Public

My Commission Expires: 3-17-18



STATE OF NEW MEXICO CAPITAL GRANT PROJECT PAPER PERIODIC/FINAL REPORT EXHIBIT 1
--

PERIODIC REPORT       FINAL REPORT

Grantee: \_\_\_\_\_

Project Number: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

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

**A. Third Party Obligations**

Purchase Order or Contract # \_\_\_\_\_

Name of Contractor or Vendor: \_\_\_\_\_

Amount of Third Party Obligation: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Termination Date: \_\_\_\_\_

**B. Project Phase**

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

2. Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

Total Amount of all Notices of Obligation to Reimburse: \_\_\_\_\_

Total Grant Amount Expended by Grantee to Date: \_\_\_\_\_

Grant Balance as of this Date: \_\_\_\_\_

Amount of Other Unexpended Funding Sources: \_\_\_\_\_

**PERIODIC REPORT**

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

**FINAL REPORT**

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

\_\_\_\_\_  
 Grantee Representative/Title

\_\_\_\_\_  
 Date

STATE OF NEW MEXICO  
CAPITAL GRANT PROJECT  
Request for Payment Form  
Exhibit 2

I. Grantee Information

(Make sure information is complete & accurate)

- A. Grantee: \_\_\_\_\_
- B. Address: \_\_\_\_\_  
Complete Mailing, including Suite, if applicable
- City State Zip
- C. Phone No: \_\_\_\_\_
- D. Grant No: \_\_\_\_\_
- E. Project Title: \_\_\_\_\_
- F. Grant Expiration Date: \_\_\_\_\_

II. Payment Computation

- A. Grant Amount: \_\_\_\_\_
- B. AIPP Amount (If Applicable) \_\_\_\_\_
- C. Funds Requested to Date: \_\_\_\_\_
- D. Amount Requested this Payment: \_\_\_\_\_
- E. Grant Balance: \$0.00
- F.  GF  GOB  STB (attach wire if 1st draw)
- G. Payment Request No. \_\_\_\_\_

III. Fiscal Year Expenditure Period Ending:

(check one)

- (Jan-Jun)  Fiscal
- (Jul-Dec)  Year

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

\_\_\_\_\_  
Grantee Fiscal Officer  
or Fiscal Agent (if applicable)

\_\_\_\_\_  
Grantee Representative

\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name  
Date: \_\_\_\_\_

SWORN TO AND SUBSCRIBED  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

SWORN TO AND SUBSCRIBED  
before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission expires \_\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission expires \_\_\_\_\_

(Department Use Only)

Vendor Code: \_\_\_\_\_  
Loc No.: \_\_\_\_\_

Fund No.: \_\_\_\_\_

Division Fiscal Officer	Date
I certify that the Grantee financial and vendor file information agree with the above submitted information.	

Division Project Manager	Date
I certify that the Grantee records and related appropriation laws agree with the above submitted information.	

<p>STATE OF NEW MEXICO          CAPITAL GRANT PROJECT          NOTICE OF OBLIGATION TO REIMBURSE GRANTEE          EXHIBIT 3</p>
---

DATE: \_\_\_\_\_

TO: Grantee Representative: \_\_\_\_\_

FROM: Department Representative: \_\_\_\_\_

SUBJECT: Notice of Obligation to Reimburse Grantee  
Project Number: 15-1123

As the designated representative of the Department for the Grant Agreement number 15-1123 entered into between Grantee and the Department, I certify that the Grantee has submitted to the department the following third party obligation executed in writing, by the third party's authorized representative:

Third Party Obligation (includes purchase orders and contract)#: \_\_\_\_\_  
 Vendor of Contractor: \_\_\_\_\_  
 Third party Obligation amount: \_\_\_\_\_  
 Termination Date: \_\_\_\_\_

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

Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_  
 The Amount of this notice of Obligation to Reimburse: \_\_\_\_\_  
 The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_  
 The Total Amount of all Notices of Obligation to Reimburse as of this Date: \_\_\_\_\_

Department Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_