A G E N D A

Carlsbad City Council Regular Meeting
Janell Whitlock Municipal Complex
114 S. Halagueno Street
Carlsbad, New Mexico

August 9, 2022 at 6:00 p.m.

Invocation – Pledge of Allegiance

1. Approval of Agenda

2. Routine and Regular Business

All matters under this heading are considered routine by the City Council and will be acted upon in one motion. There will be no separate discussion of these items. If discussion is desired on a particular item, upon request, that item may be removed from the Routine and Regular Business and be considered separately.

A. **Minutes of the Regular City Council Meeting held on July 26, 2022**
B. **City Personnel Report**
C. **Purchasing**
   1) Consider Approval to Award Request for Proposals 2022-09 to Molzen Corbin for Engineering Services for projects at the Cavern City Airport
   2) Consider Approval to Reject and Rebid the Re-Roofing project at the Alejandro Ruiz Senior Citizen Center
D. **Contracts and Agreements**
   1) Consider Approval of Memorandum of Agreement (MOA) between the Drug Enforcement Administration and the Carlsbad Police Department pertaining to Body-Worn Cameras
   2) Consider Approval of Lease Agreement between the City of Carlsbad and John Deere for a Z Track Mower for Facility Maintenance Department
   3) Consider Approval of Agreement between the City of Carlsbad and Dale Balzano owner of Hoops Unlimited for Video Machine Concession Services at the Riverwalk Recreation Center
   4) Consider Approval of Agreement between the City of Carlsbad and Precision Fireworks LLC for July 4, 2023 Fireworks show at Lake Carlsbad
   5) Consider Approval of Amended Agreement between the City of Carlsbad and Shorthorn Little League for Sports Services at the Bob Forrest Youth Sports Complex
   6) Consider Approval of Renewal Agreement between the City of Carlsbad and Ultra Clean Carpet and Janitorial Services for the cleaning of City Restrooms and Janitorial Services

E. **Monthly Reports**
1) Human Resources Department July 2022
2) Municipal Court Department July 2022

3. Consider Approval of Request for a Transfer of Location Only of Dispenser Liquor License No 0050 for Allsup's located at 4412 National Parks Highway

4. Consider Approval to apply for Grant Funding for AIP Reconstruction of Runway at Cavern City Terminal

5. Consider Approval of Request from Carlsbad MainStreet to serve alcohol (beer & wine) on City streets during the On-Target Firefighter Combat Challenge

6. Consider Approval of Request from Carlsbad Medical Center to serve alcohol (beer & wine) on City streets during the On-Target Firefighter Challenge

7. Consider Approval of Request from Carlsbad Disc Golf Club to serve alcohol (beer & wine) on City property during the Carlsbad Disc Golf Tournament

8. Consider Approval to accept 2022 Bureau of Justice Assistance Byrne Discretionary Community Project Award in the amount of $400,000 for Public Safety hand-held Radio upgrades

9. Consider Approval of Resolution 2022-37, a Resolution adopting the FY 2024-2028 Infrastructure Capital Improvement Plan (ICIP)

10. Consider Approval of Resolution 2022-38, a Resolution requiring the removal of the ruins, rubbish, wreckage, debris and weeds at 2301 and 2303 Iowa Street/305 S 6th Street Owner: Maria L. Ramos

11. Consider Approval of Resolution 2022-39, a Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structure, ruins and weeds at 2202 S Davis Street (two lots) Owners: Kevin Bollin and Karen Nilson

12. Council Committee Reports

13. Adjourn

FOR INFORMATION ONLY

Agendas and City Council minutes are available on the City web site: ***cityofcarlsbadnm.com*** or may be viewed in the Office of the City Clerk during normal and regular business hours.

CARLSBAD CITY COUNCIL MEETING SCHEDULE

• Regular Meeting - Tuesday, August 23, 2022 at 6:00 p.m.
• Regular Meeting - Tuesday, September 13, 2022 at 6:00 p.m.

If you require hearing interpreter, language interpreters or auxiliary aids in order to attend and participate in the above meeting, please contact the City Administrator's office at (575) 887-1191 at least 48 hours prior to the scheduled meeting time.

LINKED MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, NEW MEXICO, HELD IN THE JANELL WHITLOCK MUNICIPAL COMPLEX BUILDING ON JULY 26, 2022 AT 6:00 P.M.

Present:	Edward T. Rodriguez	Mayor Pro Tem
	Lisa A. Anaya Flores	Councilor *via telephone*
	Jason O. Chavez	Councilor
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Karla Niemeier	Councilor *via telephone*
Absent:	Mark C. Walterscheid	Councilor
	Jeff Forrest	Councilor
Also Present:	John Lowe	City Administrator
	K.C. Cass	Deputy City Administrator
	Ted Cordova	Deputy City Administrator
	Denise Madrid-Boyea	City Attorney
	Nadine Mireles	City Clerk
	Angie Barrios-Testa	Director of Municipal Services
	Mike Abell	Director of Utilities
	Wayne Hatfield	IT Director
	Brent Griffith	IT Technician
	Melissa Salcido	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director
	Charlie Garcia	Police Officer
	Mike Smith	Current Argus
	Rod Adair	NM Demographic Research
	Ken Britt	Citizen
	Kat Davis	MainStreet Representative
	Jessica Ponce	Grants Administrator
	Therese Rodriguez	Citizen
	Shay Gregory	Renaissance Representative

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:05 **Invocation - Pledge of Allegiance**

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0:00:49 **1. APPROVAL OF AGENDA**

0:00:50 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to approve the Agenda.

0:00:54 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:01:20 **2. CITY OF CARLSBAD FINANCIALS - JUNE 2022**
Mrs. Salcido reviewed the revenues and expenditures as of June 2022 for the General Fund contained within the City Budget.

0:02:54 **3. CONSIDER APPROVAL OF RESOLUTION 2022-33, A RESOLUTION MAKING CERTAIN BUDGETARY ADJUSTMENTS TO THE 2021-22 FISCAL YEAR BUDGET**
Mrs. Salcido reviewed the revenue and expenditures making certain Budgetary Adjustments to the 2021-2021 Fiscal Year End Budget highlighting one adjustment in the NMFA Governmental Fund.

0:03:33 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to approve of Resolution 2022-33, a Resolution making certain Budgetary Adjustments to the 2021-22 Fiscal Year Budget

0:03:37 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:03:50 **4. CONSIDER APPROVAL OF RESOLUTION 2022-34, A RESOLUTION APPROVING THE 4TH QUARTER FINANCIAL REPORT AS OF JUNE 30, 2022**
Mrs. Salcido said the city is required to prepare these financial reports quarterly. She explained the 4th quarter report is required to be approved by Resolution and submitted with the final budget.

0:04:40 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Waters to approveResolution 2022-34, a Resolution approving the 4th Quarter Financial Report as of June 30, 2022

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0:04:44 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:04:58 **5. CONSIDER APPROVAL OF RESOLUTION 2022-35, A RESOLUTION APPROVING THE CITY OF CARLSBAD 2022-23 FISCAL YEAR FINAL BUDGET**

Mrs. Salcido explained this is for the final budget for FY 2022-2023, there was an increase in cash from the interim budget to the final budget of $4.2M, this includes FY 2022-2023 beginning cash came in higher than anticipated, health insurance premiums decreased and projects that were added from the interim to the final budget. She thanked the Councilors for their expertise and guidance in developing the FY 2022-2023 budget.

Councilor Carter thanked Mrs. Salcido for all her work.

0:06:24 **MOTION**
The motion was made by Councilor Chavez and seconded by Councilor Waterd to approve Resolution 2022-35, a Resolution approving the City of Carlsbad 2022-23 Fiscal Year Final Budget

0:06:34 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:06:46 **6. ROUTINE AND REGULAR BUSINESS**

A. Minutes of the Regular City Council Meeting held on July 12, 2022
B. City Personnel Report
C. Purchasing
   1) Consider Approval to Award Bid 2022-24 to Greer Construction for the Cavern Theater Rehabilitation Project - Phase 4
D. Contracts and Agreements
   1) Consider Approval of Renewal of Agreement between the City of Carlsbad and Carlsbad Mainstreet for Pearl of the Pecos Arts and Cultural District Management
   2) Consider Approval of Renewal of Agreement between the City of Carlsbad and All City Services Management Incorporated for Crossing Guard Services for Carlsbad Municipal Schools
E. Monthly Reports
   1) Community Development Department June 2022
   2) Municipal Services Department June 2022
   3) Utilities Department June 2022
F. Set the Date: September 13, 2022

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1) An Ordinance repealing Section 10-31 through 10-40 of the Code of Ordinances, City of Carlsbad, New Mexico creating a Cemetery Board of Carlsbad

0:07:09 **Mayor Pro Tem Rodriguez asked Mr. Ken Britt to discuss C.1 Consider Approval to Award Bid 2022-24 to Greer Construction for the Cavern Theater Rehabilitation Project – Phase 4**
Mr. Britt explained this phase would be for the auditorium renovation, to build a stage, replace the acoustic plaster and to work on the cry rooms and projection room.

Councilor Chavez asked if this is the final phase. **Mr. Britt** said there is quite a bit of work to be done and he hopes there would be another phase after phase 4. He said the next phase would not include the annex and that would be done at a later date. He said it also depends on funding. He said the drawings are near completion for what would be phase 5.

0:08:38 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to approve Routine and Regular Business

0:08:42 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:08:57 **7. CONSIDER APPROVAL OF TEMPORARY USE APPLICATION TO ALLOW FOR MOBILE SALES (VENDING) ON CITY PROPERTY AT THE CARLSBAD BEACH PARK LOCATED AT 814 E. RIVERSIDE DRIVE BY AGAVE PLAZA, LLC, APPLICANT: PATRICIA BOULWARE**
Mr. Patterson explained this request is to allow vending of food and drinks (non-alcoholic) in the open areas north of the Waterpark near the shade structures, there is currently no vendors in this area. He said the applicant plans to use a mobile push cart in this area. He said the applicant has a current city business registration and the permit to operate from NMED. He said the applicant indicates that they plan to vend on Saturdays from July 30, 2022, through December 31, 2022. He said the Planning Department recommends approval of this request with the following conditions: The applicant shall not disturb the peace with a loud speaker, megaphone, bell, music or other disruptive noise, the applicant shall provide the City with a Certificate of Liability insurance bond with the City added as additional insured and grants permission to the applicant to vend food and drinks (non-alcoholic) on City-owned property in the Beach Park north of the Waterpark from Saturday, July 30, 2022 until Saturday, December 31, 2022.

Councilor Chavez asked if any vendor have been allowed to vend in this "park" area previously. **Mr. Patterson** said no, not on a regular basis. **Councilor Chavez** asked

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why the vendor requester this area. **Mr. Patterson** explained the vendor thought this would be a more visable area. **Councilor Chavez** said if this is approved then more vendors would want to set up in that area.

0:11:44 **Mayor Pro Tem Rodriguez asked if there was a representative present. No one appeared**

0:11:52 **Councilor Carter** said he has the same concerns as Councilor Chavez, he said this would set a precedence as to having to approve vendors in the future to vend in the picnic/family area.

0:12:12 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to deny approval of a Temporary Use Application to allow for mobile sales (vending) on City Property at the Carlsbad Beach Park located at 814 E. Riverside Drive by Agave Plaza, LLC, Applicant: Patricia Boulware

0:12:18 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:12:52 **8. CONSIDER APPROVAL OF REQUEST FROM MILTON'S BREWERY TO SERVE ALCOHOL (BEER & WINE) ON CITY STREETS DURING MILTON'S BREWING "SEPTEMBEERFEST"**
Mr. Patterson explained Milton's Brewing wishes to host "SeptembeerFest" on Saturday, September 24, 2022 from 10:00 am to 11 :30 pm along Mermod St. & Canyon St. with one entrance in and out of the event with someone checking ID's and handing out bracelets to 21 and older and to designated drivers who will not be served alcohol. He said as part of this event, Milton's Brewing has plans for food trucks, local vendors and a Cornhole Tournament. He said the event will be set up by a licensed alcohol server and will be cordoned off and alcohol will be served from 11:00 a.m. to 11:00 p.m. He said the event organizers would like for the event to be an "open alcohol carry" throughout the event area. He said the Planning Department recommends approval of this request with the following requirements: The alcohol server obtain all required licenses and permits; Milton's Brewing and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security); both Milton's Brewing shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance in an amount to be approved by the City Administrator.

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0:15:22 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to approve of Request from Milton's Brewery to serve alcohol (beer & wine) on City Streets during Milton's Brewing "SeptembeerFest"

0:15:26 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:15:40 **9. CONSIDER APPROVAL OF REQUEST BY CAVERN CITY RENAISSANCE FESTIVAL TO HOST A RENAISSANCE FESTIVAL ON CITY PROPERTY AT THE CARLSBAD BEACH PARK AND SERVE ALCOHOL (BEER, WINE, & SPIRITS)**
Mr. Patterson explained Cavern City Renaissance Festival wishes to host a Renaissance Festival on Friday, September 30 & Saturday, October 1, 2022 at the Carlsbad Beach Park. He said the event will be from 4:00 pm to 8:00 pm on Friday, September 30th and from 10:00 am to 8:00 pm on Saturday, October 1. He said event organizers plan to bring in food trucks, vendors, a variety of entertainment and an Armored Combat Professional Knight's Tournament; along with alcohol vendors (beer, wine & spirits) offered by breweries, wineries, meaderies and a distillery. He said the event will be a paid-ticketed entry event and the entire event area will be fenced off by the event organizers and the event organizers would like for the event to be an "open alcohol carry" throughout the event area. He said The Renaissance Festival will have one entrance for attendees, and security will be provided. **Mr. Patterson** added that all entrants 21 years or older can obtain a bracelet to wear which will be a requirement to purchase beer or liquor within the event. He said all designated drivers that enter the event will be given a separate bracelet as identification and no alcohol will be allowed to be taken out of the designated event area. He said City staff recommends the following requirements: The alcohol server obtain all required licenses and permits, all breweries, wineries, meaderies & distilleries and the alcohol servers shall comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security), Cavern City Renaissance Festival and all breweries, wineries, meaderies & distilleries shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance in an amount to be approved by the City Administrator, the designated event area shall not include the Beach Park Splash Pad and shall remain open and unobstructed for public use.

0:18:41 **Mr. Shay Gregory** said he is expecting 6,000 people for this event. **Councilor Carter** asked if not serving alcohol would be a hard line. **Mr. Gregory** said one vendor will be selling spirits as of right now and would like to be allowed to serve alcohol, although it is not a hard line, it would be a shame to have to give refunds for the event.

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Councilor Carter asked if there would be alcohol on the City streets or just inside the event area. **Mr. Patterson** said the alcohol would probably only be allowed in the event area.

Councilor Chavez asked if the performers will have insurance. **Mr. Gregory** said the Performers will be fully insured, as they have been on the History Channel, National Geographic and Netflix and they are fully insured and are professionals.

0:20:49 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to approve the Request by Cavern City Renaissance Festival to host a Renaissance Festival on City Property at the Carlsbad Beach Park and serve alcohol (beer, wine, & spirits) to approve

0:20:56 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:21:21 **10. CONSIDER APPROVAL OF REQUEST FOR A BUSINESS LICENSE TO CONDUCT DOOR TO DOOR SALES AND DISTRIBUTION OF EDUCATIONAL BOOKS AND APPLICATIONS BY SOUTHWESTERN ADVANTAGE, CONTACT: JAANIKA KERSALA**
Mr. Patterson explained this is a request for a business license to conduct door-to-door sales by Southwestern Advantage for the sale and distribution of educational books & applications. He said this request has been before City Council for a couple of years. He said Ms. Kersala is the contact person and a background report was provided by the Police Department and it is a positive report. He said the Planning Department recommends approval of this request in compliance with Sec. 28-166 of the Carlsbad Code of Ordinances, which reads: Grant of license; investigation report prerequisite to consideration. A city solicitation license may be granted only upon approval by the city council at a regular meeting of the council. The city council shall not consider approval of a solicitation license application unless the chief of police has filed a report on his investigation of the employer or person seeking the license.

0:22:18 **Mayor Pro Tem Rodriguez asked if there are any questions or a representative present.**
No questions or representative appeared.

Councilor Carter asked what the hours of operation would be. **Mr. Patterson** said hours were not stated in the application, normally the Planning Department approves 9-10 a.m. till dark. He said Council can specify hours if that is what they wish.

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0:23:26 **MOTION**
The motion was made by Councilor Carter and seconded by Councilor Chavez to approve a Request for a Business License to conduct door to door sales and distribution of educational books and applications by Southwestern Advantage, Contact: Jaanika Kersala, with the stipulation of hours of operation to be 9-10 a.m. to 8 p.m.

0:23:34 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:23:49 **11. CONSIDER APPROVAL OF RESOLUTION 2022-36, A RESOLUTION RATIFYING THE AGREEMENT BETWEEN THE CITY OF CARLSBAD AND SOUTHEASTERN NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT (SENMEDD) FOR 2022-2023 MEMBERSHIP**
Mr. Lowe explained The City of Carlsbad has an annual membership with Southeastern New Mexico Economic Development District (SENMEDD) and enters into an agreement annually for their services. He said SENMEDD works on behalf of the City to provide planning, technical assistance and capacity building services. He said SENMEDD will assist the City with Infrastructure Planning; Coordinate the ICIP process and Capital Outlay with the agreement beginning on July 1, 2022 thru June 30, 2023 for $7,641.00.

0:24:32 **MOTION**
The motion was made by Councilor Chavez and seconded by Councilor Waters to approve Resolution 2022-36, a Resolution ratifying the Agreement between the City of Carlsbad and Southeastern New Mexico Economic Development District (SENMEDD) for 2022-2023 Membership

0:24:37 **VOTE**
The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:24:51 **12. INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN PRELIMINARY LIST PRESENTATION FOR FY 2023-2027 FOR COUNCIL REVIEW AND RECOMMENDATIONS**
Mrs. Angie Barrios-Testa explained this request is for The State of New Mexico's Department of Finance & Administration and is required by law to develop a five-year plan for capital improvement projects. She said the City of Carlsbad participates in the Infrastructure Capital Improvement Plan (ICIP) as a project planning guide. She said the City of Carlsbad goes through a series of planning phases to develop its ICIP priorities for capital projects. She said the first phase was for staff to review last year's FY2023/2027 ICIP list of 53 Municipality Projects and 5 Senior Citizen Facility projects. She said Department Directors and City Administration participated in an internal project evaluation and ranking process based on relevant risk assessment criteria for

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each of the projects. She said an updated list of preliminary ranked projects was provided during the City's public input process. She said as the next phase in the process, the City is pleased to present the attached FY2024/2028 Infrastructure Capital Improvement Plan list of 49 Municipality and 5 Senior Citizen Facility projects. She said staff requests City Council to review the enclosed documentation and provide any additional recommended changes to staff by Monday, July 29, 2022, to be approved by formal resolution during the August 9, 2022 regularly scheduled City Council meeting.

Mayor Pro Tem Rodriguez thanked Mrs. Barrios-Testa for all the work that has gone into completing this. He also mentioned ICIP is important, to bring money into the community for "shovel ready" projects and this information is vital.

Mrs. Barrios-Testa added that some of the State Programs require projects to be on the ICIP list for consideration in the funding process. She said the federal government doesn't look at ICIP, although they look at the public comments for funding consideration.

0:31:27 **13. PRESENTATION TO DISCUSS POSSIBLE REDISTRICTING PLANS FOR THE CITY OF CARLSBAD MUNICIPAL WARDS REQUIRED BY NEW MEXICO STATE STATUTE AS A RESULT OF THE 2020 CENSUS; BY ROD ADAIR, NEW MEXICO DEMOGRAPHIC RESEARCH, LLC**

Mrs. Madrid-Boyea introduced Mr. Rod Adair who will give a presentation of redistricting. She said there will be no voting, this is just a presentation.

Mr. Adair said redistricting is not in the U.S. Constitution, many people believe the Census Bureau has something to do with that, which is not the case. He said the Census is for reapportionment, which is to make sure each of the 13 original colonies, and now the 50 states have the right proportion of U.S. House Representatives. He said for 170 years redistricting was not an issue. He said the Supreme Court ruled it was not something the federal court could make a ruling on, being it is a state issue. He said one court finally ruled that districts must be equal. He said the Equal Protection Clause in the 14th Amendment means people have to have equal power, and this affected New Mexico, in having New Mexico make districts. He said districts must be within 5% of ideal size. He said Carlsbad grew above the average in New Mexico, it grew by 23% over the last decade and is the 9th largest city in New Mexico in population and the 7th largest in physical size. He said the population is at 32,238 which means with four wards it is the ideal size of 8,060 per ward. He said the City has 31.8 square miles and ward 1 is over 13.5 square miles, ward 3 is less than 2 square miles and wards 3 and 4 were more than 15% away from the ideal. He said ward 3 needed to gain 15% more people and ward 4 needs to have 15% fewer people. He said none of the wards lost population. He showed examples of maps for redistricting. He said in redistricting you would need to leave the councilors in their wards. He said all wards are within their 5% deviation allowed by state law. He said when redistricting landmark locations are good to use. He said Carlsbad follows the same pattern of the State of New Mexico in

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that the voting age population is more heavily represented in the anglo population than the hispanic population.

0:54:30 **14. COUNCIL COMMITTEE REPORTS**

No reports

0:54:38 **Mayor Pro Tem Rodriguez asked if anyone in the audience would like to address the Council. No one appeared.**

0:54:43 **15. ADJOURN**

0:54:50 **MOTION**

The motion was made by Councilor Anaya-Flores and seconded by Councilor Waters to Adjourn.

0:55:01 **VOTE**

The vote was as follows: Yes - Anaya-Flores, Chavez, Waters, Carter, Rodriguez, Niemeier; No - None; Absent Forrest, Walterscheid - None; the motion carried.

0:55:20 **Adjourn**

There being no further business, the meeting was adjourned at 6:55 p.m.

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Dale Janway, Mayor

ATTEST:

_____

Nadine Mireles, City Clerk

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CITY OF CARLSBAD

PERSONNEL REPORT

August 9, 2022

APPOINTMENTS:

NAME	DATE	DEPARTMENT	CLASSIFICATION
Charles Bernin	08/10/22	Police	Telecommunicator, uncertified
Vince Holguin	08/10/22	Golf	Pro Shop Attendant, p/t

TERMINATIONS:

NAME	DATE	DEPARTMENT	CLASSIFICATION	REASON
Alexa Dugan	07/24/22	Water Park	Lifeguard	Resigned
William Gerberich	08/01/22	Waste Water	Waste Water Operator 2	Resigned
Michael Huettner	07/30/22	Fire	Firefighter/EMT-I	Resigned
Anthony Landreth	07/22/22	Golf	Caretaker	Retired
Jose Ortiz	07/19/22	Solid Waste	ARC Driver	Resigned
Caitlyn Sanchez	07/21/22	Golf	Seasonal Laborer	Job Ended
Michael Jeffrey Veilleux	08/01/22	Fire	Battalion Chief/EMT-I	Retired

INTERNAL TRANSFERS AND PROMOTIONS:

NAME	DATE	DEPARTMENT	CLASSIFICATION
Ana Bankhead	07/25/22	Solid Waste	Solid Waste Attendant
Isaiah Hinojos	07/25/22	Double Eagle	Water Maintenance Supervisor
Scott Maxwell	08/02/22	Fire	Battalion Chief/EMT-P
Jesse Ramirez	08/02/22	Fire	Lieutenant/EMT-I
Matthew White	08/02/22	Fire	Engineer/EMT-I

CITY OF CARLSBAD

RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor — John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Chief Shane Skinner

SUBJECT: Recommendation for Employment

DATE: 8/2/2022 08/02/2022

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Charles M. Bernin Classification/Position: Telecommunicator

Department: Police

- [x] Regular [x] Full-time [x] Hourly $22.81 per hour
- [ ] Seasonal [ ] Part-time [ ] Salary $_____ per annum
- [ ] Temporary [ ] On call

Education Level:

- [ ] High School Diploma [ ] GED or equivalent
- [ ] Associates Degree _____
- [x] Bachelors Degree Eastern New Mexico University Aviation Science
- [ ] Masters Degree _____
- [ ] Other _____

Employment:

Present or last Employer: Cattle Baron Restaurant, Roswell, NM

From 2021 to 2022 Classification: Server

Duties: food service

Related Experience: no related experience

Comments: Highly recommended by family, friends, and previous employers.

CITY OF CARLSBAD

RECOMMENDATION FOR EMPLOYMENT

Dale Janway, Mayor — John Lowe, City Administrator

TO: The Honorable Mayor Dale Janway & Members of the City Council

FROM: Ted Cordova, Deputy City Administrator — Ted Cordova Digitally signed by Ted Cordova DN: cn=Ted Cordova, o=City of Carlsbad, ou=Community Development, email=tcordova@cityofcarlsbadnm.com, c=US Date: 2022.08.02 06:30:10 -06'00'

SUBJECT: Recommendation for Employment

DATE: August 2, 2022

The following applicant has met all pre-employment requirements and is hereby recommended for employment with the City of Carlsbad subject to a pre-hire medical examination:

General Information:

Name: Vince Holguin Classification/Position: Pro Shop Attendant

Department: Golf

☒ Regular ☐ Full-time ☒ Hourly $19.70 per hour

☐ Seasonal ☒ Part-time ☐ Salary $_____ per annum

☐ Temporary ☐ On call

Education Level:

☒ High School Diploma ☐ GED or equivalent

☐ Associates Degree _____

☐ Bachelors Degree _____

☐ Masters Degree _____

☐ Other _____

Employment:

Present or last Employer: Rugged Trade

From February 2020 to Present Classification: Production Specialist

Duties: Printing t-shirts and graphic design, as well as assisting with maintenance of the store.

Related Experience: _____

Comments: Mr. Holguin is fully capable of performing all job duties and will be an asset to the Pro Shop.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM
PURCHASING RECOMMENDATION

Council Meeting Date: 8/09/2022

Department:	**BY:**	**Date:**
Airport	Matt Fletcher, CPO	7/26/22

SUBJECT: Services
Description:
RFP for Engineering Services for projects at the Cavern City Airport

SYNOPSIS: Qty 1 Total Est. Cost _____ Total Actual Cost _____

Budgeted No Est. City Share _____ Actual City Share _____

Account # _____ _____

Account # _____ _____

Account # _____ _____

Account # _____ _____

TOTAL $ 0.00

BACKGROUND, JUSTIFICATION AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)
The City maintains a professional services contract specifically for engineering projects at the Cavern City Terminal. This contract is renewed every four years in accordance with the State of New Mexico Procurement Code requirements for professional services. The City conducted an RFP, but only received one proposal from Molzen Corbin, Engineers, Architects and Planners.

The City has a long history of working with Molzen Corbin on airport projects. Due to FAA regulations and requirements, airport engineering projects are highly specialized. Molzen Corbin has the background, qualifications and expertise necessary to fulfill this contract.

The City recommends awarding the RFP to Molzen Corbin and requests authorization for the City Administrator and Mayor to enter into a professional services agreement upon approval.

Requested action to be taken by Council:	**Council Action Taken:**	**Date:**
Advertise Invitation for Request for Proposal	Select one	

Reviewed by City Administrator:

POST BID/RFP RECOMMENDATION **Council Meeting Date:**

Requested action to be taken by Council:		**Council Action Taken:**	**Date:**
Award RFP Number	2022-09	Select one	

ADDITIONAL INFORMATION:

Reviewed by City Administrator: /s/John Lowe 08/04/2022

ATTACHMENT(S): ☐ Specifications ☐ Bid/RFP Summary ☑ Other: _____

MOLZENCORBIN
ENGINEERS | ARCHITECTS | PLANNERS

City of Carlsbad
Cavern City Air Terminal
Engineering Services

RFP #2022-09 | July 15, 2022

MOLZENCORBIN

July 15, 2022

City of Carlsbad
Mr. Matt Fletcher
101 N. Halagueno
P.O. Box 1569
Carlsbad NM 88221

RE: Request for Proposal RFP 2022-09, Cavern City Air Terminal Engineering Services

Dear Mr. Fletcher and Members of the Selection Committee:

Molzen Corbin has a rich and strong history at the Cavern City Air Terminal (CNM). Since 1994, Carlsbad has received approximately $6 million in FAA funding. The Molzen Corbin team helped the City to secure half of that funding. We look forward to continuing our successful working relationship, and we believe that our unparalleled local knowledge and experience will be an asset on your upcoming projects. Our ability to deliver is based on the following strengths:

- **Knowledge of CNM Projects.** Having recently completed the Airport Master Plan, only our staff has the intimate knowledge of the planned complex projects required to comply with current regulations, and can implement these projects through FAA and State funding. We stand ready to respond immediately to meet the needs of CNM.
- **Team Continuity.** The same engineers who helped to obtain funding for grants 6 through 29, and performed the related projects at CNM are still with Molzen Corbin and are on our current proposed project team. Molzen Corbin has retained numerous senior engineers and architects who have more than 31 years of continuous experience in airport design with our firm. Carlsbad will benefit from the same expertise and experience that has resulted in successful projects at CNM in years past.
- **Local Presence.** Molzen Corbin is the only aviation engineering firm that maintains a Carlsbad office. All of our work in Carlsbad is billed from our office at the National Cave and Karst Research Institute office complex on Cascades Avenue. The City of Carlsbad and Eddy County realize the gross receipts taxes from all of our billings. This local presence will also enhance our ability to respond rapidly to issues at the Airport in a timely fashion.
- **Maximum Value for the Money.** As an Albuquerque-based firm with an office Carlsbad, Molzen Corbin offers the City the best of both worlds: high-quality, high-value projects delivered at lower local rates. As specialists in municipal consulting, we are practiced and accustomed to working within stringent budget restraints. Our resources are used to ensure that every project, conversation, and task delivers value to our clients.
- **Versatile Team.** Our aviation design team has all the experience that Carlsbad needs to fly into the future. Whether your projects are airfield improvements, electrical design, architectural design, equipment purchases, planning, environmental, or maintenance, our staff and team has the experience through other airports throughout the State to assist in meeting your needs.

We hope that the following statement of qualifications in response to your Request for Proposal will demonstrate to you our unparalleled technical skills and experience in airport planning and design in New Mexico. We look forward to the opportunity to work with you.

Sincerely,

MOLZEN CORBIN

K. W. E.

Kevin Eades, PE
President & CEO

2701 Miles Road SE, Albuquerque, NM 87106 505 242 5700 Tel 505 242 0673 Fax **MolzenCorbin.com**

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM
PURCHASING RECOMMENDATION

Council Meeting Date: 8/9/2022

Department:	**BY:**	**Date:**
San Jose Senior Center	Matt Fletcher, CPO	8/2/22

SUBJECT: Services
Description:
Rejection of Bid for Reroofing the Alejandro Ruiz Senior Citizen Center

SYNOPSIS: Qty 1 Total Est. Cost $ 869,296.97 Total Actual Cost $ 1,304,409.00

Budgeted Yes Est. City Share $ 200,000.00 Actual City Share $ 200,000.00

Account #	FY 2023 Budget	$ 200,000.00
Account #	100536	$ 669,296.97
Account #		
Account #		
TOTAL		$ 869,296.97

BACKGROUND, JUSTIFICATION AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The City of Carlsbad solicited sealed bids for re-roofing the Alejandro Ruiz Senior Citizen Center as part of the on-going renovation project of the old Pate School site.

Bids were opened on July 20, 2022. Only one bid was received from DKG & Associates Inc. in the amount of $1,304,409. The bid received was well above the architects estimate and well above the budgeted amount for the project.

The City is recommending rejecting the bid received and re-bidding the project at a date in the near future. The City believes that re-bidding the project should produce more bids and result in better bid results.

Requested action to be taken by Council:	**Council Action Taken:**	**Date:**
Advertise Invitation for Bid	Select one	

Reviewed by City Administrator:

POST BID/RFP RECOMMENDATION **Council Meeting Date:**

Requested action to be taken by Council:		**Council Action Taken:**	**Date:**
Reject and Rebid Bid Number	2022-11	Select one	

ADDITIONAL INFORMATION:

Reviewed by City Administrator: /s/John Lowe 08/04/2022

ATTACHMENT(S): ☐ Specifications ☑ Bid/RFP Summary ☑ Other: Architects recommendation to reject bid

MOLZENCORBIN

August 1, 2022

Ms. Angie Barrios-Testa
Municipal Services and Capital Programs Director
City of Carlsbad
101 N. Halagueño
Carlsbad, New Mexico 88221

RE: City of Carlsbad – Alejandro Ruiz Senior Center Reroof CRS201-24
Results of Bid Opening

Dear Ms. Barrios-Testa:

One (1) sealed Bid for the above-referenced project was received and opened on July 18, 2022. The Base Bid from the sole Bidder is as follows:

DKG & Associates, Inc.	$1,304,409.00

We have checked and tabulated the Bid received and have carefully reviewed the Documents as follows:

- DKG & Associates, Inc. is a registered Contractor in the State of New Mexico, Contractor's License No. 59360, with an active GS 21 classification. We have verified this information with Contractor's Licensing Services, Inc., www.[illegible].com.
- DKG & Associates, Inc. is registered and active with the New Mexico Department of Workforce Solutions, Registration No. 019273201 1707.
- The Surety for the Bid Bond for DKG & Associates, Inc. is the Cincinnati Insurance Company and the Cincinnati Casualty Company, NAIC #28665. As required, the Surety is listed on Federal Circular 570 and licensed to do business in the State of New Mexico to an underwriter's limit of $50,020,000. We verified this with the U.S. Department of the Treasury's listing of approved Sureties approved to conduct business in the State of New Mexico, www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html.
- DKG & Associates, Inc. submitted all required Bid Forms.

We recommend that the City consider the above information during their review of the Bids. We understand that the Owner reserves the right to award or reject any Bid, as well as waive any technical irregularities in the Bids.

If you have any questions or require any further information, please do not hesitate to call me at 505.242.5700.

Sincerely,

MOLZEN CORBIN

Jeremy Scott Alford, RA

JA:sec

cc: Mr. Matt Fletcher, Purchasing Manager, City of Carlsbad

MOLZENCORBIN

July 29, 2022

Mr. Weldon C. Good
Vice President / CEO
DKG & Associates, Inc.
6920 Huseman Place SW
Albuquerque, New Mexico 87121

RE: City of Carlsbad – Alejandro Ruiz Senior Center Reroof CRS201-24
Rejection of Bid

Dear Mr. Taylor:

Thank you for your Bid submitted on July 18, 2022 regarding the above-referenced project. We regret to inform you that we must reject all Bids, as they exceeded the funds available. Therefore, we are returning your Bid Bond.

Again, thank you for your interest in working for the City of Carlsbad.

Sincerely,

MOLZEN CORBIN

Jeremy Scott Alford, RA

JA:scc
Enclosures

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 08/09/2022

DEPARTMENT:	By:	DATE:
Carlsbad Police Department	Shane Skinner – Chief of Police	08/02/2022

SUBJECT: Memorandum of Agreement (MOA) between the Drug Enforcement Administration and the Carlsbad Police Department Pertaining to Body-Worn Cameras

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The Drug Enforcement Administration (DEA) and the Carlsbad Police Department wish to enter into a Memorandum of Agreement in regards to the utilization of body-worn cameras in compliance with Carlsbad Police Department Policy and Procedure and pursuant to Department of Justice Policy. This agreement in no way violates what the State of New Mexico requires our officers to comply with. It also does not compromise the Carlsbad Police Department Policy and Procedure in regards to use of body-worn cameras. It merely lays out clear and concise guidelines to our special federally deputized Task Force Officers who are assisting and working with the DEA on operational activities.

Our drug task force officers only become specially deputized task force officers in special and specific circumstances. But, this agreement helps address the issues related to those officers wearing body-worn cameras during those special operations. Because federal and state guidelines differ on the issue of body-worn camera policies, I think it is prudent and transparent to lay out such agreements so everyone can work within the necessary guidelines. We have entered into a very similar agreement with the DEA in the recent past in order to address the same issue.

DEPARTMENT RECOMMENDATION: I recommend the City of Carlsbad approve the Memorandum of Agreement Pertaining to Body-Worn Cameras with the Drug Enforcement Administration and the Carlsbad Police Department.

BOARD/COMMISSION/COMMITTEE ACTION:

P & Z	☐ Lodgers Tax Board	Cemetery Board	} ☐	APPROVED
☐ Museum Board	☐ San Jose Board	Water Board	}	
☐ Library Board	☐ N. Mesa Board	_____ Committee	}	DISAPPROVED

Reviewed by:
City Administrator: /s/ John Lowe **Date:** 08/04/2022

ATTACHMENT(S): Memorandum of Agreement

Case-Specific Deputization Agreement Pertaining to Body-Worn Cameras

This agreement between the Drug Enforcement Administration (DEA) and the Carlsbad Police Department governs the use of body-worn cameras (BWC) by law enforcement officers employed by Carlsbad Police Department who are granted case-specific deputization for MS-22-0010 and MS-22-0006 pursuant 21 U.S.C. § 878. The Carlsbad Police Department has advised DEA that it will require its officers receiving case-specific deputization to use BWCs pursuant to the "Department of Justice Policy – Use of Body-Worn Cameras by Federally Deputized Task Force Officers," dated October 5, 2021 (DOJ Policy).

The parties hereby agree to the following:

I. Task Force Officers (TFOs) will adhere to e DOJ Policy, DEA's Interim Body-Worn Camera Program Policy, and other applicable DEA policies and procedures.

II. Carlsbad Police Department confirms that prior to executing this agreement it has provided to DEA details regarding the BWC system and cameras, including the details of any system protections, and any state or local policies or laws applicable to the TFO's use of BWCs, including any retention policies.

III. Use of BWCs During Federal Operations:

A. TFOs will be allowed to wear and activate their recording equipment with BWCs for the purpose of recording their actions only during:

1. A pre-planned attempt to serve an arrest warrant or other pre-planned arrest; or
2. The execution of a search or seizure warrant or order.

B. TFOs are authorized to activate their BWCs upon approaching a subject or premises, and must deactivate their BWCs when the scene is secured as determined by the federal supervisor as designated by DEA who is on the scene.

1. For purposes of this agreement, the term "secured" means that the scene is safe and under law enforcement control.
2. If relieved from the scene prior to it being secured, TFOs will end BWC recording when they leave the scene.

C. For the execution of a search warrant, BWCs should not be used for searches of physical property lawfully seized and in government custody or control (e.g., a vehicle, computer, or mobile phone already in DEA custody), or a search warrant to obtain digital or electronic records executed by a third party, such as an electronic service provider or custodian of electronic records.

D. TFOs will follow the provisions set forth in this agreement for use of BWCs, and the provisions of this agreement will supersede any conflicting provision in the agency's policy for TFOs while serving as a case-specific TFO.

E. TFOs are authorized to wear and activate their BWCs in accordance with this agreement anywhere they are authorized to act as a police or peace officer under state, territorial, or tribal law.

F. TFOs may possess and use only agency-issued and agency-owned BWCs. TFOs will not be allowed to possess or use any privately owned BWC.

G. In the event a TFO's BWC is not working or inoperable due to a technical problem or cannot be used due to physical damage, and, in the judgement of the DEA supervisor, delaying the operation to repair or obtain a replacement BWC is not practical or would impair the operation, the TFO may participate in the operation without using a BWC.

H. Even when BWC use would be permissible in the circumstances set forth in Section III.A above, TFOs are prohibited from intentionally recording:

1. Undercover personnel;
2. Confidential informants or confidential sources;
3. On-scene witness interviews prior to or after the operation; or
4. Actions by any non-law enforcement persons at the scene who are assisting law enforcement personnel.

IV. Carlsbad Police Department Internal Controls:

A. Lt. A. Rodriguez, 575-499-5207, will serve as a point-of-contact(POC) for DEA on BWC matters.

B. Carlsbad Police Department will notify DEA of any change in state or local law that will modify how DEA TFOs must use BWCs or will affect release or redaction of BWC recordings from TFO BWCs made while working under federal authority on behalf of DEA.

C. Carlsbad Police Department will notify and consult DEA prior to making any change in agency policy that will affect the storage, release, or redaction of TFO BWC recordings.

D. Carlsbad Police Department will provide training to DEA personnel as needed on the BWCs to familiarize them with the capabilities and operation of BWCs used during DEA activities.

E. Carlsbad Police Department will allow DEA supervisors to make decisions about recording or not recording under the same circumstances that parent agency

supervisors are allowed to make such decisions. Carlsbad Police Department will provide training to DEA personnel as needed to implement this.

V. Handling of BWC Recordings Made During Federal Operations:

A. For purposes of this agreement, the term "TFO BWC recordings" refers to audio and video recordings, and associated metadata, from TFO BWCs made while the TFO is working under federal authority.

B. Carlsbad Police Department promptly will provide full, un-redacted copies of TFO BWC recordings to DEA, with no exceptions. The preferred method to receive the recording from the TFO's parent agency is by authorized upload method to DEA's Axon cloud, which is currently available through evidence.com. If Carlsbad Police Department is unable to provide TFO BWC recordings using this method, or other technical issues arise regarding copies of TFO BWC recordings, DEA and Carlsbad Police Department, in consultation with DEA's Office of Investigative Technology (ST), will determine an alternative solution.

C. TFOs will document BWC use and the existence of BWC recordings in the Report Narrative of the DEA Form 6, Report of Investigation and as otherwise required by DEA policy.

D. The Carlsbad Police Department will provide the DEA with copies of TFO BWC recordings that qualify as a "duplicate" under Fed. R. Evid. 1001(e).

E. All TFO BWC recordings made during DEA operations in accordance with this agreement, including such recordings retained by the Carlsbad Police Department and/or in the possession of any third party engaged by the Carlsbad Police Department to store or process BWC recordings are federal records of the DEA and DOJ and shall be retained and disseminated in accordance with all applicable federal laws,policies, and procedures including the Federal Records Act, Freedom of Information Act, and/or Privacy Act. BWC recordings cannot be disseminated by the TFO, the TFO's parent agency, or any third party, as described here, without the written permission of DEA.

F. The TFO's parent agency is authorized to use TFO BWC recordings for internal investigations of its personnel consistent with the parent agency's policies and procedures, but, except as set forth below in Section 5.G, may not disseminate the BWC recording outside the parent agency or for public release without the written permission of the Department. The parent agency shall provide written notification to DEA prior to any internal review.

G. Expedited Public Release: DEA will work to expedite the public release of BWC recordings depicting conducting resulting in serious bodily injury or death of another

consistent with DOJ policies and subject to any redactions as appropriate. If TFO BWC recording(s) depict conduct committed solely by a Carlsbad Police Department TFO resulting in serious bodily injury or death of another, the Carlsbad Police Department shall notify DEA if it plans to publicly release the recording(s).
Following the notification, the Carlsbad Police Department may immediately release the recording(s) with any redactions as appropriate, giving as much advance notice as possible to DEA as to the time and manner of its release. Following the notification, the Carlsbad Police Department may release such recording(s), subject to any redactions as appropriate. The notification to DEA shall be made to the Special Agent in Charge of the El Paso Field Division. The Special Agent in Charge will provide further notifications within DEA as appropriate.

H. In all circumstances, TFO BWC recordings shall be treated as law enforcement sensitive information, the premature disclosure of which could reasonably be expected to interfere with enforcement proceedings, and as potential evidence in a federal investigation subject to applicable federal laws, rules, and policy concerning disclosure or dissemination (including but not limited to 28 C.F.R. Ch. 1, Pt. 16, Subpart B ("Touhy Regulations")); and therefore deemed privileged absent appropriate redaction prior to disclosure or dissemination.

I. If a TFO BWC recording involves a "reportable incident" as defined below, or involves another time-sensitive or urgent situation, Carlsbad Police Department will provide DEA copies on an expedited basis, including during non-business hours.

    1. For purposes of this provision, "reportable incident" means (1) shooting incident; (2) any incident which involves serious bodily injury or death resulting from any DEA enforcement action by DEA personnel including use of force or deadly force, use of an authorized less-than-lethal (LTL) device, vehicle or foot pursuits, or motor vehicle accidents; (3) any death or serious bodily injury (see below) occurring while in DEA custody or while being taken into custody by a Special Agent (SA) or TFO (including serious bodily injury or death caused by a police canine assigned to a TFO); (4) physical assault; (5) kidnapping or attempted kidnapping of DEA personnel (on- or off-duty), Confidential Sources, or Law Enforcement Officers working on a joint investigation and/or law enforcement operation with DEA; and (6) intentional damage to a DEA facility or DEA conveyance caused by the use of an explosive device, incendiary device, or other vehicle/conveyance.

J. Carlsbad Police Department will provide witnesses as needed to authenticate TFO recordings in DEA cases.

K. Carlsbad Police Department will inform DEA of the length of time TFO BWC recordings will be retained by the agency before deletion. Carlsbad Police Department will honor any request by DEA to retain the TFO BWC recordings for a longerperiod of time.

L. The Carlsbad Police Department will restrict access to TFO BWC recordings within the agency.

M. Carlsbad Police Department will notify DEA immediately of any unauthorized access to TFO recordings discovered by the agency.

N. Carlsbad Police Department will cooperate fully with DEA in the investigation of any unauthorized access to or disclosure of TFO recordings, including providing DEA the name(s) of any agency personnel determined by the agency to be involved in unauthorized access, copying, or disclosure.

O. Carlsbad Police Department will notify DEA as soon as possible regarding any request or demand for release or disclosure of TFO recordings, including but not limited to subpoenas, discovery demands or motions, open record/freedom of information requests, media requests, or union or other professional association requests.

P. Carlsbad Police Department will assist in the redaction of any video or audio portion of TFO recordings as requested by DEA prior to public release unless doing so would violate a federal court order. Redactions will be determined in accordance with DEA policy.

Gregory M. Millard Date	John Lowe Date
Acting Special Agent in Charge	City Administrator
El Paso Division	Carlsbad Police Department
Drug Enforcement Administration	

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM
PURCHASING RECOMMENDATION

Council Meeting Date: 8/9/2022

Department:	**BY:**	**Date:**
Facility Maintenance	Matt Fletcher, CPO	7/26/22

SUBJECT: Services
Description:
Lease of John Deere Z Track Mower for Facility Maintenance Dept. use

SYNOPSIS: Qty 1 Total Est. Cost $ 3,839.00 Total Actual Cost $ 3,839.00

Budgeted Yes Est. City Share $ 3,839.00 Actual City Share $ 3,839.00

Account # 10151-61200 $ 3,839.00

Account # _____

Account # _____

Account # _____

TOTAL $ 3,839.00

BACKGROUND, JUSTIFICATION AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)
The City desires to lease a John Deere Z track mower that will be utilized by the Facility Maintenance Department. The monthly lease payment is $319.86, for an annual cost of $3,839.00. The mower will be replacing a mower lease that has terminated.

The City requests authorization to enter into a 36 month lease.

Requested action to be taken by Council:	**Council Action Taken:**	**Date:**
Other: Approve John Deere Lease Agreement	Select one	

Reviewed by City Administrator: /s/John Lowe 08/04/2022

POST BID/RFP RECOMMENDATION **Council Meeting Date:**

Requested action to be taken by Council:	**Council Action Taken:**	**Date:**
Select one	Select one	

ADDITIONAL INFORMATION:

Reviewed by City Administrator:

ATTACHMENT(S): ☐ Specifications ☐ Bid/RFP Summary ☑ Other: Lease contract

JOHN DEERE FINANCIAL

Lease Schedule

Lease Schedule No.	**020-0062341-008**
Master Lease Agreement No.	**0062341**

Lessee: (Name & Address)	**CITY OF CARLSBAD** 101 N HALAGUENO ST, , CARLSBAD, NM 88220-4943
Lessor:	**DEERE CREDIT, INC.** 6400 NW 86th ST, PO BOX 6600, JOHNSTON, IA 50131-6600

LEASE TERM

Lease Term Start Date	Lease Term End Date	# Of Payments	Lease Payment	*Property Tax	*Sales/Use Tax	Total Lease Payment	Purchase Option Price
07/05/2022	07/05/2025	36	$291.14	$7.27	$21.45	$319.86	$1.00

*If part of the regular scheduled lease payment

PAYMENT TERMS

Due Date	1st Payment Due Date	Discount Rate
05	07/05/2022	Internal Rate of Return minus 2 percent (2%)
Billing Period	**Irregular Payments**	
☑ Monthly ☐ Quarterly ☐ Semi-Annual ☐ Annual ☐ Irregular		

PAYMENT DUE AT SIGNING

Advance Lease Payment**	$319.86
Origination Fee	$0.00
Security Deposit	$0.00
Total Due At Signing	$319.86

**Advance Lease Payment includes the first (1) and last (0) Lease Payment(s)

"Master Agreement" shall mean the above referenced Master Lease Agreement. "Schedule" shall mean this Lease Schedule. "Lease" shall mean this Schedule and the Master Agreement. All of the terms and conditions set forth in the Master Agreement and any amendment, addendum, schedule or attachment thereto or hereto including, but not limited to, the Equipment Return Provisions are hereby incorporated into and made a part of this Schedule.

Lease Payments. You agree to remit the Lease Payments (and applicable sales, use and property taxes) on the dates noted above and all other amounts when due to: DEERE CREDIT, INC., P.O. Box 4450, Carol Stream, IL 60197-4450.

Purchase Option. Provided (1) you are not in default; (2) we receive all amounts you owe us on or before the Lease Term End Date, on the Lease Term End Date, we will transfer to you all of our right, title and interest in such item(s) of Equipment AS-IS, WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE.

Representations and Warranties. You represent and warrant to us, as of the date you signed this Schedule, that (1) the Equipment was selected by you; (2) the Equipment (including all manufacturer manuals and instructions) has been delivered to, and examined by, you; (3) the safe operation and the proper servicing of the Equipment were explained to you; (4) you received the written warranty applicable to the Equipment and understand that your rights under the written warranty may be limited; (5) the Equipment is unconditionally and irrevocably accepted by you as being suitable for its intended use; (6) the Equipment is in good condition and repair (operating and otherwise); (7) the Equipment shall be used only for the purpose indicated herein; (8) all information provided to us by you is true and correct.

You acknowledge and agree that: (1) we did not select, manufacture or supply any of the Equipment; (2) we acquired the Equipment at your direction; (3) you selected the supplier of the Equipment; (4) you are entitled to all manufacturer warranties ("Warranty Rights") and we assign all Warranty Rights to you, to the extent assignable; (5) you may request an accurate and complete statement of the Warranty Rights, including any disclaimers and limitations, directly from the manufacturer; and (6) you assign to us all your rights (but none of your obligations) under all purchase orders, purchase agreements or similar documents relating to the Equipment. You waive all rights and remedies conferred upon a lessee under Sections 508 - 522 of Article 2A of the Uniform Commercial Code. **Time Price.** You understand that the Equipment may be purchased for cash or it may be purchased pursuant to the terms of this Schedule for a Time Price equal to the sum of (1) all Lease Payments due and to become due hereunder, (2) the Origination Fee, and (3) the Purchase Option Price. By executing this Schedule, you have chosen to purchase the Equipment for that Time Price. You and we intend to comply with all applicable laws. In no event will we charge or collect any amounts in excess of those allowed by applicable law. In the event any amount in excess of that allowed by law is charged or recovered, any such charge will be deemed limited by the amount legally allowed and any amount received by us in excess of that legally allowed will be applied by us to the payment of amounts legally allowed under the Master Agreement or this Schedule, or refunded to you.

Miscellaneous. You agree that we can access any information regarding the location, maintenance, operation and condition of the Equipment, and you irrevocably authorize anyone in possession of such information to provide all of that information to us upon our request. You also agree to not disable or otherwise interfere with any information-gathering or transmission device within or attached to the Equipment. You permit us to monitor and record telephone conversations between you and us. By providing any telephone number, including a mobile phone number, to us, any of our affiliates or any debt collectors we retain, we, such affiliates and such retained debt collectors can contact you using that number, including calls using an automatic dialing and announcing device and prerecorded calls, and that such calls are not "unsolicited" under state or federal law. All of our rights under each Lease shall remain in effect after the expiration of the Lease Term or termination of the Schedule.

You acknowledge and agree that, if You execute this Lease Agreement with your electronic signature, (a) you are signifying your intent to enter into this Lease Agreement and that this Lease Agreement be legally valid and enforceable in accordance with its terms to the same extent as if you had executed this Lease Agreement using your written signature, and (b) this Lease Agreement is an electronic record executed by you using your electronic signature. You agree that unless the authoritative electronic copy of this Lease Agreement ("Authoritative Copy") is converted to paper and marked as the original by us (the "Paper Contract"), the Authoritative Copy shall at all times reside in a document management system designated by us for the storage of authoritative copies of electronic records (the "DMS"), and shall be deemed held in the ordinary course of business. In the event the Authoritative Copy is converted to a Paper Contract, you acknowledge and agree that (1) your signing of this Lease Agreement also constitutes issuance and delivery of such Paper Contract, (2) your electronic signature associated with this Lease Agreement, when affixed to the Paper Contract, constitutes your legally valid and binding signature on the Paper Contract, and (3) your obligations will be evidenced by the Paper Contract alone after such conversion.

Lease Schedule – Equipment List

Supplier (Name & Address)	2ND AUSTIN TURF & TRACTOR 809 STEVE HAWKINS PKWY, MARBLE FALLS, TX 78654

EQUIPMENT INFORMATION

Year	Make	Equipment Description	Serial Number	Engine Hour Meter	Payment	Purchase Option
2022	JD	Z950M ZTRAK	1TC950MFHNT100185	0	$291.14	$1.00

Equipment Location	101 N HALAGUENO ST, CARLSBAD, NM, 88220-4943	OUTSIDE city limits: ☐	EDDY COUNTY

BY SIGNING THIS SCHEDULE, YOU AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS SCHEDULE AND THE MASTER AGREEMENT.

LESSEE
CITY OF CARLSBAD
101 N HALAGUENO ST
CARLSBAD, NM 88220-4943

By: _____
JOHN LOVE, CITY ADMINISTRATOR

Date: _____

LESSOR
DEERE CREDIT, INC.
6400 NW 86th ST, PO BOX 6600
JOHNSTON, IA 50131-6600

By: _____

Date: _____

JOHN DEERE FINANCIAL

Equipment Return Provisions

Lease Schedule No.	**020-0062341-008**
Master Lease Agreement No.	**0062341**

Lessee: (Name & Address)	**CITY OF CARLSBAD** 101 N HALAGUENO ST, , CARLSBAD, NM 88220-4943
Lessor:	**DEERE CREDIT, INC.** 6400 NW 86th ST, PO BOX 6600, JOHNSTON, IA 50131-6600

The following Equipment Return Provisions are hereby incorporated into and made a part of the above referenced Master Lease Agreement (the "Master Agreement"), and entered into between Deere Credit, Inc., as Lessor ("us", "we" or "our"), and CITY OF CARLSBAD, as Lessee ("you" or "your"). Pursuant to Section 9 of the Master Lease Agreement, all Equipment must be returned to us in satisfactory condition. Unsatisfactory condition shall include any condition described in Sections 1 through 4 below ("Excessive Wear and Tear").

1. **Mechanical.**
   - A. Computer systems or safety and emission control equipment not in proper working order.
   - B. Mechanical components that are missing, broken or unsafe or that do not operate normally, other than normal tune-ups, given the age of the equipment.
   - C. Wear on power train assembly that exceeds manufacturer's then current standards for normal wear and tear.
   - D. Any air filters not within manufacturer's specifications.
   - E. Any gauges or fluid indicators that are damaged or do not function, the electrical system fails to operate properly, the battery fails to hold a charge or any wire harnesses that are not tied down and kept secured, dry and clean.
   - F. Any pumps, motors, valves or cylinders not in good operating condition or that fail to meet manufacturer's rated specifications or hydraulic system exceeds manufacturer's then-current contaminant standards (as shown by oil sample analysis). Equipment not serviced according to the manufacturer's operating manual.
   - G. Any lubricant, water or A/C seal leaks.
2. **Exterior.**
   - A. Dents larger than 2 inches in diameter.
   - B. Excessive number of dents or scratches.
   - C. Any scratch 8" or longer that reaches the metal skin.
   - D. Any single chip the size of a quarter or larger or multiple small chips within one square foot.
   - E. Substandard paint repairs, such as peeling, bubbling or mismatched shades that evidence poor condition in comparison with original paint and require repainting at a cost in excess of $200.
   - F. Rust holes in the body metal or a rust spot that covers more than a 4-inch square area.
   - G. Any glass that must be replaced due to cracks or missing glass and any windshield damages greater than $50 in amount.
   - H. All frame damage and substandard frame repairs.
   - I. Any tires or tracks that (a) have broken side walls or excessive cuts or damages, or (b) have less than 50% of the original useful life remaining, or (c) are not of the same size, type grade or equivalent quality manufacturer as were originally included on the Equipment.
3. **Cab/Operator Platform.**
   - A. Heavy interior soil or strong odors, such as manure, that cannot be removed by general cleaning.
   - B. Unclean condition of operator environment.
   - C. Holes, tears, or burns on the dash, floor covers, seats, headliners, upholstery or interior.
4. **General.**
   - A. Equipment not operated or maintained in accordance with the manufacturer's specifications or if components, fuels or fluids, on or in connection with the Equipment that do not meet manufacturer's standards were used.
   - B. Any other damage that in the aggregate costs $250 or more to repair or that makes the Equipment unlawful or unsafe to operate.
5. **Other.**
   - A. All warranty and PIP work must be completed prior to the Lease Term End Date of the Lease Schedule relating to the Equipment.
   - B. The Equipment must be cleaned prior to its return.
   - C. The Equipment must be prepared for storage according to the operators manual, including flushing the system and use of winterization fluid.
6. **Hour Meter**. For each item of Equipment returned with a broken or missing hour meter, you shall accept an invoice from us and remit to us an amount equal to $1,000. You agree that the hour meter included with the Equipment is conclusive of the number of hours of Equipment use.
7. **Invoices for Excess Wear And Tear**. Upon any return of the Equipment, we shall, in our sole discretion, determine the existence of any Excessive Wear and Tear. In the event any item of Equipment is returned to us with Excessive Wear and Tear, you shall, at our sole discretion, either (i) accept an invoice from us and remit to us the cost of repairing or replacing the affected component(s) which we determine necessary to return the Equipment to its required condition, and/or (ii) accept an invoice from us and remit to us an amount equal to our estimate of (1) the cost of new tires or tracks if the tires or tracks are damaged due to broken side walls or excessive cuts or damage, or (2) the cost of new tires or tracks multiplied by the difference between (A) our estimate of the percentage of the useful life of the tires and tracks then remaining and (B) fifty percent (50%). For example, if you return Equipment with tires having 20% of their useful life remaining, you would remit to us an amount equal to 30% of the cost of new tires ((50% - 20%) multiplied by the cost of new tires). Your failure to remit the required payment to us within ten (10) days of demand shall constitute a default by you under the terms of the Lease.

LESSEE	LESSOR
CITY OF CARLSBAD 101 N HALAGUENO ST CARLSBAD, NM 88220-4943	**DEERE CREDIT, INC.** 6400 NW 86th ST, PO BOX 6600 JOHNSTON, IA 50131-6600
By: _____ JOHN LOWE, CITY ADMINISTRATOR	By: _____
Date:	Date:

JOHN DEERE FINANCIAL

Delivery and Acknowledgment

Lease Schedule No.	**020-0062341-008**
Master Lease Agreement No.	**0062341**

Lessee: (Name & Address)	**CITY OF CARLSBAD** 101 N HALAGUENO ST, , CARLSBAD, NM 88220-4943
Lessor:	DEERE CREDIT, INC. 6400 NW 86th ST, PO BOX 6600, JOHNSTON, IA 50131-6600

Capitalized terms shall have the meanings set forth in the above referenced Master Lease Agreement.

Lessee hereby represents and warrants that: (1) all of the Equipment more fully described in the above referenced Lease Schedule was selected by Lessee; (2) all of the Equipment and the Operator's Manuals have been delivered to, and received by, Lessee; (3) all of the Equipment has been inspected by Lessee and is in good working order; (4) all of the Equipment is unconditionally and irrevocably accepted by Lessee for all purposes under the Lease; (5) the safe operation and the proper servicing of the Equipment have been explained to Lessee; (6) Lessee received the manufacturer's written warranty applicable to the Equipment and Lessee understands that its rights are subject to the limitations outlined therein; (7) no Event of Default has occurred and is continuing; and (8) no material adverse change in the financial or business condition of Lessee has occurred since the date of the last financial statement submitted to Lessor by Lessee.

Signed by Lessee's duly authorized representative on the date shown below.

LESSEE
CITY OF CARLSBAD
101 N HALAGUENO ST
CARLSBAD, NM 88220-4943

By: _____
JOHN LOWE, CITY ADMINISTRATOR

Date: _____

LESSOR
DEERE CREDIT, INC.
6400 N.W.86th STREET, PO BOX 6600
JOHNSTON, IA 50131-6600

By: _____

Date: _____

JOHN DEERE FINANCIAL

Physical Damage/Liability Insurance

Lease Schedule No.	**020-0062341-008**
Master Lease Agreement No.	**0062341**

Lessee: (Name & Address)	**CITY OF CARLSBAD** 101 N HALAGUENO ST. CARLSBAD, NM 88220-4943
Lessor:	**DEERE CREDIT, INC.** 6400 NW 86th ST PO BOX 6600, JOHNSTON, IA 50131-6600

LIABILITY INSURANCE on the above referenced Lease Schedule (the "Schedule") to the above referenced Master Lease Agreement will be provided by the following insurance agency:

Name of Agency:	Phone Number of Agency:
Mailing Address of Agency	Fax Number of Agency

PHYSICAL DAMAGE INSURANCE on the Schedule will be provided by the following agency:

Name of Agency:	Phone Number of Agency:
Mailing Address of Agency	Fax Number of Agency

If an insurance certificate is available, it should be provided in place of the above information

ADDITIONAL INSURED and LOSS PAYEE:

Deere Credit, Inc.
Its Successors &/or Assigns
6400 NW 86th St
Johnston, IA 50131

The undersigned agrees and understands that, pursuant to the provisions of Section 6 of the Master Lease Agreement, the undersigned must at all times (1) maintain public liability insurance, covering personal injury and property damage for not less than $1,000,000 per occurrence, naming us (and our successors and assigns) as additional insured; and (2) keep the Equipment insured against all risks of physical damage for no less than its Termination Value (as such term is defined in Section 7 of the Master Lease Agreement), naming us (and our successors and assigns) as sole loss payee.

LESSEE

CITY OF CARLSBAD
101 N HALAGUENO ST
CARLSBAD, NM 88220-4943

By: _____
JOHN LOWE, CITY ADMINISTRATOR

Date: _____

Office Use Only

Contact Date(s):	**Contact Name:**
Liability Insurance Company Policy #	**Liability Insurance Expiration Date**
Liability Limits:	**Notes:**
Physical Damage Insurance Company and Policy #	**Physical Damage Insurance Expiration Date**
Insured Value:	**Notes:**
Loss Payee Deere Credit, Inc.? ☐ **Yes** ☐ **Will Be Added**	**Verified By:**

JOHN DEERE FINANCIAL

Advance Lease Payment Invoice

Due Date:	07/05/2022
Total Due:	$319.86

Billing Address:	Updated Billing Information:
CITY OF CARLSBAD PO BOX 1569 CARLSBAD, NM 88221-1569	

Please Note: All future invoices will be sent to the billing address shown unless you update your billing information above.

Master Lease Agreement Number:	0062341

App #	Mfg.	Model #	Serial Number	Due Date	Rental/Tax Amount	Security Deposit	Origination Fee	Advance Lease Payment
250195	JD	Z950M	1TC950MFHNT10 0185	07/05/2022	$319.86	$0.00	$0.00	$319.86

Correspondence Only:	Remit Checks Payable To:
Deere Credit, Inc. Attn: Lease Administration PO Box 6600 Johnston, IA 50131-6600 Phone: (888) 777-2560 Fax: (888) 777-2561	**Deere Credit, Inc.** **Attn: Acct. Dept. – ALP Processing** **PO Box 6600** **Johnston, IA 50131-6600**

TO ENSURE PROPER CREDIT, STAPLE CHECK AND RETURN THIS INVOICE WITH THE LEASE DOCUMENTS.

STAPLE ADVANCE LEASE PAYMENT CHECK HERE

Every Dishonored Check will result in a fee of $20.00 or an amount not to exceed the highest amount permitted by law.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8/9/2022

DEPARTMENT: Municipal Services	BY: Angie Barrios-Testa, Director 7/29/2022	DATE: 8/1/2022

SUBJECT: Hoops Unlimited Contract for Video Machine Concession at Riverwalk Recreation Center.

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

Hoops Unlimited has previously provided video machine concession services at the Riverwalk Recreation Center and wishes to continue to provide this service. This new non-exclusive contract would go into effect as of July 1, 2022 and run for four years until June 30, 2026 and may be renewed for an additional four-year term.

Hoops Unlimited agrees to pay the City a percentage of gross revenue generated by the video machines and other games. Percentage breakdown is listed in Exhibit "A" of the contract.

DEPARTMENT RECOMMENDATION: If it the pleasure of the City Council, it is recommended that this contract be approved.

BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Riverwalk Rec Center Board	☐ APPROVED	
☐ Museum Board	☐ San Jose Board	☐ Water Board	☐ DISAPPROVED	
☐ Library Board	☐ N. Mesa Board	☐ Beautification Committee		

Reviewed by:
City Administrator: /s/John Lowe **Date:** 08/04/2022

AGREEMENT BETWEEN THE CITY OF CARLSBAD AND
DALE BALZANO, OWNER OF HOOPS UNLIMITED,
FOR VIDEO MACHINE CONCESSION SERVICES
AT THE RIVERWALK RECREATION CENTER

THIS AGREEMENT is entered into at Carlsbad, New Mexico, this __ day of _____, 2022, by and between the **CITY OF CARLSBAD**, New Mexico, a municipal corporation, hereinafter referred to as "**CITY**" and **DALE BALZANO** doing business as **HOOPS UNLIMITED**, a sole proprietorship owned by Dale Balzano, hereinafter referred to as "**BALZANO**".

WHEREAS, the City of Carlsbad owns the Riverwalk Recreation Center located at 400 Riverwalk Drive, and

WHEREAS, the City operates the Riverwalk Recreation Center as a recreation facility; and

WHEREAS, the City of Carlsbad desires to enter into a contract with a qualified concessionaire to provide coin-operated and/or token-operated games for public use at the Riverwalk Recreation Center; and

WHEREAS, BALZANO has provided machine concession services since 2012; and

WHEREAS, BALZANO wishes to continue to provide those services.

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

1. **Definitions.** As used in this Agreement, each of the following terms shall have the following meanings:

A. "Advisory Board" means the Riverwalk Recreation Center Advisory Board or its successor in interest.

B. "Games" means token-operated or coin-operated mechanical, electromechanical, electronic, or manual amusement and entertainment contrivances, machines, and devices including, but not necessarily limited to such items as pinball games, video games, rotary cranes, table games, photo booths, jukeboxes, digital jukeboxes, and kiddie rides and all equipment and accessories needed to properly operate the Games.

C. "Recreation Center" means the Riverwalk Recreation Center, located at 400 Riverwalk Drive.

D. "City Administration" mean the Department Director providing oversight on behalf of City Administration or City Administrator (s).

2. **Equipment and Services to be Provided by BALZANO.** BALZANO shall provide the following equipment and services:

A. **Games.** BALZANO shall furnish Games to the CITY for placement and operation at the Recreation Center. The number and location of Games shall be determined at the discretion of the Recreation Center Manager, with approval by City Administration and with recommendation by the Advisory Board. BALZANO shall place the Games at the locations so determined. Upon approval by City Administration, the Recreation Manager may also, review and approve any or all Games before or after placement or use at the Recreation Center. No Game shall be placed or remain at the Recreation Center without review and recommendation by the Advisory Board.

B. **Coin Removal.** BALZANO shall remove the coins and tokens from the Games at least once per week. BALZANO shall remove or collect coins and tokens from the Games only in the presence of the Manager or Assistant Manager of the Recreation Center. Then the coins and tokens shall be counted in the presence of both BALZANO and the Manager or Assistant Manager of the Recreation Center. A written receipt shall be created at that time and signed by both BALZANO and the Manager or Assistant Manager of the Recreation Center.

C. **Maintenance.** BALZANO shall be responsible for all maintenance and repair of the Games. BALZANO shall keep all Games in proper working order. BALZANO shall perform or provide qualified preventative maintenance and shall supply or provide all repairs as needed to insure that all Games are in good working order.

D. **Replacement.** Games removed from service for maintenance or repair for more than two days shall be temporarily replaced by BALZANO with an equivalent Game, subject to the same approval process as described in Paragraph 2(A).

E. **Next Day.** BALZANO shall provide repair or replacement service no later than the start of the next business day after learning that repair service is needed. BALZANO shall provide the CITY with a method or methods of contacting BALZANO during regular business hours, after regular business hours, on weekends, and on holidays.

F. **Labor and Material.** BALZANO shall provide, at his sole expense, all labor, materials, parts, tools, and equipment necessary to perform the duties required by this Agreement.

3. **CITY Provided Materials and Services.** The CITY shall only be responsible for the cost of electric power for the Games. All other labor, materials, parts, tools, equipment, and services shall be provided by BALZANO at his sole expense.

4. **Compensation.** BALZANO agrees to pay the CITY a percentage of the gross revenue derived by BALZANO from the placement and operation of the Games. The percentage of the gross revenue for each Game shall be as specified in Exhibit "A", attached hereto and incorporated herein. Payment shall be made monthly.

5. **Monthly Reporting.** BALZANO shall furnish to the CITY a monthly report certified by BALZANO of the gross revenue for each Game placed at the Recreation Center. BALZANO shall

submit the monthly report and the CITY's percentage of the gross revenue by the tenth (10th) day of each month for the previous month's gross revenue.

6. **Books, Records, and Audits.** For the term of this Agreement and for five (5) years after the expiration or termination of this Agreement, BALZANO shall keep and maintain its books, ledgers, journals, accounts, and records wherein are kept all entries reflecting its operations under this Agreement. Such books, ledgers, journals, accounts, and records shall be available for inspection and examination by the CITY, or its duly authorized representatives, at reasonable times during business hours, and to make copies and excerpts therefrom as may be necessary to make a full, proper, and complete audit of all business transacted by BALZANO in connection with his operation hereunder.

7. **Term.** The term of this Agreement shall be for four (4) years beginning on the 1st day of July 2022 and ending on the 30th day of June 2026. This Agreement may be renewed for a second four-year term upon the mutual agreement of the parties upon such terms and conditions as may be mutually agreeable. Not later than thirty (30) days before the expiration of this contract, if both parties desire to renew for a second two-year term, the parties shall meet to negotiate renewal terms and conditions, including compensation. In the event the Recreation Center ceases to be used as a public recreation facility for any reason, this Agreement shall automatically terminate. By such termination, neither party may nullify obligations already incurred prior to the date of termination of the Agreement.

8. **Non-exclusive.** Under this Agreement, the CITY is granting BALZANO a non-exclusive privilege, in common with others, to place and operate Games at the Recreation Center. BALZANO knows and understands that the CITY retains the right to place and operate Games at the Recreation Center itself and to permit and authorize others to do so.

9. **Compliance with Laws.** BALZANO shall comply with all applicable local, state, and federal laws, rules, regulations, and policies and shall obtain and maintain any and all permits, licenses, or certifications that may be necessary to carry out the operations contemplated by this Agreement. In the event BALZANO should cease to be properly permitted, licensed, or certified, it shall immediately inform the City Administrator and shall immediately cease its operations pursuant to this Agreement. Within five (5) days of ceasing to be properly permitted, licensed, or certified, BALZANO shall also notify the CITY in writing of that event. BALZANO shall require all its employees, officers, and agents, to comply with all applicable local, state, and federal laws, rules, regulations, and policies.

10. **AS IS Condition.** Prior to the commencement of this Agreement, BALZANO has fully examined and inspected the Recreation Center and all improvements, buildings, fixtures, appliances, and personal property therein. BALZANO accepts the Recreation Center and such improvements, buildings, fixtures, appliances, and personal property in their existing condition and state of repair. BALZANO accepts them in an **AS IS CONDITION**. BALZANO agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf

of the CITY in respect thereto, including, but not limited to their suitability for any purpose, and the CITY shall in no event be liable for any latent defects.

11. **Structural Changes.** BALZANO shall not make any structural, electrical, mechanical, or plumbing changes to the Recreation Center without the prior written consent of the CITY. All such changes shall be performed in a competent manner and shall be done in accordance with all applicable laws, rules, and regulations. All alterations, additions, and improvements to the Recreation Center shall become a part of the Recreation Center and the sole property of the CITY, except as agreed by the parties in writing.

12. **Prevention of Waste and Damage.** BALZANO shall use all reasonable cautions to prevent waste, damage, or injury to the Recreation Center. BALZANO shall be solely responsible for any damage to or destruction of the Recreation Center or its improvements caused by the acts, willful or otherwise, of BALZANO's officers, employees, or agents.

13. **Indemnification.** BALZANO agrees to indemnify, save, hold harmless, and defend the City, its officers, and employees against all liability, claims, damages, losses, or expenses of every kind, including reasonable attorneys' fees together with costs and expenses of litigation, arising out of, from, or associated in any manner with his operation hereunder. BALZANO agrees to assume all risk in the operation of its business hereunder and shall be solely responsible and answerable in damages for any and all accidents or injuries to persons or property.

14. **Liability Insurance.** At all times material to this Agreement, BALZANO shall obtain and maintain, at its own expense, public liability insurance in the sum of one million dollars ($1,000,000.00). Such insurance shall name the City as an additional insured. BALZANO shall provide the City with a current Certificate of Insurance. The insurance shall be with a company or companies licensed and authorized to do business in the State of New Mexico. BALZANO shall annually furnish to the CITY a Certificate of Insurance for the above required insurance. BALZANO shall provide the CITY with notice of any change thereof, and furnish to the CITY evidence of acquirement of a substitute therefore, and payment of the premium thereof.

15. **Property Insurance.** BALZANO knows and understands that the CITY shall **NOT PROVIDE** fire or property insurance for any Game, personal property, equipment, furniture, or fixture owned by BALZANO. BALZANO shall be solely responsible for acquiring such coverage.

16. **Release.** BALZANO, upon final payment of all amounts due under this Agreement, releases the CITY, its officers, and employees from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

17. **Signs.** Each Game shall be clearly and obviously marked with a sign or decal stating that it is owned and operated by BALZANO and stating how to contact BALZANO.

18. **Right to Inspect.** The CITY and/or its duly authorized representatives shall have the right

to inspect the Games placed or operated at the Recreation Center.

19. **Rules and Regulations.** The CITY and the Advisory Board shall have the right to adopt and enforce reasonable rules and regulations with respect to the patrons of the Recreation Center and the use and management of the Recreation Center. BALZANO agrees to observe and obey any such applicable rules and regulations.

20. **Limitation on Authority.** BALZANO agrees not to purport to bind the City of Carlsbad, unless BALZANO has express written authority to do so, and then only within the strict limits of that authority.

21. **Default or Breach.** Each of the following events shall constitute a default or breach of this Agreement:

A. **Failure to Comply.** If BALZANO fails to perform or comply with any of the conditions of this Agreement, and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by the CITY to BALZANO, or, if the performance cannot be reasonably had within the fifteen (15) day period, and BALZANO shall not in good faith have commenced performance within the fifteen (15) day period and then diligently proceeded to completion of performance.

B. **Transfer of Agreement.** If this Agreement shall be transferred to or shall pass to or devolve to any other person or party, except in the manner specified herein.

22. **Effects of Default.** In the event of default hereunder as set forth in this Agreement, the rights of the CITY shall be as follows:

A. **Cancel.** The CITY shall have the right to cancel and terminate this Agreement. On expiration of the time fixed in the notice, this Agreement and all rights, title, and interest of BALZANO hereunder shall terminate in the same manner and with the same force and effect, except as to BALZANO's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.

B. **Remedy.** The CITY may elect, but shall not be obligated, to make any payment required of BALZANO herein or comply with any agreement, term, or condition required hereby to be performed by BALZANO, and the CITY shall have the right to direct or remedy any such default; but any expenditure for correction by the CITY shall not be deemed to waive or release the default of BALZANO or the right of the CITY to take any action as may be otherwise permissible or to seek other remedy under the law.

23. **Non-Waiver.** Waiver by the CITY of any default in performance by BALZANO of any of the terms or conditions contained in this Agreement shall not be deemed a continuing waiver of that default or any subsequent default.

24. **Independent Contractor.** BALZANO, its officers, employees, and agents are independent contractors performing services for the CITY and are not employees of the CITY. BALZANO and its officers, employees, and agents shall not accrue leave, retirement, insurance,

bonding, use of city vehicles, or any other benefits afforded to the employees of the City of Carlsbad as a result of this Agreement.

25. **Notices.** All notices permitted or required by the terms of this Agreement shall be in writing and be deemed to have been duly given and delivered, if mailed, certified postage prepaid:

If to CITY:	If to BALZANO:
The City of Carlsbad	Dale Balzano, Owner
c/o City Administrator	Hoops Unlimited
P.O. Box 1569	1710 Muscatel
Carlsbad, NM 88221-1569	Carlsbad, NM 88220

The parties shall notify each other in writing of any change in the above information.

26. **Workers' Compensation.** BALZANO agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If BALZANO fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the CITY.

27. **Procurement Code Penalties.** The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

28. **Termination.** Either party may terminate this Agreement without cause by providing the other party with written notice of its intention to terminate this Agreement at least sixty (60) days prior to the termination date. By such termination, neither party may nullify obligations already incurred prior to the date of termination of the Agreement. However, neither party shall have any obligation to perform services or make payment for such services rendered after such date of termination.

29. **New Mexico Law.** This Agreement shall be governed by and construed under and in accordance with the laws of the State of New Mexico.

30. **Venue.** The parties agree this Agreement shall be construed and controlled by the laws of the State of New Mexico. The parties further agree that any legal actions arising out of this Agreement shall be brought in the District Court of Eddy County, New Mexico for the Fifth Judicial District. The parties expressly consent to both in personam and subject matter jurisdiction of the Eddy County District Court and agree that venue shall properly lie in the Eddy County, New Mexico District Court.

31. **Assignment of Agreement.** BALZANO shall not sublease, assign, or transfer any interest in or right to this Agreement without the prior written approval of the CITY.

32. **Parties Bound.** The terms and provisions of this Agreement shall be binding upon, inure to, extend to, and be for the benefit of the heirs, successors, assigns, and legal representatives of

the respective parties hereto.

33. **Entirety of Agreement; Modifications.** This Agreement embodies and constitutes the entire understanding between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provisions hereof may be waived, modified, altered, amended, changed, or discharged except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, alteration, amendment, change, or discharge is sought and then only to the extent set forth in such instrument

34. **Exhibits.** Any instrument or document made and attached to this Agreement shall constitute a part hercof as though set forth in full in the body of this Agreement, whether made a part hereof by reference or whether made a part hereof by attachment.

35. **Captions.** The captions of any articles, paragraphs, or sections hereof are made for convenience only and shall not control or affect the meaning or construction of any of the provisions thereof.

36. **ARBITRATION.** SHOULD ANY DISPUTE ARISE BETWEEN THE PARTIES IN CONNECTION WITH THIS AGREEMENT AND IF SUCH DISPUTE CANNOT BE RESOLVED BY DISCUSSION BETWEEN THE PARTIES, THE PARTIES AGREE TO SUBMIT THE UNRESOLVED DISPUTE TO BINDING ARBITRATION IN LIEU OF LITIGATION.

37. **WAIVER OF JURY TRIAL.** THE PARTIES HEREBY WAIVE THE RIGHT TO A JURY TRIAL ON ANY ISSUE ARISING OUT OF OR RELATING, DIRECTLY OR INDIRECTLY, TO THIS AGREEMENT OR THE TRANSACTION CONTEMPLATED HEREBY.

CITY OF CARLSBAD:

_____

DALE JANWAY, MAYOR

ATTEST:

_____

CITY CLERK

HOOPS UNLIMITED:

Dale Balzano

DALE BALZANO, OWNER

STATE OF NEW MEXICO)
) ss.
COUNTY OF EDDY)

The foregoing instrument was signed and acknowledged before me this 21 day of July 2022, by DALE BALZANO, Owner, Hoops Unlimited.

My commission expires:

10/3/22

Cari Pickens

Notary Public

STATE OF NEW MEXICO
NOTARY PUBLIC
Cari Pickens
ID# 1123822
Expires December 03, 2022

EXHIBIT "A"

COMPENSATION

	GAME DESCRIPTION	DIVISION OF GROSS REVENUE To City:	To Balzano:
1.	Older Games[1]	50%	50%
2.	Newer Titles - First Twenty-Four Months[2]	40%	60%
3.	Sit-down Driving Games	40%	60%
4.	Prize Games	25%	75%
5.	Jukeboxes	40%	60%
6.	Touchtune Digital Jukeboxes	25%	75%
7.	Photo Booths	25%	75%
8.	Pool Tables	50%	50%
9.	Air Hockey	50%	50%
10.	Pinball	50%	50%
11.	Basketball	50%	50%

[1] "Older Games" means games which no longer qualify as "Newer Titles - First Twenty-Four Months."

[2] "Newer Titles - First Twenty-Four Months" means newly released games which have been owned by BALZANO for no more than first twenty-four months.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 08/09/2022

DEPARTMENT: Fire	**By:** Richard Lopez Fire Chief	**DATE:** 08/03/2022

SUBJECT: 4th of July Fireworks show 2023

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The Fire Department has been managing the 4th of July fireworks show for many decades. We took great pride in providing the best show possible for the City. We have always tried to exceed the preceding years show.

The 2020, 2021 and 2022 fireworks shows were executed by Precision Fireworks LLC. and they were successful shows. We would like to enter into contract with them again for the 2023 show.

We will continue to strive to exceed the previous shows. We are asking that City Council allow us to enter into a professional service agreement with Precision Fireworks LLC.

DEPARTMENT RECOMMENDATION: Approve and sign attached contract.

BOARD/COMMISSION/COMMITTEE ACTION:

P & Z	Lodgers Tax Board	Cemetery Board	}	APPROVED
Museum Board	San Jose Board	Water Board	}	
Library Board	N. Mesa Board	_____ Committee	}	DISAPPROVED

Reviewed by:
City Administrator: /s/John Lowe **Date:** 08/04/2022

Attachments: Contract

PRECISION FIREWORKS, LLC.

Owner: Jesse Williams

Po Box 71 Era, TX 76238

EIN: 81-3887472

PYROTECHNIC DISPLAY AND SERVICES AGREEMENT

THIS PYROTECHNIC DISPLAY AND SERVICES AGREEMENT: (hereinafter referred to as "Agreement"), made and entered into this 27th day of July 2022, by and between:

Precision Fireworks, LLC. (hereinafter referred to as "SELLER") and

City of Carlsbad, 101 N, Halagueno, Carlsbad, NM 88221 (hereinafter referred to as "Buyer").

1. TIME AND PLACE: POSTPONEMENT/CANCELLATION:

   SELLER agrees to design, and execute a firework show, otherwise known as a Pyrotechnic Display, at approximately: 9:00-9:30 pm on the 4th day of July, 2023 at the following location:

901 Muscatel Ave, Carlsbad, New Mexico 88220

Weather permitting. An alternate inclement weather date is hereby designated to be the 5th day of July 2023, at the same time and place set forth hereinabove. It is agreed and understood, by and between the parties hereto that the SELLER shall have the sole, exclusive and final determination of the suitability of the weather conditions at the time of the display, and in the event SELLER should determine that the weather conditions are such that a unsafe or hazardous condition may exist, SELLER shall have the exclusive right and option to postpone the starting time of the display and/or delay the display in its entirety, until conditions have improved and are appropriate for the safety of all involved, or until the alternative inclement weather date as set forth hereinabove. As a part of the authority stated hereunder, SELLER reserves the right to prematurely end or place a hold on the continuance of the display if, in the opinion of SELLER, the weather conditions change during the time the display is in progress so as to create unsafe or hazardous situations. In the event of any postponement or delay, BUYER shall be responsible for the actual expenses incurred as a result of additional time and /or expenses related to the postponement or delay, and it is specifically acknowledged that SELLER hereunder shall be in no way held responsible financially or otherwise, for the exercise of any judgement or assertion of any authority hereunder. In the event the display cannot be postponed to an alternate date, SELLER shall have the right to retain, and BUYER agrees to pay SELLER, 50% of the total contract price hereunder for expenses incurred and services rendered. If the display is rescheduled, by agreement of BUYER and SELLER, to the alternate date, as stated hereunder, and BUYER cancels the display, the SELLER has the right to retain, and BUYER agrees to pay SELLER, 100% of the total contract price hereunder agreed for expenses incurred and services rendered. If the display rescheduled on the alternate date, as stated hereunder, is canceled due to FORCE MAJEURE: (paragraph 12.), the SELLER has the right to retain, and BUYER agrees to pay SELLER, 100% of the total contract price hereunder.

2. MUSIC: The following indicated (X) provisions(s) shall apply to music and/or soundtracks, which may be a part of the display, contemplated hereunder:
   [ ] The subject display will have no musical accompaniment soundtrack script with which the pyrotechnic display must be coordinated.

   [X] SELLER will furnish to BUYER a media approximately 20 minutes in duration. This media is to be played (by a sound system contracted by [X] BUYER, [ ] SELLER) over the speaker system to the spectators.

3. INSURANCE:

SELLER agrees to provide a Certificate of Insurance showing SELLER, BUYER, and to be insured and covered by Five Million Dollars ($5,000,000.00) liability, combined single limit, for personal injury and property damage. Seller provides Insurance in the amount of Five Million Dollars (5,000.000.00) for Transportation of Class 1 Explosives Regulated by the D.O.T. In the event greater liability insurance limits are required, the additional cost is to be paid by BUYER.

4. EQUIPMENT:

SELLER shall be responsible to install, set up, and remove the equipment and supporting hardware of the pyrotechnic display. BUYER shall provide police/security day of show for the entire shoot site area, two porta restrooms, 2 light towers, sufficient trash receptacles for cleanup after execution of the display. Golf course must be completely shut down July 3rd & 4th.

5. SECURITY/SAFETY:

BUYER is responsible for procuring and managing the following: adequate security personnel, barricades, ropes with flags, etc., to barricade all closed (dangerous) areas to spectators; traffic patrolmen, as necessary; security guards for crowd control and cleanup personnel to remove litter left by spectators or any persons other than SELLER; trash receptacles, as necessary for spectators; "No Parking" signs and directional signs, clearly designated by stakes, rope or fence, in a safe location, as designated by SELLER hereunder, for the proper and safe display of said pyrotechnic program, such space to be clear and free of all persons except those employed or expressly authorized by SELLER and clear of any and all equipment, vehicles, structures, or items of any other kind not authorized or put in place by SELLER; adequate fire protection for the area in which SELLER shall operate the display, and the surrounding spectator areas, or any other areas, as designated by SELLER (or other authority), for which Fire protection might be necessary: areas of sufficient clearance surrounding the display operation area, grandstand or other spectator viewing areas or ground upon which the display shall be operated, or pedestrians or vehicles, and any damage or liability arising out of damage or harm to any person, structure, vehicle, or other property within such areas specified by SELLER shall be complete and sole responsibility of BUYER hereunder; such areas to include but not be limited to public streets specified to be closed, parking areas specified as off-limits or public walkways specified to be closed. BUYER specifically acknowledges and affirms that it understands that the pyrotechnic display contracted for herein can cause substantial, severe and irreparable damage to persons and property, and that SELLER assumes no responsibility whatsoever for any property damage or injury to individuals within the areas specifically designated hereinabove as necessary to immediately surround the operations of the pyrotechnic display, areas from which pedestrian, or vehicle traffic should be restricted, areas which should be closed to access by pedestrians or vehicles, and areas which should be "off limits" and vacated from all persons and property.

6. OPERATIONS OF DISPLAY:

SELLER shall be responsible for all aspects of the setup and operation of the display.

7. PLACEMENT:

BUYER and SELLER shall mutually determine and agree upon the placement and arrangement of fireworks display devices, set pieces, props, spectator viewing areas, and any and all equipment involved with the pyrotechnic display or sound system to ensure the highest degree of show integrity and character, and present the audience the most aesthetic, artistic, and safest program possible. SELLER shall have sole discretion over placement necessitated by applicable federal, state or local safety, fire, or other regulations.

8. LICENSES OR PERMITS:

BUYER shall be responsible to obtain, for SELLER'S benefit, any city, state, or other licenses or permits required to execute the pyrotechnic display contemplated herein. SELLER shall provide BUYER with any necessary information, proof of insurance in accordance with paragraph 3 above, and other item required by the licensing authorities for issuance of such license or permits

9. COMPENSATION:

Compensation shall be made to the SELLER hereunder as follows: $30,000.00 at the signing of this Agreement, with the balance $30,000.00 due on or before the 4th day of JULY 2023. **The total amount of this contract is $60,000.00.** If, for any reason other than as addressed hereinabove, BUYER wishes to cancel this Agreement, there will be a cancellation fee in the amount of twenty-five percent (25%) of the total contract price hereunder, to be paid to or retained by SELLER if notice of cancellation is given by BUYER to SELLER at least fourteen (14) days before the date set forth in paragraph 1, and seventy percent (70%) if notice of cancellation is given less than fourteen (14)) days before the date set forth in paragraph 1, which is to be paid to or retained by SELLER.

If SELLER cancels this Agreement or the pyrotechnic display, for any reason other than; (1) inclement weather, (2) force majeure, or (3) nonperformance by or material breach of the terms of this Agreement by BUYER, all monies paid to SELLER by BUYER to the date of such cancellation will be refunded to BUYER and BUYER will have no further obligation under this Agreement. Any applicable state or local taxes will be payable by the BUYER.

10. ACCOMMODATIONS:

All expenses are included with the purchase price of the show.

12. FORCE MAJEURE:

Subject to the provision of paragraph one (1) hereinabove, any failure or omission of BUYER or SELLER under this Agreement due to an act of GOD, enactment, rule, order of any act of government instrumentality (whether federal, state, or local), or other causes beyond the control of BUYER or SELLER, or force majeure will not constitute a breach or default under this Agreement.

13. CONSTRUCTION/APPLICABLE LAW:

If any term, provision, covenant, or condition of this Agreement is held by any court of competent jurisdiction to be invalid, void or unenforceable, or if any such provision is waived or not enforced by any party hereunder, the remainder to the provisions of this agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated. This Agreement, including any documents incorporated or referred to herein, Constitutes the entire Agreement between the Parties, and this Agreement may not be altered or amended except by written addendum to this Agreement executed by both BUYER and SELLER. It is agreed and understood by and between the parties hereto that this Agreement is subject to, and shall be interpreted under, the laws of the State of New Mexico, and that any aspect of this Agreement shall be controlled by and interpreted under the laws of the State of New Mexico, as they may exist from time to time.

14. ATTORNEY'S FEES:

If any legal action is necessary to enforce the terms and conditions of This Agreement, the prevailing party shall be entitled to recover all costs of suit and reasonable attorney's fees.

15. The BUYER and SELLER have agreed that the general guidelines of the display will consist of 288-2.5" shells, 600-3" shells, 180-4" shells, 168-5" shells, 90-6" shells, 15-8" shells, 20-10" shells, 30 Class B cakes, 3 positions of frontage comets & mines - 140 cues per position,5 gas mine flame effects with ground salutes, according to the Pyrotechnic Proposal.

THIS CONTRACT / Agreement is binding only after it has been signed by all parties hereto and returned to SELLER with the required deposit, as set forth hereinabove.

Precision Fireworks, LLC.

By: Date: 7/27/2022

Jesse Williams, Owner/President

Company: _____

By:_____ Date:_____ Title: _____

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 08/09/2022

DEPARTMENT: **Sports Complex**	BY: **Ted Cordova, Deputy City Administrator**	DATE: **08/02/2022**

SUBJECT: Amendment to Agreement with Shorthorn Little League for League Services at Bob Forrest Youth Sports Complex.

BACKGROUND, ANALYSIS AND IMPACT: **(Safety and Welfare/Financial/Personnel/Infrastructure/etc.)**

Annually the City has entered into an agreement with Shorthorn Little League to provide services at the sports complex. Those services include:

Umpires for their games.
Chalking fields before games.
Raking fields after games.
Keeping the fields, dugouts, & bleachers free of litter during practices and games.
All materials & supplies needed for practice, games, and tournaments.

Under the terms of the agreement, the City shall pay the league no more than $19,000.00 for services provided for regular and tournament games. However, Shorthorn recently took over league services for two leagues and thus would like to amend the contract an additional $9,000 for a maximum of $28,000 annually.

DEPARTMENT RECOMMENDATION: If it is the will of the City Council, staff recommends this amendment be approved.

BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Riverwalk Rec Center Board	☐ APPROVED
☐ Museum Board	☐ San Jose Board	☐ Water Board	☐ DISAPPROVED
☐ Library Board	☐ N. Mesa Board	☐ Beautification Committee	

Reviewed by:
City Administrator: /s/John Lowe **Date:** 08/04/2022

AMENDED AGREEMENT BETWEEN THE CITY OF CARLSBAD AND THE SHORTHORN LITTLE LEAGUE FOR SPORTS SERVICES AT THE BOB FORREST SPORTS COMPLEX

THIS AGREEMENT made and entered into this 1st day of July, 2022, by and between the **CITY OF CARLSBAD**, a municipal corporation, hereinafter referred to as the "**City**", and the **SHORTHORN LITTLE LEAGUE**, a New Mexico domestic nonprofit corporation, hereinafter referred to as the "**League**".

WHEREAS, the City owns and operates a facility known as the Bob Forrest Sports Complex, hereinafter referred to as the "Complex", at which there is a variety of youth sports venues including baseball and softball fields; and

WHEREAS, the League organizes, manages, coordinates, and supervises a baseball league for Carlsbad area youth; and

WHEREAS, the League holds its baseball practice, games, and related activities at the Complex; and

WHEREAS, in prior years, the City has entered into agreements with the League regarding the provision of umpires, materials and supplies, field maintenance, and trash removal during League activities at the Complex; and

WHEREAS, the Bob Forrest Sports Complex Advisory Board, hereinafter referred to as the "Board", has determined that it is in the best interest of the League that the agreement be amended for the remainder of the League season from the 1st day of February, 2022 to 31st day of December, 2022.

WHEREAS, the League has added tournaments and other obligations now that it is the only League that organizes and oversees youth baseball and the National League now organizes and oversees youth softball and additional revenue is needed to cover th services provided by the League. The additional revenue shall increase from a maximum of NINETEEN THOUSAND DOLLARS ($19,000.00) annually to up to TWENTY-EIGHT THOUSAND DOLLARS ($28,000.00) annually.

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

1. **Definitions.**

A. **"Board"** shall mean the Bob Forrest Sports Complex Advisory Board as it is now composed or as it may be amended in the future.

B. **"Complex"** shall mean the real property and all improvements, buildings, and fixtures thereon commonly known as the Bob Forrest Sports Complex, 3001 West Lea Street, Carlsbad, New Mexico.

C. **"League Services"** shall include, but not necessarily be limited to:

i. Within ten (10) days of the League's execution of this Agreement,

providing the City with the League's schedule of practices, games and tournaments;

ii. Providing the umpires necessary for each game at the Complex in which a League team is participating;

iii. Providing necessary field chalking and maintenance before, during, and after each practice and each game at the Complex in which a League team is participating;

iv. Keeping the fields, dugouts, and stands in a safe, sanitary, orderly, and sightly manner, and free of litter, trash, and debris during and after all practices and all games at the Complex in which a League team is participating and properly disposing of all litter, trash, and debris;

v. Keeping the fields, dugouts, and stands in a safe, sanitary, orderly, and sightly manner, and free of litter, trash, and debris during and after each tournament sponsored or hosted by the League, if any, and properly disposing of all litter, trash, and debris;

vi. Furnishing all materials and supplies necessary for practice, games, and tournaments, if any;

vii. Paying promptly all taxes, licenses, and fees of whatever nature that are applicable to the operations pursuant to this Agreement;

viii. Preparing and submitting reports in a format to be agreed to by the parties;

ix. Attending meetings as may be requested by City Council, the Board, and / or City administration or staff; and

x. Performing such additional duties as may from time to time be mutually agreed to by the parties.

2. **League Provided Services.** The League shall provide the City with full League Services at the Complex. In addition to such services, the League shall provide:

A. **Labor & Materials.** All labor, materials, supplies, equipment, and tools needed to perform the League Services. The League shall be solely responsible for all work performed and for the selection, operation, maintenance, and repair of all materials, supplies, equipment and tools used; and

B. **Personnel.** All necessary personnel, appropriately selected, qualified, and supervised.

3. **Compensation.** Prior to receiving any monies from the City, the League shall submit a current IRS Form W9 to City's Finance Department. In consideration for the services provided pursuant to this Agreement, the City shall pay the League for each "Game" as described below:

A. **T-Ball & Pee-Wee Division Games.** For each T-Ball or Peewee game in which a League team participates and for which the League provides services, the City shall pay the League Forty dollars ($40.00)

B. **Minor & Major Division Games.** For each Minor or Major League game in which a League team participates and for which the League provides services, the City shall pay the League Fifty dollars ($50.00)

C. **Junior & Senior League Games.** For each Junior or Senior League game in which a League team participates and for which the League provides services, the City shall pay the League Fifty dollars ($50.00).

D. **All-Star Games.** For each All-Star League game for which the League provides League Services, the City shall pay the League One Hundred dollars ($100.00).

Such amounts include all taxes or fees that may be assessed. Under no circumstances, and regardless of the number of games played or services provided, during the term of this Agreement the City shall not pay the League more than TWENTY-EIGHT Thousand Dollars ($28,000.00) for services provided.

4. **Invoices.** The League shall submit invoices to the City's Purchasing Department on the following dates:

A. **First Half.** At the end of the first half of the recreational play season.

B. **Second Half.** At the end of the second half of the recreational play season.

C. **Tournament Play.** At the end of the tournament play season.

Each invoice shall state how many of each type of Games were played during the time period covered by the invoice and a breakdown of the compensation due for the services performed.

5. **Right to Inspect and Audit.** Upon reasonable notice to the League, the City shall have the right, but not the obligation, to inspect, copy, and audit or have its representative inspect, copy, and audit all records maintained by or on behalf of the League as may be necessary to make a full, proper, and complete audit of all business transacted by the League in connection with their operations hereunder.

6. **Prevention of Waste and Damage.** The League shall use all reasonable cautions to prevent waste, damage, or injury to property of the City in the performance of its obligations under this Agreement. The League shall be solely responsible for any damage to or destruction of City property caused by the acts, willful or otherwise, of the League, its directors, officers, employees, members, agents, or volunteers.

7. **Reporting Damage.** Upon learning of any vandalism, damage, or destruction to the Complex, the League shall immediately report it verbally to the City. It shall also report such matters in writing within five (5) business days.

8. **Structural Changes.** The League shall not make any structural changes to any structure, building, fixture, appurtenance, or improvement at or to the Complex.

9. **Right to Enter and Inspect.** The City shall have the right to enter the Complex to inspect or to have its representative enter and inspect the Complex, including but not

limited to all improvements, buildings, fixtures, appliances, and personal property at any time.

10. **Compliance with Laws.** The League shall comply with all applicable local, state, and federal laws, rules, regulations, policies, and inspections and shall obtain and maintain any and all permits, licenses, or certifications that may be necessary to carry out the operations contemplated by this Agreement. In the event the League should cease to be properly permitted, licensed, or certified, it shall immediately inform the City Administrator and shall immediately cease its operations pursuant to this Agreement. Within five (5) days of ceasing to be properly permitted, licensed, or certified, the League shall also notify the City in writing of that event. The League shall require all its employees, officers, and agents, to comply with all applicable local, state, and federal laws, rules, regulations, policies, and inspections.

11. **Assignment of Agreement.** The League shall not sublease, assign, or transfer any interest in or right to this Agreement without the prior written approval of the City.

12. **AS IS Condition.** Prior to the commencement of this Agreement, the League fully examined and inspected the Complex and its improvements, buildings, fixtures, appliances, and personal property therein. The League accepts the Complex and such improvements, buildings, fixtures, appliances, and personal property in their existing condition and state of repair. The League accepts them in an **AS IS CONDITION**. The League agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of the City in respect thereto, including, but not limited to their suitability for any purpose, and the City shall in no event be liable for any latent defects.

13. **Term.** The term of this Agreement shall begin on the 1st day of February, 2022 and terminate on the 31st of December, 2022.

14. **Records.** For the term of this Agreement and for five (5) years after the expiration or termination of this Agreement, the League shall maintain copies of all records regarding any and all activities it conducts pursuant to this Agreement. The City shall have the right to inspect and copy or have its representative insect and copy such records upon reasonable notice to the League.

15. **Indemnification.** The League agrees to indemnify, save, and hold harmless the City, its officers, and employees against all liability, claims, damages, losses, or expenses of every kind, including reasonable attorneys' fees together with costs and expenses of litigation, arising out of, from, or associated in any manner with the acts or omissions of the League, its directors, officers, employees, members, agents, employees, or volunteers. The City will not be responsible for any special, indirect, or consequential damages.

16. **Release.** The League and its directors, officers, employees, members, agents, and volunteers release and discharge the City, its officers, agents, directors, and

employees from any and all claims, damages, suits, or losses sustained by the League, its directors, officers, employees, members, agents, and volunteers or their heirs which the League, directors, officers, employees, members, agents, and volunteers or their heirs may have now or hereinafter and which are associated, in any manner, with this Agreement.

17. **Insurance.** At all times material to this Agreement and for any further time that the League may occupy any portion of the Complex:

A. **Public Liability Insurance.** The League shall obtain and maintain, at its own expense, public liability insurance in the sum of two million dollars ($2,000,000.00). Such insuranc2e shall name the City as an additional insured.

B. **Automobile Liability Insurance.** The League shall obtain and maintain, at its own expense, automobile liability insurance in the sum of two million dollars ($2,000,000.00). Such insurance shall name the City as an additional insured.

C. **League Property and Casualty.** The League shall be responsible for obtaining and maintaining, at its own expense, fire, property, and casualty insurance covering all improvements, fixtures, appliances, and appurtenances owned by the League or used or placed at the Complex by the League should it desire such insurance. The League knows and understands that the City shall **NOT PROVIDE** fire, property, or casualty insurance for any improvements, fixtures, appliances, and appurtenances not owned by the City. The League shall be solely responsible for obtaining and maintaining such coverage. The City assumes no responsibility for any property used or placed at the Complex. The City, its officers, employees, and agents are hereby expressly released and discharged from any responsibility whatsoever for any such property.

D. **Certificates of Insurance.** All insurance shall be with a company or companies licensed and authorized to do business in the State of New Mexico. No later than the effective date of this Agreement, the League shall provide the City Administrator with a Certificate of Insurance reflecting the coverages specified herein and naming the City as loss payee as its interests may exist and as an additional insured. The League shall annually furnish to the City Administrator a Certificate of Insurance for the above required insurances. The League shall provide the City Administrator with notice of any change thereof, and furnish to the City Administrator evidence of acquirement of a substitute therefore, and payment of the premium thereof. If the League should fail to maintain such insurance coverage or coverages, then the City may, at its sole discretion, obtain such insurance to insure its interests. If the City does so, it may recover the cost of that insurance from the League. The City's acquisition of such insurance shall not relieve the League of its obligation to obtain and maintain insurance as required herein.

18. **Default or Breach.** Each of the following events shall constitute a default or breach of this Agreement:

A. **Failure to Comply.** If the League fails to perform or comply with any of the conditions of this Agreement, and if the nonperformance shall continue for a

period of fifteen (15) days after notice thereof by the City to the League, or, if the performance cannot be reasonably had within the fifteen (15) day period, and the League shall not in good faith have commenced performance within the fifteen (15) day period and then diligently proceeded to completion of performance.

B. **Loss of Corporate Status.** If the League ceases to be a New Mexico nonprofit corporation in good standing with the New Mexico Public Regulation Commission or the Commission's successor agency.

C. **Transfer.** If this Agreement shall be transferred to or shall pass to or devolve to any other person or party, except in the manner specified herein.

19. **Effect of Default.** In the event of the League's default of any of the terms or conditions set forth in this Agreement, the City shall have the right to cancel and terminate this Agreement by giving the League not less than fifteen (15) days written notice of such cancellation and termination.

20. **Non-Waiver.** Waiver by the City of any default in performance by the League of any of the terms or conditions contained in this Agreement shall not be deemed a continuing waiver of that default or any subsequent default.

21. **Funding Availability.** The funding of this Agreement is subject to the availability and appropriation of funds by the City Council of Carlsbad, New Mexico. If sufficient funding is not available or not appropriated by the City Council, then this Agreement is terminated and the City shall not incur any penalty or further liability.

22. **Destruction of the Complex.** In the event the Complex or any portion of it is totally destroyed or so partially destroyed or damaged as to render it incapable of reasonable use, then the City may, at its sole discretion, choose to repair the damage or destruction or choose to terminate this Agreement without incurring any penalty or further liability.

23. **Termination.** Either party may terminate this Agreement without cause by providing the other party with written notice of its intention to terminate this Agreement at least thirty (30) days prior to the termination date. By such termination, neither party may nullify obligations already incurred prior to the date of termination of the Agreement. However, neither party shall have any obligation to perform services or make payment for such services rendered after such date of termination.

24. **Surrender of the Complex.** The League shall, on the last day of the term of this Agreement or on earlier termination and forfeiture of this Agreement, peaceably and quietly surrender and deliver the Complex, including all buildings, additions and improvements constructed or placed thereon by the League, except movable trade fixtures, all in good condition and repair. Any trade fixtures or personal property belonging to the League, not removed within thirty (30) days after the termination of this Agreement, and if the City shall so elect, shall be deemed abandoned and become the property of the City without any payment or offset thereof.

25. **Entirety of Agreement; Modifications.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. The parties expressly waive any other or further representations, warranties, or agreements not set forth in this document. Neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing executed with the same formality as with this Agreement and then only to the extent set forth in such instrument.

26. **Independent Contractor.** The League, its directors, officers, employees, members, agents, and volunteers are independent contractors performing services for the City and are not employees of the City. The League, its directors, officers, employees, members, agents, and volunteers shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to the employees of the City of Carlsbad as a result of this Agreement.

27. **Limit of Authority.** The League shall not purport to bind the City of Carlsbad, unless the League has express written authority to do so, and then only within the strict limits of that authority.

28. **Workers' Compensation.** The League agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the League fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the CITY.

29. **Procurement Code Penalties.** The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

30. **Notices.** All notices permitted or required by the terms of this Agreement shall be in writing and be deemed to have been duly given and delivered, if mailed, certified postage prepaid:

If to the City:
The City of Carlsbad
c/o City Administrator
P.O. Box 1569
Carlsbad, NM 88221-1569

If to the League:
Shorthorn Little League
c/o Rick Quintela, President
502 N. 9th
Carlsbad, NM 88220

The parties shall notify each other in writing of any change in the above information.

31. **New Mexico Law.** This Agreement shall be construed in accordance with New Mexico law, and the Agreement may not be changed except by writing executed with the same formality as with this Agreement.

32. **ARBITRATION.** SHOULD ANY DISPUTE ARISE BETWEEN THE PARTIES IN CONNECTION WITH THE AGREEMENT AND IF SUCH DISPUTE CANNOT BE RESOLVED BY DISCUSSION BETWEEN THE PARTIES, THE PARTIES AGREE TO SUBMIT THE UNRESOLVED DISPUTE TO BINDING ARBITRATION PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN LIEU OF LITIGATION.

33. **Venue.** The parties agree that legal actions arising out of this Agreement, should there be any, shall be brought in the District Court of Eddy County, New Mexico for the Fifth Judicial District. The parties expressly consent to both in personam and subject matter jurisdiction of the Eddy County District Court and agree that venue shall properly lie in the Eddy County, New Mexico District Court.

34. **WAIVER OF JURY TRIAL.** THE PARTIES HEREBY WAIVE THE RIGHT TO A JURY TRIAL ON ANY ISSUE ARISING OUT OF OR RELATING, DIRECTLY OR INDIRECTLY, TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

35. **Captions.** The captions of any articles, paragraphs, or sections hereof are made for convenience only and shall not control or affect the meaning or construction of any of the provisions thereof.

36. **Exhibits.** Any instrument or document made and attached to this Agreement shall constitute a part hereof as though set forth in full in the body of this Agreement, whether made a part hereof by reference or whether made a part hereof by attachment.

CITY OF CARLSBAD:

_____
DALE JANWAY, MAYOR

ATTEST:

_____
CITY CLERK

SHORTHORN LITTLE LEAGUE

RICK QUINTELA, PRESIDENT

STATE OF NEW MEXICO)

) ss.

COUNTY OF EDDY)

The foregoing instrument was signed and acknowledged before me this day of 8/1, 2022, by RICK QUINTELA, as President of the Shorthorn Little League.

My commission expires:

03/16/2025

NOTARY PUBLIC

ANGELA K VEILLEUX NOTARY PUBLIC COMM # 1132869 EXPIRES 3-16-2025 STATE OF NEW MEXICO

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 08/09/2022

DEPARTMENT: Parks	By: Patrick Cass, Director of Public Works	DATE: 08-04-2022

SUBJECT: Janitorial Services for City Parks, Carlsbad Water Park, Bob Forrest Youth Sports Complex and Recreation and Cemetery Restrooms.

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

In 2021, the City of Carlsbad solicited proposals for janitorial services for City Parks, Carlsbad Water Park and the Bob Forrest Youth Sports Complex. Ultra Clean Carpet and Janitorial Services was awarded the contract with the option to renew annually for an additional three (3) years.

The City would like to enter into a First Renewal of the contract for one additional (1) year with the option to renew for an additional two (2) years with Ultra Clean Carpet and Janitorial Services. The contract includes cleaning, stocking, locking and unlocking the restrooms in the Carlsbad City Parks, and cleaning and stocking at the Carlsbad Water Park and the Bob Forrest Youth Sports Complex and the Recreation and Cemetery Restrooms.

After the completion of the restrooms at the Sand Volleyball courts at Lake Carlsbad, the contract will include these additional restrooms in the monthly cleaning services. An additional monthly cost of $300 (for a maximum cost of $3,600 per year) will be added to the fees to cover these additional services.

We have added an additional monthly increase of $250 (for a total of $3,000 per year) for the increased costs and high demand of paper and other supplies due to current volatile market conditions, which could change if market conditions improve.

The budgeted annual amount for the City Parks is $91,391, plus $300 per month when the Sand Volleyball restrooms open, plus applicable taxes. The budgeted annual amount for the Bob Forrest Youth Sports Complex is estimated at $20,000, plus applicable taxes. (The Restrooms at the Bob Forrest Youth Sports Complex are cleaned as necessary at a rate of $40.00 per cleaning, plus applicable taxes). The total budgeted amount for all services is currently estimated at $117,694 per year, based on the above information.

DEPARTMENT RECOMMENDATION: If it is the pleasure of the City Council, the City of Carlsbad recommends approval of one-year contract with Ultra Clean Carpet and Janitorial Services.

BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Cemetery Board	}	APPROVED
☐ Museum Board	☐ San Jose Board	☐ Water Board	}	
☐ Library Board	☐ N. Mesa Board	☐ _____ Committee	} ☐	DISAPPROVED

Reviewed by:
City Administrator: /s/John Lowe **Date:** 08/04/2022

Attachments: First Renewal of Agreement with Attachments

FIRST RENEWAL OF AGREEMENT BETWEEN THE CITY OF CARLSBAD AND ROBERT JACQUEZ dba ULTRA CLEAN CARPET FOR THE CLEANING OF CITY RESTROOMS & JANITORIAL SERVICES

THIS AGREEMENT is renewed at Carlsbad, New Mexico, this day of_____, 2022, by and between the **CITY OF CARLSBAD**, New Mexico, a municipal corporation, hereinafter referred to as "**CITY**," and **ROBERT JACQUEZ** d.b.a. **Ultra Clean Carpet & Janitorial Services**, hereinafter referred to as "**JACQUEZ**".

WHEREAS, the City of Carlsbad owns and operates public parks, recreation areas, and sport facilities in City of Carlsbad, hereinafter referred to as the "Parks and Recreation Areas"; and

WHEREAS, the CITY requested proposals for professional janitorial services for restrooms in the Parks and Recreation areas in its Bid No. 2021-05; and

WHEREAS, JACQUEZ submitted a proposal in response to Bid No. 2021-05; and

WHEREAS, the Carlsbad City Council awarded Bid No. 2021-05 to JACQUEZ subject to the successful negotiation of a contract; and

WHEREAS, the parties entered into the agreement for the provision of the specified services.

WHEREAS, the parties wish to enter into a first renewal of the Agreement, effective August 1, 2022 through July 31, 2023.

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

1. **Restrooms.** The facilities to be serviced by JACQUEZ shall consist of all restrooms in the following locations, hereinafter, the "Restrooms":

A. "Park Restrooms" shall mean the following facilities:

i. Lake Carlsbad Recreation Area

a. Restrooms in the Rotary playground area, west of the Pecos River on the north end of the park, 1000 Block East Riverside Drive;

b. Restrooms in the Bandshell area, at Riverside and Blodgett, 914 East Riverside Drive; and

c. Restrooms east of Park Drive across the street from the Tennis Courts, 700 Park Drive;

d. Restrooms nearest to the Sand Volleyball courts (which are currently not in place but should be operational soon).

ii. Riverview Park

a. Restrooms near Pavilion No. 1, south of Pavilion Lane, 413 Pavilion Lane

iii. Tennis Complex

a. Restrooms west of the tennis and racquetball courts, 701 Park Drive

iv. Bataan Recreation Area

a. Restrooms on the east side of the Pecos River off the alley between the 100 block of North James Street and the river, 103 North James Street; and

b. Restrooms in the Lower Tansil Dam area on the west side of the Pecos River near the railroad tracks, 905 Lower Tansill Drive.

v. Playground on the Pecos

a. Restrooms near Riverwalk Drive, northeast of the playground, 504 Riverwalk Boulevard

vi. Carlsbad Veterans' Memorial Park

a. Restrooms in the park east of South James Street and north of Lower Tansil Dam, 600-B Lower Tansill Drive

vii. Beach Bathhouse

a. Restrooms in the Bathhouse east of the intersection of Park Drive and Church Street, 720 Park Drive

b. Restrooms in the Carlsbad Water Park located in the upper beach area.

viii. The Ray Anaya San José Plaza

a. Restrooms in the park between Plaza, San José, Diaz, and De Baca Streets, 300 Diaz Street

ix. Dr. Martin Luther King, Jr. Memorial Park

a. Restrooms in the park near the intersection of Canyon and Plaza Streets, 104 East Plaza

x. Davis Park

a. Restrooms in the park near the intersection of Kircher and Davis Streets, 3000 Davis Street

xi. Cass Park
    a. Restrooms in the park near the intersection of Kuykendall and Russell Street, 407 Russell Street
xii. Troy Young Park
    a. Restrooms in the park near the intersection of Peachtree and San Jose Blvd., 2127 San Jose Boulevard
xiii. Cherry Lane Park
    a. Restrooms in the park near the intersection of Cherry Lane and Sandy Lane, 605 W. Cherry Lane

B. "Recreation and Cemetery Restrooms" shall mean the following facilities:
    i. Carlsbad Shooting Range Recreation Area, R314 North Happy Valley Road
        a. Restrooms at the City shooting range on Happy Valley Road (NM Road 524)
    ii. Carlsbad Cemetery
        a. Restrooms at the municipal cemetery at 607 Juarez; and
        b. Restrooms at that portion of the municipal cemetery east of Boyd Street and north of Juarez.

C. "Sports Facility Restrooms" shall mean the following facilities:
    i. Bob Forrest Sports Complex, 3000 West Lea Street
        a. Restrooms in the baseball concession building;
        b. Restrooms in the softball concession building; and
        c. Restrooms in the soccer concession building.

D. The CITY may, in its sole discretion, replace one or more Restrooms, temporarily or permanently close one or more Restrooms, or temporarily or permanently open one or more additional Restrooms. In the event there is a change in the number of Restrooms to be serviced by JACQUEZ, the compensation due JACQUEZ shall be adjusted upon the mutual agreement of the parties with such change in compensation to be based upon the pro rata change in the number of Restrooms to be serviced. The number of restrooms specified in this paragraph is more specifically described in the RFP #2021-05, attached hereto as Exhibit "A".

2. **JACQUEZ Provided Services.** JACQUEZ shall provide the CITY with complete janitorial services at all Restrooms including, but not limited to, the following:

A. All fixtures, including but not limited to toilets, urinals, and sinks, shall be cleaned and sanitized. The walls, floors, and ceilings shall be washed and disinfected. All trash and debris shall be removed and properly disposed, including, but not limited to, any trash and debris around the entrance to each Restroom.

B. Each Restroom shall be fully stocked with hand towels, soap, and toilet paper. JACQUEZ shall supply all hand towels, soap, and toilet paper needed for use in the Restrooms at no additional expense.

C. JACQUEZ shall provide all materials, supplies, equipment, and tools required to perform the duties required by this Agreement. JACQUEZ shall be solely responsible for all purchase, repair, maintenance, and operational costs of such materials, supplies, equipment, or tools.

D. JACQUEZ shall provide all labor necessary to perform the duties required by this Agreement.

E. At mutually convenient times, JACQUEZ shall meet with CITY personnel as necessary to discuss the services performed pursuant to this Agreement.

F. JACQUEZ shall perform such additional duties as may from time to time be mutually agreed to by the parties.

G. JACQUEZ shall lock and unlock the doors into the Restrooms specified by the CITY to prevent access to the Restrooms. JACQUEZ shall also lock and unlock the Pavilion Gate to prevent access to the Riverview Park at such times as specified by the CITY.

3. **Service Schedule.** JACQUEZ shall provide the services enumerated in Paragraph 2 on the following schedule:

A. Park Restrooms

i. Routine Services

a. Twice a day, seven (7) days a week beginning on the Friday before Memorial Day and continuing through Labor Day. These services shall be provided once in the morning before 10:00 a.m. and once in the afternoon, no later than 5:00 p.m.

b. Once a day, seven (7) days a week from the day after Labor Day through the Thursday before Memorial Day. These services shall be provided once in the morning before Noon.

ii. Special Services

a. Continuous services, the equivalent of two (2) eight-hour shifts per day, during the 4th of July holiday, from 6:00 a.m. through 10:00 p.m.

b. Continuous services, the equivalent of one (1) eight-hour shift per day, during Easter Sunday and Mother's Day, beginning at 8:00 a.m.

c. Continuous services, the equivalent of two (2) eight-hour shifts per day, of the Ray Anaya San José Plaza restrooms during each day of the 16th of September weekend celebration, from 6:00 a.m. through 10:00 p.m.

B. Recreation and Cemetery Restrooms

i. Routine Services

Once a day, four (4) days a week, Monday, Wednesday, Friday, and Sunday, throughout the year. The services shall be provided no later than 8:00 a.m. each day.

C. Sports Facility Restrooms

i. Bob Forrest Sports Complex

The Bob Forrest Sports Complex Restrooms shall be serviced as requested in writing by the City.

D. Restroom and Gate Locking and Unlocking

i. Restroom Locking and Unlocking

JACQUEZ shall provide locking and unlocking services for the Park Restrooms. JACQUEZ shall unlock the Restrooms no earlier than 5:00 a.m. and no later than 6:00 a.m. each day. From Memorial Day to Labor Day, JACQUEZ shall lock the Restrooms no earlier than 8:00 p.m. and no later than 10:00 p.m. each day. For all other days, JACQUEZ shall lock the Restrooms at one (1) hour after sunset.

ii. Pavilion Gate Locking and Unlocking

JACQUEZ shall provide locking and unlocking services for the Pavilion Gate. JACQUEZ shall unlock the Gate no earlier than 5:00 a.m. and no later than 6:00 a.m. each day. From Memorial Day to Labor Day, JACQUEZ shall lock the Gate no earlier than 8:00 p.m. and no later than 10:00 p.m. each day. For all other days, JACQUEZ shall lock the Gate at one (1) hour after sunset.

4. **CITY Provided Services.** The CITY shall be responsible for the following at the Restrooms:

A. The payment of all reasonable utility expenses including water service,

sewer service, electric service at the Restrooms; and

B. Except for damage or vandalism by JACQUEZ officers, employees, or agents, the City shall provide structural, plumbing, electrical, and mechanical repair or maintenance of Restroom structures and systems.

5. **Compensation.** Prior to receiving any monies from the CITY, JACQUEZ shall submit a current IRS Form W9 to City's Finance Department. In consideration for this Agreement, the CITY shall pay JACQUEZ the following compensation:

A. Routine and Special Services of Restrooms and Locking and Unlocking Services:
Seven thousand six hundred fifteen dollars and 94/100 per month ($7,615.94/mo.) plus all applicable taxes.

B. Additional Compensation - Days or Numbers of Services-Market Conditions:

i. Additional Requested Service
For each additional service of a Restroom requested in writing by the CITY, the CITY shall pay JACQUEZ forty-dollars and 00/100 per service of a Restroom ($40.00/service/Restroom) plus all applicable taxes.

ii. Market Conditions Adjustment
In addition to the compensation specified above, the City shall pay JACQUEZ an additional Two hundred fifty dollars and 00/100 ($250.00) per month (for a total of Three thousand dollars and 0/100 or $3,000.00 per year) to accommodate current volatile market conditions resulting in increased price of good and supplies; subject, however to change in the future if market conditions normalize upon ninety days advance notice by CITY.

Itemized Statements: JACQUEZ shall submit a monthly itemized statement to the CITY of all additional days or numbers of services provided by it, with such statement including the date, place, type of service, and rate charged. Each monthly statement shall also include a completed cleaning sign-in sheet for each Restroom listing the date and time of service for each Restroom. An example cleaning sign-in sheet is attached as Exhibit "B".

6. **Prevention of Waste and Damage.** JACQUEZ shall use all reasonable cautions to prevent waste, damage, or injury to the Restrooms in the performance of its obligations under this Agreement. JACQUEZ shall be solely responsible for any damage to or destruction of the Restrooms, City property, or any

improvements caused by the acts or omissions, willful or otherwise, of JACQUEZ's officers, employees, or agents. JACQUEZ shall be responsible for all costs incurred by the CITY to replace lost or damaged keys, including but not limited to replacing or rekeying locks.

7. **Reporting Damage.** JACQUEZ shall immediately verbally report any vandalism, damage, or destruction as well as any repair or maintenance needed to be performed by the CITY. It shall also report such matters to the CITY in writing within five (5) business days.

8. **Compliance with Laws.** JACQUEZ shall comply with all applicable local, state, and federal laws, rules, regulations, and policies and shall obtain and maintain any and all permits, licenses, or certifications that may be necessary to carry out the operations contemplated by this Agreement. In the event JACQUEZ should cease to be properly permitted, licensed, or certified, it shall immediately inform the City Administrator and shall immediately cease its operations pursuant to this Agreement. Within five (5) days of ceasing to be properly permitted, licensed, or certified, JACQUEZ shall also notify the CITY in writing of that event. JACQUEZ shall require all its officers, employees, and agents, to comply with all applicable local, state, and federal laws, rules, regulations, and policies.

9. **Structural Changes.** JACQUEZ shall not make any structural changes to the Restrooms, CITY property, or to any CITY structure or building used by JACQUEZ, without the prior written consent of the CITY. All such changes shall be performed in a workmanlike manner and shall be done in accordance with all applicable laws, rules, and regulations.

10. **Assignment of Agreement.** JACQUEZ shall not sublease, assign, or transfer any interest in or right to this Agreement without the prior written approval of the CITY.

11. **Right to Enter and Inspect.** The CITY shall have the right to enter the Restrooms and to inspect the Restrooms and all improvements, structures, or buildings at any time.

12. **AS IS Condition.** Prior to the commencement of this Agreement, JACQUEZ has fully examined and inspected the Restrooms and all improvements, buildings, fixtures, appliances, and personal property therein. JACQUEZ accepts the

Restrooms and such improvements, buildings, fixtures, appliances, and personal property in their existing condition and state of repair. JACQUEZ accepts them in an **AS IS CONDITION**. JACQUEZ agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of the CITY in respect thereto, including, but not limited to their suitability for any purpose, and the CITY shall in no event be liable for any latent defects.

13. **Term.** The term of this Agreement shall be for one (1) year beginning on the____day of_____ 20___, and terminating on the_____day of_____ 20___. This Agreement may be renewed for three (3) additional one (1) year terms upon the mutual agreement of both parties and upon such terms and conditions as the parties may agree. Not later than thirty (30) days before the expiration of this contract, if both parties desire to renew for an additional year, the parties shall meet to negotiate renewal terms and conditions.

14. **Records.** For the term of this Agreement and for five (5) years after the expiration or termination of this Agreement, JACQUEZ shall maintain copies of all records regarding any and all activities it conducts pursuant to this Agreement. The CITY shall have the right to inspect and copy such records upon reasonable notice to JACQUEZ.

15. **Indemnification.** JACQUEZ agrees to indemnify, save, and hold harmless the City, its officers, agents, and employees against all liability, claims, damages, losses, or expenses of every kind, including reasonable attorneys' fees together with costs and expenses of litigation, arising out of, from, or associated in any manner with the acts or omissions of JACQUEZ, his officers, agents, or employees.

16. **Insurance.** At all times material to this Agreement, JACQUEZ shall obtain and maintain, at its own expense, public liability insurance in the sum of two million dollars ($2,000,000.00). Such insurance shall name the City as an additional insured. JACQUEZ shall provide the City with a current Certificate of Insurance. The insurance shall be with a company or companies licensed and authorized to do business in the State of New Mexico. JACQUEZ shall annually furnish to the CITY a Certificate of Insurance for the above required insurances. JACQUEZ shall provide the CITY with notice of any change thereof, and furnish to the CITY evidence of acquirement of a substitute therefore, and payment of the premium thereof.

17. **Release.** JACQUEZ, upon final payment of the amount due under this

Agreement, releases the CITY, its officers, agents, and employees from all liabilities, claims, and obligations whatsoever arising from or under this Agreement. JACQUEZ agrees not to purport to bind the City of Carlsbad, unless JACQUEZ has express written authority to do so, and then only within the strict limits of that authority.

18. **Default or Breach.** Each of the following events shall constitute a default or breach of this Agreement:

A. **Bankruptcy Filing.** If JACQUEZ during the term of this Agreement, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.

B. **Involuntary Proceedings.** If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against JACQUEZ, or if a receiver or trustee shall be appointed for all or substantially all of the property of JACQUEZ and such proceedings shall not be dismissed or the receivership or trusteeship vacated within sixty (60) days after the institution or appointment.

C. **Failure to Comply.** If JACQUEZ fails to perform or comply with any of the conditions of this Agreement, and if the nonperformance shall continue for a period of fifteen (15) days after notice thereof by the CITY to JACQUEZ, or, if the performance cannot be reasonably had within the fifteen (15) day period, and JACQUEZ shall not in good faith have commenced performance within the fifteen (15) day period and then diligently proceeded to completion of performance.

D. **Transfer.** If this Agreement shall be transferred to or shall pass to or devolve to any other person or party, except in the manner specified herein.

19. **Effect of Default.** In the event of default hereunder as set forth in this Agreement, the rights of the non-defaulting party shall be as follows:

A. **Cancellation.** The non-defaulting party shall have the right to cancel and terminate this Agreement. On expiration of the time fixed in the notice, this Agreement and all rights, title, and interest of the defaulting party hereunder shall terminate in the same manner and with the same force and effect, except as to the defaulting party's liability, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.

B. **Compliance.** The non-defaulting party may elect, but shall not be

obligated, to make any payment required of the defaulting party herein or comply with any agreement, term, or condition required hereby to be performed by the defaulting party, and the non-defaulting party shall have the right to enter the Restrooms for the purpose of directing or remedying any such default and to remain until the default has been corrected or remedied; but any expenditure for correction by the non-defaulting party shall not be deemed to waive or release the default of the defaulting party or the right of the non-defaulting party to take any action as may be otherwise permissible or to seek other remedy under the law.

20. **Non-Waiver.** Waiver by the CITY of any default in performance by JACQUEZ of any of the terms or conditions contained in this Agreement shall not be deemed a continuing waiver of that default or any subsequent default.

21. **Funding Availability.** The funding of this Agreement is subject to the availability and appropriation of funds by the City Council of Carlsbad, New Mexico. If sufficient funding is not available or not appropriated by the City Council, then this Agreement is terminated and the CITY shall not incur any penalty or further liability.

22. **Termination.** Either party may terminate this Agreement without cause by providing the other party with written notice of its intention to terminate this Agreement at least ninety (90) days prior to the termination date. By such termination, neither party may nullify obligations already incurred prior to the date of termination of the Agreement. However, neither party shall have any obligation to perform services or make payment for such services rendered after such date of termination.

23. **Entirety of Agreement.** This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. The parties expressly waive any other or further representations, warranties, or agreements not set forth in this document.

24. **Independent Contractor.** JACQUEZ, his officers, employees, and agents are independent contractors performing professional services for the CITY and are not employees of the CITY. JACQUEZ and his officers, employees, and agents shall not accrue leave, retirement, insurance, bonding, use of city vehicles, or any other benefits afforded to the employees of the City of Carlsbad as a result of this Agreement.

25. **Workers' Compensation.** JACQUEZ agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If JACQUEZ fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this agreement may be terminated by the CITY.

26. **Procurement Code Penalties.** The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

27. **Notices.** All notices permitted or required by the terms of this Agreement shall be in writing and be deemed to have been duly given and delivered, if mailed, certified postage prepaid:

If to CITY:

The City of Carlsbad
c/o City Administrator
P.O. Box 1569
Carlsbad, NM 88221-1569

If to JACQUEZ:

Robert Jacquez dba
Ultra Clean & Janitorial Services
104 S. Ash St.
Carlsbad, NM 88220

The parties shall notify each other in writing of any change in the above information.

28. **New Mexico Law.** This Agreement shall be construed in accordance with New Mexico law, and the Agreement may not be changed except by writing executed with the same formality as with this Agreement.

29. **Venue.** The parties agree this Agreement shall be construed and controlled by the laws of the State of New Mexico. The parties further agree that any legal actions arising out of this Agreement shall be brought in the District Court of Eddy County, New Mexico for the Fifth Judicial District. The parties expressly consent to both in personam and subject matter jurisdiction of the Eddy County District Court and agree that venue shall properly lie in the Eddy County, New Mexico District Court.

30. **Arbitration.** Should any dispute arise between the parties in connection with the Agreement and if such dispute cannot be resolved by discussion between the parties, the parties agree to submit the unresolved dispute to binding arbitration in lieu of litigation.

31. **Captions.** The captions of any articles, paragraphs, or sections hereof are made for convenience only and shall not control or affect the meaning or construction of any of the provisions thereof.

32. **Exhibits.** Any instrument or document made and attached to this Agreement shall constitute a part hereof as though set forth in full in the body of this Agreement, whether made a part hereof by reference or whether made a part hereof by attachment.

CITY OF CARLSBAD:

_____

DALE JANWAY, MAYOR

ATTEST:

_____

CITY CLERK

ROBERT JACQUEZ

_____

ROBERT JACQUEZ, dba

Ultra Clean Carpet & Janitorial Services

STATE OF NEW MEXICO)
) ss.
COUNTY OF EDDY)

STATE OF NEW MEXICO
NOTARY PUBLIC
OLGA E. RAMIREZ
COMMISSION# 1080810
EXPIRES: SEPTEMBER 21, 2023

The foregoing instrument was signed and acknowledged before me this 4th day of August, 2022 by ROBERT JACQUEZ, dba Ultra Clean Carpet & Janitorial Services.

My commission expires: 9-21-23

Olga E Ramirez
NOTARY PUBLIC

"EXHIBIT "B"

City of Carlsbad
(Location, for example, Bataan Recreation Area, 100 Block N. James St.)
Restroom Cleaning

Month / Year: _____

Day	Time of 1st Service	Initials	Time of 2nd Service	Initials
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				

Date Billed: _____

City of Carlsbad
Personnel Department

Action Report
Month of July 2022

City of Carlsbad
Personnel Department Action Report
Month of July 2022

EMPLOYEE REPORT	Beginning of Month	New Hires	Termina-tions	Transfers In	Transfers Out	End of Month
Full-Time Employees	424	5	5	0	0	424
Part-Time/Temp Employees	82	9	5	0	0	86
Total Employees	506	14	10	0	0	510
Administrative	17	0	0	0	0	17
Judicial	7	1	0	0	0	8
Finance	16	0	1	0	0	15
Police	98	2	0	0	0	100
Fire	67	3	1	0	0	69
Community Development	122	8	6	0	0	124
Planning & Regulation	15	0	0	0	0	15
Utilities	73	0	2	0	0	71
Transportation & Facilities	91	0	0	0	0	91
TOTAL	506	14	10	0	0	510

WEEKLY INDEMNITY	Beginning of Month	New Claims	Released To Work	Terminated	End of Month
Employees on WI	2	1	2	0	1

UNEMPLOYMENT CLAIMS	Claims Received	Claims Returned	Claims Denied	Claims Approved	Claims Pending	Claims Appealed
Current Month	2	2	0	0	15	0

DRUG TESTS	Number Given
Pre-employment	12
Probationary	0
Post Accident	13
Random	0
Periodic	0
Probable Cause	0

VACANCIES BID	Department
Account Clerk I	Finance
Airport Manager	Airport
Caretaker	Golf
Solid Waste Attendant	Solid Waste
Waste Water Operator	Waste Water
Water Operator	Double Eagle

PHYSICAL EXAMINATIONS	Number Given
Pre-employment	13
Return to Work Evaluation	0
Functional Capacity Evaluation	0

TESTING	Number Given
Typing	6

VACANCIES ADVERTISED	Applications Received
ARC Driver	Pending
Airport Ops Sepcialist	Pending
Custodian	11
Container Maintenance Asst.	Pending
Electrician	Pending
Firefighter	Pending
Librarian - Information Specialist	Pending
Patrolman	Pending
Pro Shop Attendant, p/t	6
Telecommunicator	11
Transit Driver, p/t	Pending
Vactor Operator	Pending
Waste Water Superintendent	3

CARLSBAD MUNICIPAL COURT
CITY OF CARLSBAD
JULY 2022

Number of Cases	520
Warrants Outstanding	4682
Amount of Fines	$ 51,776.00
Cases on Appeal	7

FINES

Summary for the Month of	**JULY 2022**
Total Fines	$ 38,334.00
Total Prevention Fees	$ 165.00
Total Lab Fees	$ 233.00
Total Correction Fees	$ 9,045.00
Total Automation Fees	$ 2,637.00
Judicial Fees	$ 1,362.00
Notary Fees	$ 0.00
Victim Restitution	$ 0.00
TOTAL	**$ 51,776.00**

TOTAL FINES WORKED OUT THROUGH COMMUNITY SERVICE **$ 442.00**

cc: Chief
City Administrator
Finance Department

Municipal Judge

NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Andrew Vallejos, Director

June 17, 2021

Certified Mail No.: 9171 9690 0935 0155 37528 82

9171 9690 0935 0155 3728 82

City of Carlsbad
Attn: Nadine Mireles, Clerk
PO Box 1569
Carlsbad, NM 88221-1569

Lic. No. /Appl. No.:	Dispenser License No. 0050 | Application No. 1232003
Name of Applicant:	BG Gas & Convenience Retail, LLC
Doing Business as:	Allsup's Store #102404
Proposed Location:	4412 National Parks Hwy, Carlsbad, NM 88220

The Director of the Alcoholic Beverage Control Division (ABC) has reviewed the referenced Application and granted Preliminary Approval. It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

Notice of the Public Hearing required by the Liquor Control Act **shall be given by the governing body by publishing a notice** of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications** must occur before a **hearing can be conducted.** The notice shall include:

(A) Name and address of the Applicant/Licensee;
(B) The action proposed to be taken;
(C) The location of the licensed premises.

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

While the law states that "within forty-five (45) days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer", we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a couple of options:

1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and regulatory procedures. After the extension is granted and the hearing is held, notify ABC of your decision within thirty (30) days of the hearing;

ABC has no preference in the option you choose.

The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. A record shall be made of the hearing.

The Applicant is seeking a Transfer of Location Only of Dispenser License No. 0050.

Within thirty (30) days after the Public Hearing, the governing body shall notify ABC of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.

If the Governing Body disapproves the issuance or transfer of the license, it shall notify ABC within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to ABC with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,

Tammy M. Sandoval

Tammy M. Sandoval
Admin Law Judge | Hearing Officer
NM Regulation & Licensing Department
Alcoholic Beverage Control Division
Phone: (505) 476-4548 | Fax: (505) 476-4595
Email: Tammy.Sandoval@state.nm.us

Enclosures:

1. Original Page 1 of the Application *(must be signed and returned w/notices of publication)*
2. Copy of Page 2 of the Application
3. Copy of the Zoning Statement

NMRLD
NEW MEXICO REGULATION & LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Andrew Vallejos, Director

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MAY 05 2022
ALCOHOLIC BEVERAGE CONTROL

Transfer of Dispenser Type Liquor Application | $200.00 Application Fee, non-refundable

ABC USE ONLY: Application Fee $ 200 Received on: 5.4.22 Receipt No. 2459581
License Fee $ _____ Received on: _____ Receipt No. _____
Application Number: 123003 Local Option District: _____

License Number. 0050 License Type Dispenser
Record Owner of Existing License: BW Gas & Convenience Retail, LLC
Current D/B/A Name: Allsup's Store 102190
Current Premises Address: 1010 South Canal Carlsbad NM 88220
Current LOD: City of Carlsbad Is License moving out of Local Option District? ☐Yes ■No

Check appropriate boxes:
Application is for: ☐Transfer of Ownership ☐Transfer of Ownership and Location ■Transfer of Location Only

Applicant is ☐Individual ■Limited Liability Company ☐Corporation ☐Partnership (General/Limited)

NAME OF APPLICANT: BW Gas & Convenience Retail, LLC
D/B/A Name to be used: Allsup's Store 102404 **Business Phone No:** tbd
Mailing Address: 138 Conant Street , Beverly MA 01915
Email (required) bwgas.permits@yesway.com
Physical location where license is to be used: 4412 National Parks Highway Carlsbad NM 88220
County: Eddy (Include street number / highway number / state road, city, state, and zip code)
Are alcoholic beverages currently being dispensed at the proposed location ☐Yes ☒No If Yes, License # / Type: _____
Contact Person: Linda Aikin **Phone #:** 505-982-6224 **Email:** lla@cybermesa.com

I, (print name) Linda Aikin, as (title) resident agent being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: _____ Date: May 6, 2022

Notary Public Use Only: (State of New Mexico, County of Santa Fe
SUBSCRIBED AND SWORN TO before me this 6 day of May, 20 22
By: Linda Aikin Notary Public: _____ SEAL 7-1-22
Date my Commission Expires: 7-1-22

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF NEW MEXICO

Local Option District Use Only: Local Governing Body of _____ City, County, Village
Public Hearing held on _____ 20____ Please check one: ☐ Approved ☐ Disapproved
Signature of City/County Official: _____ Title: _____

Alcoholic Beverage Control Division Use Only: ☐ Approved ☐ Disapproved, _____
Signed by Director: _____ Date: _____

Premises Location, Ownership, and Description | NMSA §60-6B-10 | Page 2

1. The land and building which is proposed to be the licensed premises is: **(check one)**

☐ Owned by Applicant, copy of deed/document attached

☑ Leased by Applicant, copy of lease/document attached

☐ Other (provide details): _____

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MAY 06 2022
ALCOHOLIC BEVERAGE CONTROL

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): **BW Gas & Convenience Real Estate, LLC**

B. Date and Term of Lease: _____

3. Premises location is Zoned (example C-1, see Zoning Statement): **C-2**

Zoning Statement attached, ☑**Yes** ☐**No** Must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. Distance* from nearest Church: (Property line of church to closest point of licensed premises—shortest distance)

Name of Church: **Carlsbad Bible Church** Miles/feet: **2600 feet**

Address/location of Church: **4105 National Parks Highway Carlsbad NM**

5. Distance* from nearest School: (Property line of school to closest point of licensed premises—shortest distance)

Name of School: **Emitt Smith Elementary School** Miles/feet: **2.5 miles**

Address/location of School: **2415 Carver Street Carlsbad NM**

6. Attach Detailed Floor Plan, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

7. Type of Operation: ☐ Hotel ☐ Lounge ☑ Package Grocery ☐ Racetrack

☐ Restaurant ☐ Craft Distiller ☐ Small Brewer ☐ Winery ☐ Wholesaler

☐ Other (specify): _____

***NOTE:** If the distance is beyond 300 feet, but less than 400 feet, and the Applicant does not admit that the location is within 300 feet and requests a waiver from the LOD, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.

DALE JANWAY
Mayor

Post Office Box 1569
Carlsbad, NM 88221-1569
(505) 887-1191
800-658-2713
www.cityofcarlsbadnm.com

JOHN LOWE
City Administrator

RECEIVED
MAY 05 2022
ALCOHOLIC BEVERAGE CONTROL

May 5, 2022

To Whom it May Concern

ZONING DISTRICT DETERMINATION

Business Address: 4412 National Parks Highway, Carlsbad, NM 88220
APN: 4-157-131-113-160
Property Owner: High Five Capital, LP
Business Name: Allsups Convenience Stores, Inc,
Zoning District: C-2 Commercial

According to Sec. 56-40(e) of the City of Carlsbad Zoning Ordinance, the Commercial 2 District is intended to accommodate neighborhood, community and regional-scale retail and commercial uses. The retail sale of alcohol is an allowed use in the "C-2" Commercial 2 zoning district.
The Code of Ordinances can be found by visiting the City's webpage at www.cityofcarlsbadnm.com and then by clicking on the Planning, Engineering and Regulation Department's link.

Thank you,

Trysha Ortiz
Deputy Director of Planning & Regulation

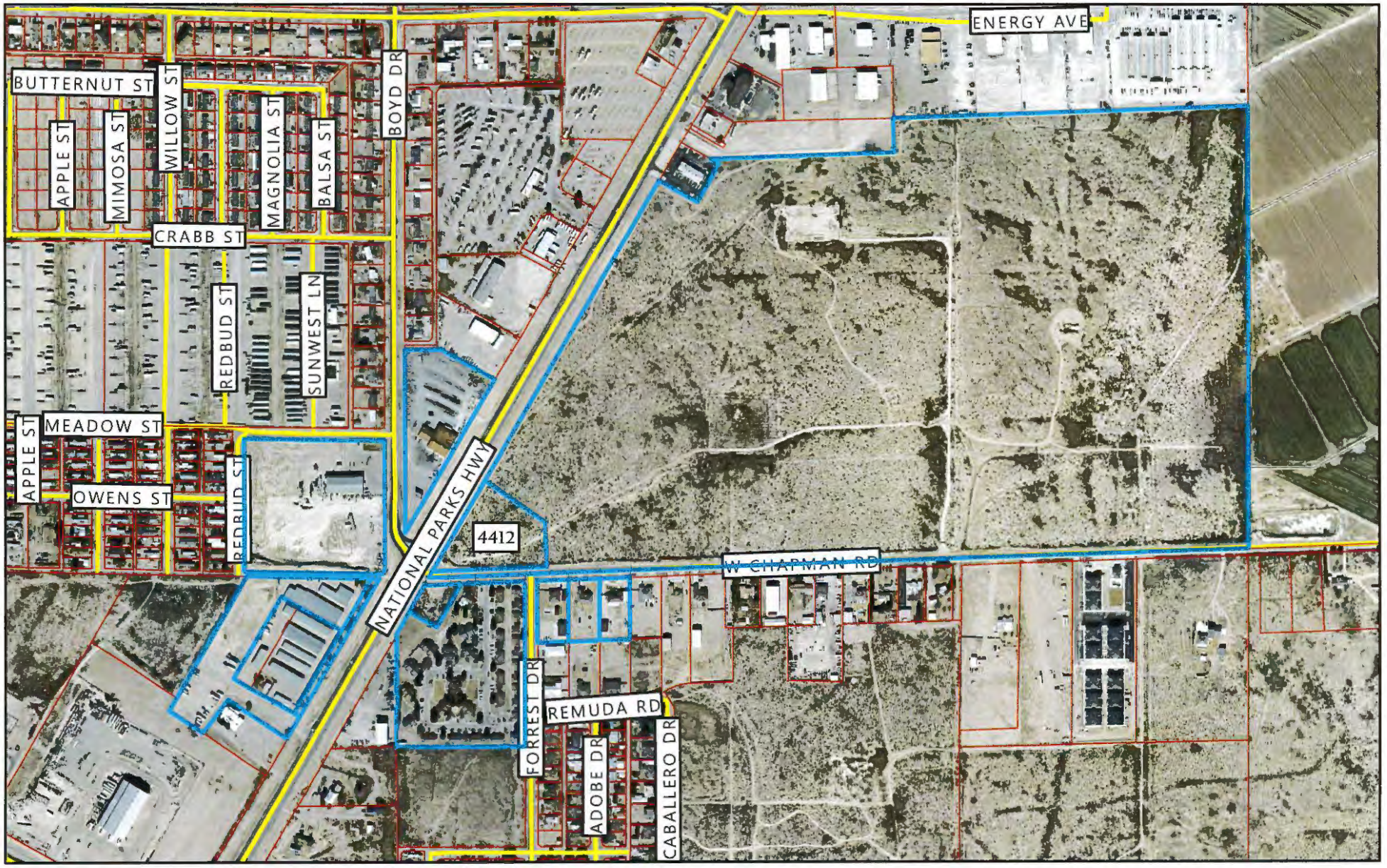
1:7,800

1 inch = 650 feet

300 Foot Radius

Map # 2600_ed01

Date: 6/27/2022



Parcel

Roads

IMPORTANT: Maps, products and data are NOT surveyor quality and are only to be used as a reference.

0 325 650 1,300

Feet

City of Carlsbad GIS

MINUTES OF A PUBLIC HEARING IN THE MUNICIPAL BUILDING ON AUGUST 3, 2022 AT 9:00 A.M.

IN THE MATTER OF: A TRANSFER OF LOCATION ONLY OF DISPENSER LICENSE NO 0050. APPLICATION NO. 1232003

Proposed Owner & Location:
BW Gas & Convenience Retail, LLC
dba: Allsup's
4412 National Parks Highway
Carlsbad, NM 88220

Present:
John Lowe, Hearing Officer
Olga Ramirez, Assistant to City Administrator
Linda Aikin, Attorney
Marvin Green, Allsup's Regional Manager
Darlene Kneifer, Allsup's District Manager

Mr. Lowe convened the hearing at 9:01 a.m. to consider a Transfer of Location only of Dispenser License No 0050. The proposed location is at 4412 National Parks Highway, Carlsbad, NM.

The matter was received by the City of Carlsbad on June 27, 2022. The hearing was conducted in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

For the record, public notice was properly made on July 3, 2022 and July 10, 2022, in accordance with the applicable statutes. Persons representing the applicant were present. The proposed locations are within an area where the sale of alcoholic beverages is allowed by the laws of New Mexico.

Mr. Lowe asked for comments from those present at the hearing. Ms. Aikin stated this is for a transfer of location for Allsup's, they are asking for approval from the city.

There was no opposition to the requested application for a Transfer of Location only of Dispenser License No 0050.

Mr. Lowe explained that the application would be considered by the Carlsbad City Council at their next regular scheduled meeting on Tuesday, August 9, 2022 at 6:00 pm.

There being no further comments, the hearing was adjourned at 9:04 am.

John Lowe
Hearing Officer

JL:or

Carlsbad Current Argus.

Affidavit of Publication

Ad # 0005319060

This is not an invoice

CITY OF CARLSBAD
POBOX 1569

CARLSBAD, NM 88221

I, a legal clerk of the **Carlsbad Current Argus**, a newspaper published daily at the City of Carlsbad, in said county of Eddy, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof in editions dated as follows:

07/03/2022, 07/10/2022

D. Roberts

Legal Clerk

Subscribed and sworn before me this July 10, 2022:

Nancy Heyrman

State of WI, County of Brown
NOTARY PUBLIC

5.15.23

My commission expires

NOTICE OF HEARING REGARDING APPLICATION FOR A TRANSFER OF LOCATION ONLY OF DISPENSER LICENSE NO 0050

Notice is hereby given that a public hearing will be held by the City of Carlsbad, New Mexico in the Planning Room of the Municipal Building, 101 North Halagueno Street, Carlsbad, NM at 9:00 a.m. on August 3, 2022.
The purpose of the hearing will be to accept public comment on whether the City Council should approve or disapprove an application for a Transfer of Location only of Dispenser License No 0050.
Applicant: BG Gas & Convenience Retail, LLC
D/B/A: Allsup's Store #102404
Address: 4412 National Parks Hwy
Carlsbad, NM 88220
Only questions relating to the Liquor License will be considered.
Written comments regarding this matter maybe directed to the office of the City Administrator, City of Carlsbad, 101 N. Halagueno Street, PO Box 1569, Carlsbad, New Mexico, 88220, or by email to oeramirez@cityofcarlsbadnm.com and will be accepted until 5:00 p.m. on August 2, 2022.
/s/John N Lowe
City Administrator
#5319060, Current Argus, July 3, 10, 2022

Ad # 0005319060
PO #: 0005319060
# of Affidavits 1

This is not an invoice

NANCY HEYRMAN
Notary Public
State of Wisconsin

NOTICE OF HEARING REGARDING APPLICATION FOR A TRANSFER OF LOCATION ONLY OF DISPENSER LICENSE NO 0050

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Applicant: BG Gas & Convenience Retail, LLC
D/B/A: Allsup's Store #102404
Address: 4412 National Parks Hwy
Carlsbad, NM 88220

Only questions relating to the Liquor License will be considered.

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/s/John N Lowe
City Administrator
#5319060, Current Argus, July 3, 10, 2022

Legal Notices

NOTICE OF HEARING REGARDING APPLICATION FOR A TRANSFER OF LOCATION ONLY OF DISPENSER LICENSE NO 0050

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Applicant: BG Gas & Convenience Retail, LLC
D/B/A: Allsup's Store #102404
Address: 4412 National Parks Hwy
Carlsbad, NM 88220

Only questions relating to the Liquor License will be considered.

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/s/John N Lowe
City Administrator
#5319060, Current Argus, July 3, 10, 2022

Legal Notices

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8-9-2022

DEPARTMENT: Community Development	BY: Ted Cordova, Deputy City Administrator	DATE: 8-3-2022

SUBJECT: Application for Grant Funding for AIP 3-35-0007-030-2022 Reconstruction of Runway 14R-32L.

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

Runway 14R-32L is in severe need of reconstruction and has been listed on the Airport Capital Improvement Plan for federal fiscal year 2022. Thus, the City is requesting permission to submit a grant application for funding from the Federal Aviation Administration in the amount of $4,680,699. If awarded, 99% of the project costs will be shared between the FAA and NMDOT Aviation Division, with a 1% City Match.

DEPARTMENT RECOMMENDATION: If it is the will of the City Council, staff recommends the City apply for, accept the Grant funding if awarded, and designate the City Administrator as the Authorized Representative to sign the application, grant agreement, and any related documents.

BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Riverwalk Rec Center Board	☐ APPROVED
☐ Museum Board	☐ San Jose Board	☐ Water Board	☐ DISAPPROVED
☐ Library Board	☐ N. Mesa Board	☐ Beautification Committee	

Reviewed by:
City Administrator: Rowe **Date:** 8-4-22

OMB Number: 4040-0004
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424

* 1. Type of Submission:
- [ ] Preapplication
- [x] Application
- [ ] Changed/Corrected Application

* 2. Type of Application:
- [x] New
- [ ] Continuation
- [ ] Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received:

4. Applicant Identifier: Cavern City Air Terminal (CNM)

5a. Federal Entity Identifier: 3-35-0007

5b. Federal Award Identifier: 3-35-0007

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: City of Carlsbad

* b. Employer/Taxpayer Identification Number (EIN/TIN): 85-6000111

* c. UEI: LKCDUTRJHFY6

d. Address:

* Street1: 101 N. Halagueno

Street2:

* City: Carlsbad

County/Parish: Eddy

* State: NM: New Mexico

Province:

* Country: USA: UNITED STATES

* Zip / Postal Code: 88221

e. Organizational Unit:

Department Name: Airport

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: Mr.

* First Name: John

Middle Name:

* Last Name: Lowe

Suffix:

Title: City Administrator

Organizational Affiliation: City of Carlsbad

* Telephone Number: 575-887-1191

Fax Number:

* Email: Jnlowe@cityofcarlsbad.com

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

DOT/FAA Southwest Region, Fort Worth, TX

11. Catalog of Federal Domestic Assistance Number:

20-106

CFDA Title:

*** 12. Funding Opportunity Number:**

N/A

* Title:

N/A

13. Competition Identification Number:

N/A

Title:

N/A

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Runway 14R-32L Reconstruction

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: 2

* b. Program/Project: 2

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 10/01/2022

* b. End Date: 12/31/2023

18. Estimated Funding ($):

* a. Federal	4,388,155.00
* b. Applicant	46,807.00
* c. State	245,737.00
* d. Local	
* e. Other	
* f. Program Income	
* g. TOTAL	4,680,699.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.

* First Name: John

Middle Name:

* Last Name: Lowe

Suffix:

* Title: City Administrator

* Telephone Number: 575-887-1191

Fax Number:

* Email: jnlowe@cityofcarlsbad.com

* Signature of Authorized Representative:

* Date Signed:

Application for Federal Assistance (Development and Equipment Projects)

PART II – PROJECT APPROVAL INFORMATION

Part II - SECTION A

The term "Sponsor" refers to the applicant name provided in box 8 of the associated SF-424 form.

Item 1.
Does Sponsor maintain an active registration in the System for Award Management (www.SAM.gov)?

☒ Yes ☐ No

Item 2.
Can Sponsor commence the work identified in the application in the fiscal year the grant is made or within six months after the grant is made, whichever is later?

☒ Yes ☐ No ☐ N/A

Item 3.
Are there any foreseeable events that would delay completion of the project? If yes, provide attachment to this form that lists the events.

☐ Yes ☒ No ☐ N/A

Item 4.
Will the project(s) covered by this request have impacts or effects on the environment that require mitigating measures? If yes, attach a summary listing of mitigating measures to this application and identify the name and date of the environmental document(s).

☐ Yes ☒ No ☐ N/A

Item 5.
Is the project covered by this request included in an approved Passenger Facility Charge (PFC) application or other Federal assistance program? If yes, please identify other funding sources by checking all applicable boxes.

☐ Yes ☒ No ☐ N/A

☐ The project is included in an *approved* PFC application.

If included in an approved PFC application,

does the application *only* address AIP matching share? ☐ Yes ☐ No

☐ The project is included in another Federal Assistance program. Its CFDA number is below.

Item 6.
Will the requested Federal assistance include Sponsor indirect costs as described in 2 CFR Appendix VII to Part 200, States and Local Government and Indian Tribe Indirect Cost Proposals?

☐ Yes ☒ No ☐ N/A

If the request for Federal assistance includes a claim for allowable indirect costs, select the applicable indirect cost rate the Sponsor proposes to apply:

☐ De Minimis rate of 10% as permitted by 2 CFR § 200.414.

☐ Negotiated Rate equal to % as approved by (the Cognizant Agency) on (Date) (2 CFR part 200, appendix VII).

Note: Refer to the instructions for limitations of application associated with claiming Sponsor indirect costs.

PART II - SECTION B

Certification Regarding Lobbying

The declarations made on this page are under the signature of the authorized representative as identified in box 21 of form SF-424, to which this form is attached. The term “Sponsor” refers to the applicant name provided in box 8 of the associated SF-424 form.

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Authorized Representative shall complete and submit Standard Form-LLL, ‘‘Disclosure Form to Report Lobbying,’’ in accordance with its instructions.

(3) The Authorized Representative shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

Land Use Zoning

2. Defaults – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. Possible Disabilities – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of the Grant Assurances, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. Consistency with Local Plans – The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

Yes

5. Consideration of Local Interest – It has given fair consideration to the interest of communities in or near where the project may be located.

Yes

6. Consultation with Users – In making a decision to undertake an airport development project under Title 49, United States Code, it has consulted with airport users that will potentially be affected by the project (§ 47105(a)(2)).

Yes

7. Public Hearings – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

N/A

8. Air and Water Quality Standards – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

PART II – SECTION C (Continued)

9. **Exclusive Rights** – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

10. **Land** – (a) The sponsor holds the following property interest in the following areas of land, which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

Fee Simple, no encumberances

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

N/A

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

N/A

[1] State the character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL
1. Federal Domestic Assistance Catalog Number: 20-106
2. Functional or Other Breakout:

SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	**Latest Approved Amount (Use only for revisions)**	**Adjustment + or (-) Amount (Use only for revisions)**	**Total Amount Required**
1. Administration expense			
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			115,991
5. Other Architectural engineering fees			2,000
6. Project inspection fees			181,246
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			4,381,461
12. Equipment			
13. Miscellaneous			
14. **Subtotal** (Lines 1 through 13)			$ 4,680,698
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			4,680,698
17. **Less**: Ineligible Exclusions (Section C, line 23 g.)			
18. **Subtotal** (Lines 16 through 17)			$ 4,680,698
19. Federal Share requested of Line 18			4,388,155
20. Grantee share			46,807
21. Other shares			345,737
22. **TOTAL PROJECT** (Lines 19, 20 & 21)			$ 4,680,698

SECTION C – EXCLUSIONS	
23. Classification (Description of non-participating work)	**Amount Ineligible for Participation**
a.	
b.	
c.	
d.	
e.	
f.	
g. Total	

SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
24. Grantee Share – Fund Categories	**Amount**
a. Securities	
b. Mortgages	
c. Appropriations (by Applicant)	46,807
d. Bonds	
e. Tax Levies	
f. Non-Cash	
g. Other (Explain):	
h. **TOTAL** - Grantee share	$ 46,807
25. Other Shares	**Amount**
a. State	245,737
b. Other	
c. **TOTAL** - Other Shares	$ 245,737
26. TOTAL NON-FEDERAL FINANCING	$ 292,544

SECTION E – REMARKS (Attach sheets if additional space is required)

PART IV – PROGRAM NARRATIVE

(Suggested Format)

PROJECT: Runway 14R-32L Reconstruction Construction

AIRPORT: Cavern City Air Terminal

1. Objective:

Complete demolition of the existing runway and construction of a new runway pavement section. The existing runway is 5,800 feet long and 100 feet wide. The runway will be reduced to a 75 foot width and the 25 foot shoulders will be pulverized and compacted in place. The latest PCI for this runway was listed at 64, indicating a need for replacement. The MIRL was recently replaced but the edge light fixtures will need to be moved inboard due to the runway width reduction

2. Benefits Anticipated:

The existing pavement is believe to be over 30 years old. This project will ultimately provide the City with a serviceable pavement for the next 20 years. The runway will be reconstructed at a narrower width to meet current FAA criteria. The MIRL was recently replaced with cans, conduit, and LED fixtures. These fixtures will be moved inboard to match the new width.

3. Approach: (See approved Scope of Work in Final Application)

Traditional design, bid, build. PER was done in a previous grant. THis grant includes final design, bidding and construction phase services and observation and testing, as well as construction

4. Geographic Location:

Carlsbad, NM. Located in the southeastern part of the State. It is in the Delaware basin where oil and gas activity are at an all time high. Eddy County is ranked fifth in the nation in oil and gas production. Botique Airlines operates a commercial service to and from Albuquerque. Large business jet activity exists due to the oil and gas industry. .

5. If Applicable, Provide Additional Information:

US Congressional District 2 whose representative is Yvette Harrell.

6. Sponsor's Representative: (include address & telephone number)

John Lowe, City Administrator. City of Carlsbad, 101 N. Halagueno, Carlsbad NM 88220. 575-887-1191

SOUTHWEST REGION, DOT FAA

SUPPLEMENT TO PREAPPLICATION FOR FEDERAL ASSISTANCE

DATED July 28, 2022

SUBMITTED BY City of Carlsbad

TO IMPROVE Cavern City Air Terminal AIRPORT

DESCRIPTION OF WORK TO BE ACCOMPLISHED (list by principal work item) (Use nearest dollar)					
ITEM OF WORK A		TOTAL ESTIMATED COST	SPONSOR'S FUNDS	FAA FUNDS REQUESTED	ESTIIMATED DATE WORK WOULD COMMENCE
NO.	DESCRIPTION	B	C	D	E
1	Design	$115,991	$7,249	$108,742	Jan, 2022
2	DBE Services	$2,000	$125	$1,875	Nov, 2022
3	Observation and Testing	$181,246	$11,328	$169,918	Nov, 2022
4	Construction	$4,381,461	$273,841	$4,107,620	Nov, 2022
	TOTALS	$4,680,698	$292,543	$4,388,155	

SPONSORS BUDGET ANALYSIS

LOCATION	**Cavern City Air Terminal**
AIP PROJECT NUMBER	**3-35-0007-030-2022**

LAND ACQUISITION	**$**	
CONSTRUCTION		**4,381,461**
ENGINEERING		**115,991**
ADMINISTRATIVE (DBE)		**2,000**
INSPECTION		**181,246**
TESTING		**-**
EQUIPMENT		**-**
OTHER (SPECIFY) PAPI Flight Check		**-**
		-
TOTAL	**$**	**4,680,698**

REMARKS:

Runway 14R-32L Reconstruction

All costs include applicable NMGRT Rates

PROJECT COSTS:	**$**	**4,680,698**
FAA share (93.75%)	**$**	**4,388,155**
STATE share (5.25%)	**$**	**245,737**
SPONSOR share 1%)	**$**	**46,807**

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

Statement for Loan Guarantees and Loan Insurance

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

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

* APPLICANT'S ORGANIZATION

City of Carlsbad

* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: Mr. * First Name: John Middle Name:

* Last Name: Lowe Suffix:

* Title: City Administrator

* SIGNATURE: * DATE:

Certification and Disclosure Regarding Potential Conflicts of Interest
Airport Improvement Program Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-030-2022

Description of Work: RW 14R-32L Reconstruction

Application

Title 2 CFR § 200.112 and § 1201.112 address Federal Aviation Administration (FAA) requirements for conflict of interest. As a condition of eligibility under the Airport Improvement Program (AIP), sponsors must comply with FAA policy on conflict of interest. Such a conflict would arise when any of the following have a financial or other interest in the firm selected for award:

a) The employee, officer or agent,

b) Any member of his immediate family,

c) His or her partner, or

d) An organization which employs, or is about to employ, any of the above.

Selecting “Yes” represents sponsor or sub-recipient acknowledgement and confirmation of the certification statement. Selecting “No” represents sponsor or sub-recipient disclosure that it cannot fully comply with the certification statement. If “No” is selected, provide support information explaining the negative response as an attachment to this form. This includes whether the sponsor has established standards for financial interest that are not substantial or unsolicited gifts are of nominal value (2 CFR § 200.318(c)). The term “will” means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance.

Certification Statements

1. The sponsor or sub-recipient maintains a written standards of conduct governing conflict of interest and the performance of their employees engaged in the award and administration of contracts (2 CFR § 200.318(c)). To the extent permitted by state or local law or regulations, such standards of conduct provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sponsor’s and sub-recipient’s officers, employees, or agents, or by contractors or their agents.

   ☒ Yes ☐ No

2. The sponsor's or sub-recipient's officers, employees or agents have not and will not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements (2 CFR § 200.318(c)).

   ☒ Yes ☐ No

3. The sponsor or sub-recipient certifies that is has disclosed and will disclose to the FAA any known potential conflict of interest (2 CFR § 1200.112).

   ☒ Yes ☐ No

Attach documentation clarifying any above item marked with "no" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have the explanation for any item marked "no" is correct and complete.

Executed on this ____ day of _____ , 2022 .

Name of Sponsor: City of Carlsbad

Name of Sponsor's Authorized Official: John Lowe

Title of Sponsor's Authorized Official: City Administrator

Signature of Sponsor's Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Selection of Consultants
Airport Improvement Program Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-030-2022

Description of Work: RW 14R-32L Reconstruction

Application
49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements for selection of consultant services within federal grant programs are described in 2 CFR §§ 200.317-200.326. Sponsors may use other qualifications-based procedures provided they are equivalent to standards of Title 40 chapter 11 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Certification Statements
Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. Sponsor acknowledges their responsibility for the settlement of all contractual and administrative issues arising out of their procurement actions (2 CFR § 200.318(k)).

   ☒ Yes ☐ No ☐ N/A

2. Sponsor procurement actions ensure ~~or will ensure~~ full and open competition that does not unduly limit competition (2 CFR § 200.319).

   ☒ Yes ☐ No ☐ N/A

3. Sponsor has excluded ~~or will exclude~~ any entity that develops or drafts specifications, requirements, or statements of work associated with the development of a request-for-qualifications (RFQ) from competing for the advertised services (2 CFR § 200.319).

   ☒ Yes ☐ No ☐ N/A

4. The advertisement describes ~~or will describe~~ specific project statements-of-work that provide clear detail of required services without unduly restricting competition (2 CFR § 200.319).

☒ Yes ☐ No ☐ N/A

5. Sponsor has publicized ~~or will publicize~~ a RFQ that:

   a. Solicits an adequate number of qualified sources (2 CFR § 200.320(d)); and

   b. Identifies all evaluation criteria and relative importance (2 CFR § 200.320(d)).

☒ Yes ☐ No ☐ N/A

6. Sponsor has based ~~or will base~~ selection on qualifications, experience, and disadvantaged business enterprise participation with price not being a selection factor (2 CFR § 200.320(d)).

☒ Yes ☐ No ☐ N/A

7. Sponsor has verified ~~or will verify~~ that agreements exceeding $25,000 are not awarded to individuals or firms suspended, debarred or otherwise excluded from participating in federally assisted projects (2 CFR §180.300).

☒ Yes ☐ No ☐ N/A

8. A/E services covering multiple projects: Sponsor has agreed to or will agree to:

   a. Refrain from initiating work covered by this procurement beyond five years from the date of selection (AC 150/5100-14); and

   b. Retain the right to conduct new procurement actions for projects identified or not identified in the RFQ (AC 150/5100-14).

☒ Yes ☐ No ☐ N/A

9. Sponsor has negotiated ~~or will negotiate~~ a fair and reasonable fee with the firm they select as most qualified for the services identified in the RFQ (2 CFR § 200.323).

☒ Yes ☐ No ☐ N/A

10. The Sponsor's contract identifies ~~or will identify~~ costs associated with ineligible work separately from costs associated with eligible work (2 CFR § 200.302).

☒ Yes ☐ No ☐ N/A

11. Sponsor has prepared ~~or will prepare~~ a record of negotiations detailing the history of the procurement action, rationale for contract type and basis for contract fees (2 CFR §200.318(i)).

☒ Yes ☐ No ☐ N/A

12. Sponsor has incorporated ~~or will incorporate~~ mandatory contact provisions in the consultant contract for AIP-assisted work (49 U.S.C. Chapter 471 and 2 CFR part 200 Appendix II)

☒ Yes ☐ No ☐ N/A

13. For contracts that apply a time-and-material payment provision (also known as hourly rates, specific rates of compensation, and labor rates), the Sponsor has established ~~or will establish~~:

    a. Justification that there is no other suitable contract method for the services (2 CFR §200.318(j));

    b. A ceiling price that the consultant exceeds at their risk (2 CFR §200.318(j)); and

    c. A high degree of oversight that assures consultant is performing work in an efficient manner with effective cost controls in place 2 CFR §200.318(j)).

    ☒ Yes ☐ No ☐ N/A

14. Sponsor is not using ~~or will not use~~ the prohibited cost-plus-percentage-of-cost (CPPC) contract method. (2 CFR § 200.323(d)).

    ☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with “no” response.

Sponsor’s Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked “no” is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Executed on this ____ day of _____ , 2022 .

Name of Sponsor: City of Carlsbad

Name of Sponsor’s Authorized Official: John Lowe

Title of Sponsor’s Authorized Official: City Administrator

Signature of Sponsor’s Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Drug-Free Workplace
Airport Improvement Program Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-030-2022

Description of Work: RW 14R-32L Reconstruction

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within federal grant programs are described in 2 CFR part 182. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A statement has been ~~or will be~~ published prior to commencement of project notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition (2 CFR § 182.205).

   ☒ Yes ☐ No ☐ N/A

2. An ongoing drug-free awareness program (2 CFR § 182.215) has been ~~or will be~~ established prior to commencement of project to inform employees about:

   a. The dangers of drug abuse in the workplace;

   b. The sponsor's policy of maintaining a drug-free workplace;

   c. Any available drug counseling, rehabilitation, and employee assistance programs; and

   d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

   ☒ Yes ☐ No ☐ N/A

3. Each employee to be engaged in the performance of the work has been ~~or will be~~ given a copy of the statement required within item 1 above prior to commencement of project (2 CFR § 182.210).

   ☒ Yes ☐ No ☐ N/A

4. Employees have been ~~or will be~~ notified in the statement required by item 1 above that, as a condition employment under the grant (2 CFR § 182.205(c)), the employee will:

   a. Abide by the terms of the statement; and

   b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

   ☒ Yes ☐ No ☐ N/A

5. The Federal Aviation Administration (FAA) will be notified in writing within 10 calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction (2 CFR § 182.225). Employers of convicted employees must provide notice, including position title of the employee, to the FAA (2 CFR § 182.300).

   ☒ Yes ☐ No ☐ N/A

6. One of the following actions (2 CFR § 182.225(b)) will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:

   a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; and

   b. Require such employee to participate satisfactorily in drug abuse assistance or rehabilitation programs approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

   ☒ Yes ☐ No ☐ N/A

7. A good faith effort will be made, on a continuous basis, to maintain a drug-free workplace through implementation of items 1 through 6 above (2 CFR § 182.200).

   ☒ Yes ☐ No ☐ N/A

Site(s) of performance of work (2 CFR § 182.230):

Location 1
Name of Location: Cavern City Air Terminal
Address: Carlsbad, NM

Location 2 (if applicable)
Name of Location:
Address:

Location 3 (if applicable)
Name of Location:
Address:

Attach documentation clarifying any above item marked with a “No” response.

Sponsor’s Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked “no” is correct and complete.

Executed on this _____ day of _____ , 2022 .

Name of Sponsor: City of Carlsbad

Name of Sponsor’s Authorized Official: John Lowe

Title of Sponsor’s Authorized Official: City Administrator

Signature of Sponsor’s Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Equipment and Construction Contracts
Airport Improvement Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-030-2022

Description of Work: RW 14R-32L Reconstruction

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General procurement standards for equipment and construction contracts within Federal grant programs are described in 2 CFR §§ 200.317-200.326. Labor and Civil Rights Standards applicable to the AIP are established by the Department of Labor (www.dol.gov) AIP Grant Assurance C.1—General Federal Requirements identifies all applicable Federal Laws, regulations, executive orders, policies, guidelines and requirements for assistance under the AIP. Sponsors may use state and local procedures provided the procurement conforms to these federal standards.

This certification applies to all equipment and construction projects. Equipment projects may or may not employ laborers and mechanics that qualify the project as a "covered contract" under requirements established by the Department of Labor requirements. Sponsor shall provide appropriate responses to the certification statements that reflect the character of the project regardless of whether the contract is for a construction project or an equipment project.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A written code or standard of conduct is ~~or will be~~ in effect prior to commencement of the project that governs the performance of the sponsor's officers, employees, or agents in soliciting, awarding and administering procurement contracts (2 CFR § 200.318).

   ☒ Yes ☐ No ☐ N/A

2. For all contracts, qualified and competent personnel ~~are or~~ will be engaged to perform contract administration, engineering supervision, construction inspection, and testing (Grant Assurance C.17).

   ☒ Yes ☐ No ☐ N/A

3. Sponsors that are required to have a Disadvantage Business Enterprise (DBE) program on file with the FAA ~~have included or~~ will include clauses required by Title VI of the Civil Rights Act and 49 CFR Part 26 for Disadvantaged Business Enterprises in all contracts and subcontracts.

   ☒ Yes ☐ No ☐ N/A

4. Sponsors required to have a DBE program on file with the FAA have implemented o~~r will implement~~ monitoring and enforcement measures that:

   a. Ensure work committed to Disadvantaged Business Enterprises at contract award is actually performed by the named DBEs (49 CFR § 26.37(b));

   b. Include written certification that the sponsor has reviewed contract records and has monitored work sites for performance by DBE firms (49 CFR § 26.37(b)); and

   c. Provides for a running tally of payments made to DBE firms and a means for comparing actual attainments (i.e. payments) to original commitments (49 CFR § 26.37(c)).

   ☒ Yes ☐ No ☐ N/A

5. Sponsor procurement actions using the competitive sealed bid method (2 CFR § 200.320(c)). ~~was or will be~~:

   a. Publicly advertised, allowing a sufficient response time to solicit an adequate number of interested contractors or vendors;

   b. Prepared to include a complete, adequate and realistic specification that defines the items or services in sufficient detail to allow prospective bidders to respond;

   c. Publicly opened at a time and place prescribed in the invitation for bids; and

   d. Prepared in a manner that result in a firm fixed price contract award to the lowest responsive and responsible bidder.

   ☒ Yes ☐ No ☐ N/A

6. For projects the Sponsor proposes to use the competitive proposal procurement method (2 CFR § 200.320(d)), Sponsor has requested ~~or will request~~ FAA approval prior to proceeding with a competitive proposal procurement by submitting to the FAA the following:

   a. Written justification that supports use of competitive proposal method in lieu of the preferred sealed bid procurement method;

   b. Plan for publicizing and soliciting an adequate number of qualified sources; and

   c. Listing of evaluation factors along with relative importance of the factors.

   ☒ Yes ☐ No ☐ N/A

7. For construction and equipment installation projects, the bid solicitation includes ~~or will include~~ the current federal wage rate schedule(s) for the appropriate type of work classifications (2 CFR Part 200, Appendix II).

   ☒ Yes ☐ No ☐ N/A

8. Concurrence was ~~or will be~~ obtained from the Federal Aviation Administration (FAA) prior to contract award under any of the following circumstances (Order 5100.38D):
    a. Only one qualified person/firm submits a responsive bid;
    b. Award is to be made to other than the lowest responsible bidder; and
    c. Life cycle costing is a factor in selecting the lowest responsive bidder.

    ☒ Yes ☐ No ☐ N/A

9. All construction and equipment installation contracts contain ~~or will contain~~ provisions for:
    a. Access to Records (§ 200.336)
    b. Buy American Preferences (Title 49 U.S.C. § 50101)
    c. Civil Rights - General Provisions and Title VI Assurances(41 CFR part 60)
    d. Federal Fair Labor Standards (29 U.S.C. § 201, et seq)
    e. Occupational Safety and Health Act requirements (20 CFR part 1920)
    f. Seismic Safety – building construction (49 CFR part 41)
    g. State Energy Conservation Requirements - as applicable(2 CFR part 200, Appendix II)
    h. U.S. Trade Restriction (49 CFR part 30)
    i. Veterans Preference (49 USC § 47112(c))

    ☒ Yes ☐ No ☐ N/A

10. All construction and equipment installation contracts exceeding $2,000 contain ~~or will contain~~ the provisions established by:
    a. Davis-Bacon and Related Acts (29 CFR part 5)
    b. Copeland “Anti-Kickback” Act (29 CFR parts 3 and 5)

    ☒ Yes ☐ No ☐ N/A

11. All construction and equipment installation contracts exceeding $3,000 contain ~~or will contain~~ a contract provision that discourages distracted driving (E.O. 13513).

    ☒ Yes ☐ No ☐ N/A

12. All contracts exceeding $10,000 contain ~~or will contain~~ the following provisions as applicable:
    a. Construction and equipment installation projects - Applicable clauses from 41 CFR Part 60 for compliance with Executive Orders 11246 and 11375 on Equal Employment Opportunity;
    b. Construction and equipment installation - Contract Clause prohibiting segregated facilities in accordance with 41 CFR part 60-1.8;
    c. Requirement to maximize use of products containing recovered materials in accordance with 2 CFR § 200.322 and 40 CFR part 247; and
    d. Provisions that address termination for cause and termination for convenience (2 CFR Part 200, Appendix II).

    ☒ Yes ☐ No ☐ N/A

13. All contracts and subcontracts exceeding $25,000: Measures are in place ~~or will be in place~~ (e.g. checking the System for Award Management) that ensure contracts and subcontracts are not awarded to individuals or firms suspended, debarred, or excluded from participating in federally assisted projects (2 CFR parts 180 and 1200).

    ☒ Yes ☐ No ☐ N/A

14. Contracts exceeding the simplified acquisition threshold (currently $250,000) include ~~or will include~~ provisions, as applicable, that address the following:

    a. Construction and equipment installation contracts - a bid guarantee of 5%, a performance bond of 100%, and a payment bond of 100% (2 CFR § 200.325);

    b. Construction and equipment installation contracts - requirements of the Contract Work Hours and Safety Standards Act (40 USC 3701-3708, Sections 103 and 107);

    c. Restrictions on Lobbying and Influencing (2 CFR part 200, Appendix II);

    d. Conditions specifying administrative, contractual and legal remedies for instances where contractor of vendor violate or breach the terms and conditions of the contract (2 CFR §200, Appendix II); and

    e. All Contracts - Applicable standards and requirements issued under Section 306 of the Clean Air Act (42 USC 7401-7671q), Section 508 of the Clean Water Act (33 USC 1251-1387, and Executive Order 11738.

    ☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with “No” response.

Sponsor’s Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked “no” is correct and complete.

Executed on this ____ day of _____ , 2022 .

Name of Sponsor: City of Carlsbad

Name of Sponsor’s Authorized Official: John Lowe

Title of Sponsor’s Authorized Official: City Manager

Signature of Sponsor’s Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Construction Project Final Acceptance
Airport Improvement Program Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-030-2022

Description of Work: RW 14R-32L Reconstruction

Application

49 USC § 47105(d), authorizes the Secretary to require me certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program. General standards for final acceptance and close out of federally funded construction projects are in 2 CFR § 200.343 – Closeout and supplemented by FAA Order 5100.38. The sponsor must determine that project costs are accurate and proper in accordance with specific requirements of the grant agreement and contract documents.

Certification Statements

Except for certification statements below marked not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgment and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. The personnel engaged in project administration, engineering supervision, project inspection, and acceptance testing were ~~or will be~~ determined to be qualified and competent to perform the work (Grant Assurance).
   ☒ Yes ☐ No ☐ N/A
2. Construction records, including daily logs, ~~were or~~ will be kept by the resident engineer/construction inspector that fully document contractor's performance in complying with:
   a. Technical standards (Advisory Circular (AC) 150/5370-12);
   b. Contract requirements (2 CFR part 200 and FAA Order 5100.38); and
   c. Construction safety and phasing plan measures (AC 150/5370-2).
   ☒ Yes ☐ No ☐ N/A
3. All acceptance tests specified in the project specifications ~~were or~~ will be performed and documented. (AC 150/5370-12).
   ☒ Yes ☐ No ☐ N/A

4. Sponsor ~~has taken or~~ will take appropriate corrective action for any test result outside of allowable tolerances (AC 150/5370-12).

   ☒ Yes ☐ No ☐ N/A

5. Pay reduction factors required by the specifications ~~were applied or~~ will be applied in computing final payments with a summary made available to the FAA (AC 150/5370-10).

   ☒ Yes ☐ No ☐ N/A

6. Sponsor ~~has notified, or~~ will promptly notify the Federal Aviation Administration (FAA) of the following occurrences:

   a. Violations of any federal requirements set forth or included by reference in the contract documents (2 CFR part 200);

   b. Disputes or complaints concerning federal labor standards (29 CFR part 5); and

   c. Violations of or complaints addressing conformance with Equal Employment Opportunity or Disadvantaged Business Enterprise requirements (41 CFR Chapter 60 and 49 CFR part 26).

   ☒ Yes ☐ No ☐ N/A

7. Weekly payroll records and statements of compliance ~~were or~~ will be submitted by the prime contractor and reviewed by the sponsor for conformance with federal labor and civil rights requirements as required by FAA and U.S. Department of Labor (29 CFR Part 5).

   ☒ Yes ☐ No ☐ N/A

8. Payments to the contractor ~~were or~~ will be made in conformance with federal requirements and contract provisions using sponsor internal controls that include:

   a. Retaining source documentation of payments and verifying contractor billing statements against actual performance (2 CFR § 200.302 and FAA Order 5100.38);

   b. Prompt payment of subcontractors for satisfactory performance of work (49 CFR § 26.29);

   c. Release of applicable retainage upon satisfactory performance of work (49 CFR § 26.29); and

   d. Verification that payments to DBEs represent work the DBE performed by carrying out a commercially useful function (49 CFR §26.55).

   ☒ Yes ☐ No ☐ N/A

9. A final project inspection ~~was or~~ will be conducted with representatives of the sponsor and the contractor present that ensure:

   a. Physical completion of project work in conformance with approved plans and specifications (Order 5100.38);

   b. Necessary actions to correct punch list items identified during final inspection are complete (Order 5100.38); and

   c. Preparation of a record of final inspection and distribution to parties to the contract (Order 5100.38);

   ☒ Yes ☐ No ☐ N/A

10. The project ~~was or~~ will be accomplished without material deviations, changes, or modifications from approved plans and specifications, except as approved by the FAA (Order 5100.38).

    ☒ Yes ☐ No ☐ N/A

11. The construction of all buildings have complied or will comply with the seismic construction requirements of 49 CFR § 41.120.

    ☐ Yes ☐ No ☒ N/A

12. For development projects, sponsor ~~has taken or~~ will take the following close-out actions:

    a. Submit to the FAA a final test and quality assurance report summarizing acceptance test results, as applicable (Grant Condition);

    b. Complete all environmental requirements as established within the project environmental determination (Oder 5100.38); and

    c. Prepare and retain as-built plans (Order 5100.38).

    ☐ Yes ☐ No ☒ N/A

13. Sponsor ~~has revised or~~ will revise their airport layout plan (ALP) that reflects improvements made and has submitted or will submit an updated ALP to the FAA no later than 90 days from the period of performance end date. (49 USC § 47107 and Order 5100.38).

    ☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with “No” response.

Sponsor’s Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked “no” is correct and complete.

Executed on this _____ day of _____ , 2022 .

Name of Sponsor: City of Carlsbad

Name of Sponsor’s Authorized Official: John Lowe

Title of Sponsor’s Authorized Official: City Administrator

Signature of Sponsor’s Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Real Property Acquisition
Airport Improvement Program Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-030-2022

Description of Work: RW 14R-32L Reconstruction

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on real property acquisition and relocation assistance are in 49 CFR Part 24. The AIP project grant agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended.

Certification Statements

Except for certification statements below marked not applicable (N/A), this list includes major requirements of the real property acquisition project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards.

1. The sponsor's attorney or other official has ~~or will have~~ good and sufficient title as well as title evidence on property in the project.

   ☐ Yes ☐ No ☒ N/A

2. If defects and/or encumbrances exist in the title that adversely impact the sponsor's intended use of property in the project, they have been ~~or will be~~ extinguished, modified, or subordinated.

   ☐ Yes ☐ No ☒ N/A

3. If property for airport development is or will be leased, the following conditions have been met:

   a. The term is for 20 years or the useful life of the project;

   b. The lessor is a public agency; and

   c. The lease contains no provisions that prevent full compliance with the grant agreement.

   ☐ Yes ☐ No ☒ N/A

4. Property in the project is ~~or will be~~ in conformance with the current Exhibit A property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.

   ☒ Yes ☐ No ☐ N/A

5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was or will be obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.

   ☐ Yes ☐ No ☒ N/A

6. For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces or to clear other airport surfaces, property interest was ~~or will be~~ obtained for the following:

   a. The right of flight;

   b. The right of ingress and egress to remove obstructions; and

   c. The right to restrict the establishment of future obstructions.

   ☒ Yes ☐ No ☐ N/A

7. Appraisals prepared by qualified real estate appraisers hired by the sponsor include or will include the following:

   a. Valuation data to estimate the current market value for the property interest acquired on each parcel; and

   b. Verification that an opportunity has been provided to the property owner or representative to accompany appraisers during inspections.

   ☐ Yes ☐ No ☒ N/A

8. Each appraisal has been or will be reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals as well as review appraisal are available to Federal Aviation Administration (FAA) for review.

   ☐ Yes ☐ No ☒ N/A

9. A written offer to acquire each parcel was or will be presented to the property owner for not less than the approved amount of just compensation.

   ☐ Yes ☐ No ☒ N/A

10. Effort was or will be made to acquire each property through the following negotiation procedures:

    a. No coercive action to induce agreement; and

    b. Supporting documents for settlements included in the project files.

    ☐ Yes ☐ No ☒ N/A

11. If a negotiated settlement is not reached, the following procedures were or will be used:

    a. Condemnation initiated and a court deposit not less than the just compensation made prior to possession of the property; and

    b. Supporting documents for awards included in the project files.

    ☐ Yes ☐ No ☒ N/A

12. If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was or will be established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.

    ☐ Yes ☐ No ☒ N/A

13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were or will be provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.

    ☐ Yes ☐ No ☒ N/A

Attach documentation clarifying any above item marked with “No” response.

Sponsor’s Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked “no” is correct and complete.

Executed on this _____ day of _____ , 2022 .

Name of Sponsor: CIty of Carlsbad

Name of Sponsor’s Authorized Official: John Lowe

Title of Sponsor’s Authorized Official: CIty Administrator

Signature of Sponsor’s Designated Official Representative: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Project Plans and Specifications
Airport Improvement Program Sponsor Certification

Sponsor: City of Carlsbad

Airport: Cavern City Air Terminal (CNM)

Project Number: 3-35-0007-015-2022

Description of Work: RW 14R-32L Reconstruction

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). Labor and civil rights standards applicable to AIP are established by the Department of Labor (www.dol.gov/). AIP Grant Assurance C.1—General Federal Requirements identifies applicable federal laws, regulations, executive orders, policies, guidelines and requirements for assistance under AIP. A list of current advisory circulars with specific standards for procurement, design or construction of airports, and installation of equipment and facilities is referenced in standard airport sponsor Grant Assurance 34 contained in the grant agreement.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. The plans and specifications were ~~or will be~~ prepared in accordance with applicable federal standards and requirements, so that no deviation or modification to standards set forth in the advisory circulars, or FAA-accepted state standard, is necessary other than those explicitly approved by the Federal Aviation Administration (FAA) (14 USC § 47105).

   ☒ Yes ☐ No ☐ N/A

2. Specifications incorporate ~~or will incorporate~~ a clear and accurate description of the technical requirement for the material or product that does not contain limiting or proprietary features that unduly restrict competition (2 CFR §200.319).

   ☒ Yes ☐ No ☐ N/A

3. The development that is included ~~or will be included~~ in the plans is depicted on the current airport layout plan as approved by the FAA (14 USC § 47107).

   ☒ Yes ☐ No ☐ N/A

4. Development and features that are ineligible or unallowable for AIP funding have been ~~or will be omitted~~ from the plans and specifications (FAA Order 5100.38, par. 3-43).

   ☒ Yes ☐ No ☐ N/A

5. The specification does not use ~~or will not use~~ “brand name” or equal to convey requirements unless sponsor requests and receives approval from the FAA to use brand name (FAA Order 5100.38, Table U-5).

   ☒ Yes ☐ No ☐ N/A

6. The specification does not impose ~~or will not impose~~ geographical preference in their procurement requirements (2 CFR §200.319(b) and FAA Order 5100.38, Table U-5).

   ☒ Yes ☐ No ☐ N/A

7. The use of prequalified lists of individuals, firms or products include ~~or will include~~ sufficient qualified sources that ensure open and free competition and that does not preclude potential entities from qualifying during the solicitation period (2 CFR §319(d)).

   ☒ Yes ☐ No ☐ N/A

8. Solicitations with bid alternates include ~~or will include~~ explicit information that establish a basis for award of contract that is free of arbitrary decisions by the sponsor (2 CFR § 200.319(a)(7)).

   ☒ Yes ☐ No ☐ N/A

9. Concurrence was ~~or will be~~ obtained from the FAA if Sponsor incorporates a value engineering clause into the contract (FAA Order 5100.38, par. 3-57).

   ☒ Yes ☐ No ☐ N/A

10. The plans and specifications incorporate ~~or will incorporate~~ applicable requirements and recommendations set forth in the federally approved environmental finding (49 USC §47106(c)).

    ☒ Yes ☐ No ☐ N/A

11. The design of all buildings comply ~~or will comply~~ with the seismic design requirements of 49 CFR § 41.120. (FAA Order 5100.38d, par. 3-92)

    ☒ Yes ☐ No ☐ N/A

12. The project specification include ~~or will include~~ process control and acceptance tests required for the project by as per the applicable standard:

    a. Construction and installation as contained in Advisory Circular (AC) 150/5370-10.

       ☒ Yes ☐ No ☐ N/A

b. Snow Removal Equipment as contained in AC 150/5220-20.

☐ Yes ☐ No ☒ N/A

c. Aircraft Rescue and Fire Fighting (ARFF) vehicles as contained in AC 150/5220-10.

☐ Yes ☐ No ☒ N/A

13. For construction activities within or near aircraft operational areas(AOA):

a. The Sponsor has ~~or will~~ prepare a construction safety and phasing plan (CSPP) conforming to Advisory Circular 150/5370-2.

b. Compliance with CSPP safety provisions has been ~~or will be~~ incorporated into the plans and specifications as a contractor requirement.

c. Sponsor will not initiate work until receiving FAA's concurrence with the CSPP (FAA Order 5100.38, Par. 5-29).

☒ Yes ☐ No ☐ N/A

14. The project ~~was or~~ will be physically completed without federal participation in costs due to errors and omissions in the plans and specifications that were foreseeable at the time of project design (49 USC §47110(b)(1) and FAA Order 5100.38d, par. 3-100).

☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with "No" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this ____ day of _____ , 2022 .

Name of Sponsor: City of Carlsbad

Name of Sponsor's Authorized Official: John Lowe

Title of Sponsor's Authorized Official: City Administrator

Signature of Sponsor's Authorized Official: _____

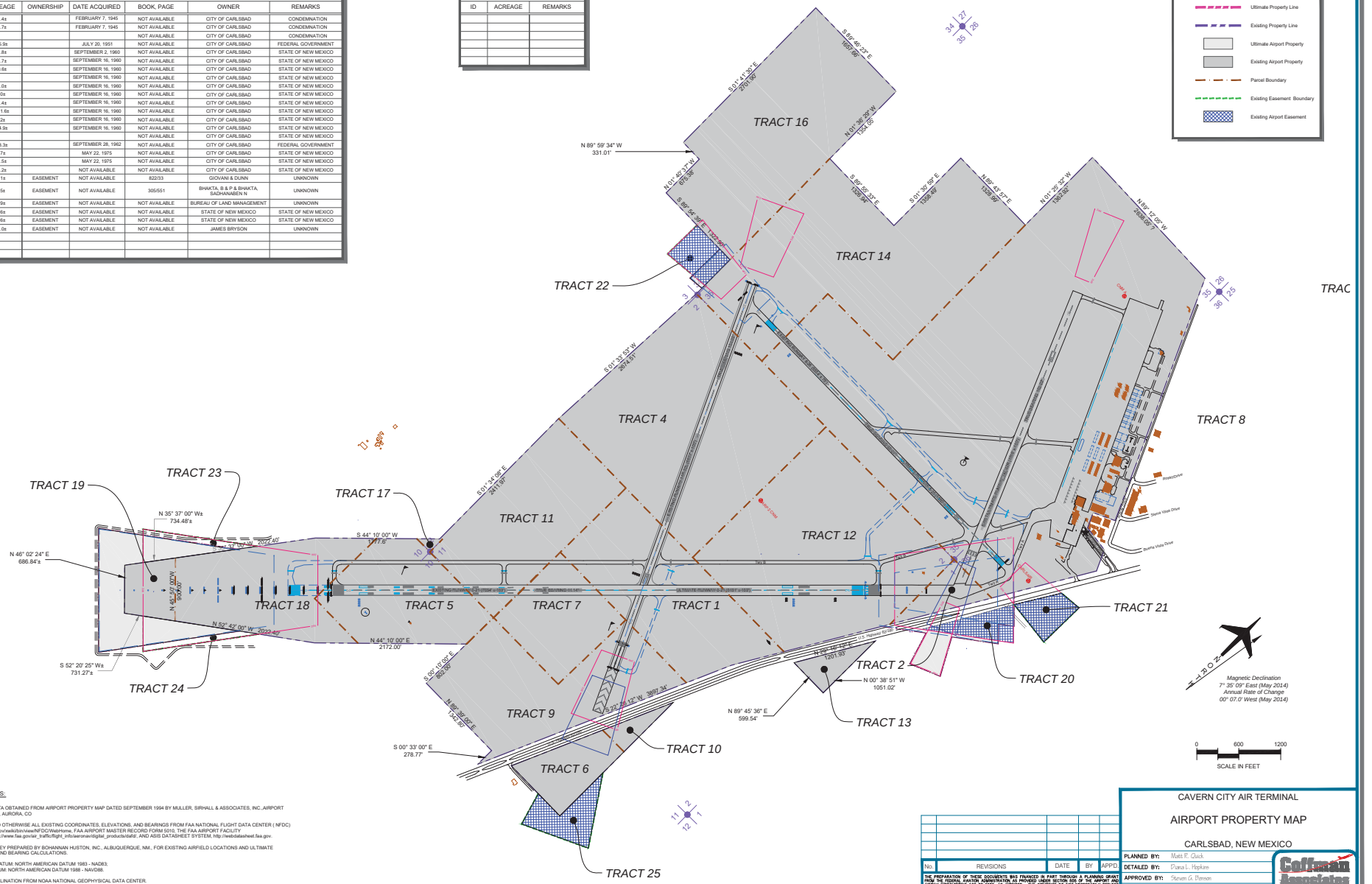
I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

EXISTING PROPERTY DATA						
TRACT	ACREAGE	OWNERSHIP	DATE ACQUIRED	BOOK, PAGE	OWNER	REMARKS
1	87.4±		FEBRUARY 7, 1945	NOT AVAILABLE	CITY OF CARLSBAD	CONDEMNATION
2	10.7±		FEBRUARY 7, 1945	NOT AVAILABLE	CITY OF CARLSBAD	CONDEMNATION
3				NOT AVAILABLE	CITY OF CARLSBAD	CONDEMNATION
4	165.9±		JULY 20, 1951	NOT AVAILABLE	CITY OF CARLSBAD	FEDERAL GOVERNMENT
5	59.8±		SEPTEMBER 2, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
6	21.7±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
7	40.6±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
8			SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
9	83.0±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
10	5.0±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
11	82.4±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
12	+151.6±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
13	7.2±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
14	164.9±		SEPTEMBER 16, 1960	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
15				NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
16	123.3±		SEPTEMBER 28, 1962	NOT AVAILABLE	CITY OF CARLSBAD	FEDERAL GOVERNMENT
17	0.7±		MAY 22, 1975	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
18	66.5±		MAY 22, 1975	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
19	13.2±		NOT AVAILABLE	NOT AVAILABLE	CITY OF CARLSBAD	STATE OF NEW MEXICO
20	8.1±	EASEMENT	NOT AVAILABLE	822/33	GIOVANI & DUNN	UNKNOWN
21	7.5±	EASEMENT	NOT AVAILABLE	305/551	BHAKTA, B & P & BHAKTA, SADHANABEN N	UNKNOWN
22	8.9±	EASEMENT	NOT AVAILABLE	NOT AVAILABLE	BUREAU OF LAND MANAGEMENT	UNKNOWN
23	9.6±	EASEMENT	NOT AVAILABLE	NOT AVAILABLE	STATE OF NEW MEXICO	STATE OF NEW MEXICO
24	9.6±	EASEMENT	NOT AVAILABLE	NOT AVAILABLE	STATE OF NEW MEXICO	STATE OF NEW MEXICO
25	12.0±	EASEMENT	NOT AVAILABLE	NOT AVAILABLE	JAMES BRYSON	UNKNOWN

ULTIMATE AIRPORT PROPERTY		
ID	ACREAGE	REMARKS

PROPERTY LEGEND

- Ultimate Property Line
- Existing Property Line
- Ultimate Airport Property
- Existing Airport Property
- Parcel Boundary
- Existing Easement Boundary
- Existing Airport Easement



GENERAL NOTES:

1. PROPERTY DATA OBTAINED FROM AIRPORT PROPERTY MAP DATED SEPTEMBER 1994 BY MULLER, SIRHALL & ASSOCIATES, INC./AIRPORT CONSULTANTS, AURORA, CO
2. UNLESS NOTED OTHERWISE ALL EXISTING COORDINATES, ELEVATIONS, AND BEARINGS FROM FAA NATIONAL FLIGHT DATA CENTER (NFDC) https://nfdc.faa.gov/webfiori/view/NFDC/WebHome, FAA AIRPORT MASTER RECORD FORM 5010, THE FAA AIRPORT FACILITY DIRECTORYhttp://www.faa.gov/air_traffic/flight_info/aeronav/digital_products/dafd/, AND ASIS DATASHEET SYSTEM, http://webdatasheet.faa.gov.
3. GROUND SURVEY PREPARED BY BOHANNAN HUSTON, INC., ALBUQUERQUE, NM., FOR EXISTING AIRFIELD LOCATIONS AND ULTIMATE COORDINATE AND BEARING CALCULATIONS.
4. HORIZONTAL DATUM: NORTH AMERICAN DATUM 1983 - NAD83; VERTICAL DATUM: NORTH AMERICAN DATUM 1988 - NAVD88.
5. MAGNETIC DECLINATION FROM NOAA NATIONAL GEOPHYSICAL DATA CENTER.

No.	REVISIONS	DATE	BY	APP'D

THE PREPARATION OF THESE DOCUMENTS WAS FINANCED IN PART THROUGH A PLANNING GRANT FROM THE FEDERAL AVIATION ADMINISTRATION AS PROVIDED UNDER SECTION 505 OF THE AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, AS AMENDED. THE CONTENTS DO NOT NECESSARILY REFLECT THE OFFICIAL VIEW OR POLICY OF THE FAA AND DO NOT CONSTITUTE A STANDARD, SPECIFICATION OR REGULATION. NOR IS IT TO BE CONSTRUED AS AN OFFER BY THE FAA TO ENTER INTO ANY AGREEMENT. NOT IN ANY WAY SHALL IT CONSTITUTE A COMMITMENT ON THE PART OF THE UNITED STATES TO PARTICIPATE IN ANY DEVELOPMENT DEPICTED HEREIN NOR DOES IT INDICATE THAT THE PROPOSED DEVELOPMENT IS ENVIRONMENTALLY ACCEPTABLE IN ACCORDANCE WITH THE APPROPRIATE PUBLIC LAWS.

CAVERN CITY AIR TERMINAL

AIRPORT PROPERTY MAP

CARLSBAD, NEW MEXICO

PLANNED BY: Matt R. Quick
DETAILED BY: Diana L. Hopkins
APPROVED BY: Steven G. Brenson

June 2016

SHEET 19 OF 21

Coffman Associates
Airport Consultants
www.coffmanassociates.com

Coffman Associates R:\CAD\Hopkins2\MP\Carlsbad (CNM)\ALP\CNM ALP.dwg Printed Date: 8-29-16 08:50:45 AM dprzybylski
CNM OEAAA UPLOAD 12/6/2016, ASN 2016-ASW-3134-NRA

1:7,200

1 inch = 600 feet

Runway Project Area

Map # 2622_ed01

Date: 8/4/2022

0 300 600 1,200

Feet

Project Area

Roads

IMPORTANT: Maps, products and data are NOT surveyor quality and are only to be used as a reference.

City of Carlsbad GIS

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8/9/2022

Department: Planning & Regulation	**By:** Trysha Ortiz, Deputy Planning Director	**DATE**: 8/3/2022

SUBJECT: Request by the Carlsbad MainStreet to serve alcohol (beer & wine) on City streets during the On-Target Firefighter Combat Challenge

BACKGROUND, ANALYSIS AND IMPACT: *(Safety and Welfare/Financial/Personnel/Infrastructure/etc.)*

The City of Carlsbad Fire Department has been approved to host the On-Target Firefighter Combat Challenge on Friday & Saturday, August 26 & 27, 2022

As part of this event, Carlsbad MainStreet wishes to have alcohol service (beer & wine) provided by Milton's Brewing, from 4:00 pm to 10:00 pm on Friday, August 26; 11:00 am to 11:00 pm on Saturday, August 27.

A "Beer Garden" located on Mermod St. outside of Milton's Brewing will be set up. This will be an extension of the existing patio area that Milton's Brewing regularly serves in. The Beer Garden will be set up by a licensed alcohol server and will be cordoned off from the rest of the event area. The Beer Garden will also only have one controlled entrance for attendees, and security will be provided. Entrance to the Beer Garden will only be available to those 21 years or older, and entrants must provide a valid ID as proof of age. All approved entrants will be given a bracelet to wear and will be a requirement to purchase beer or liquor within the Beer Garden. All designated drivers that enter the Beer Garden will be given a separate bracelet as identification. No alcohol will be allowed to be taken out of the designated Beer Garden area.

DEPARTMENT RECOMMENDATION: If it is the will of the Council to allow beer and liquor sales and consumption within a Beer Garden located on City streets, City staff recommends the following requirements:

1. The alcohol server obtain all required licenses and permits;
2. MainStreet and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security);
3. Both MainStreet and the alcohol server shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance in an amount to be approved by the City Administrator.

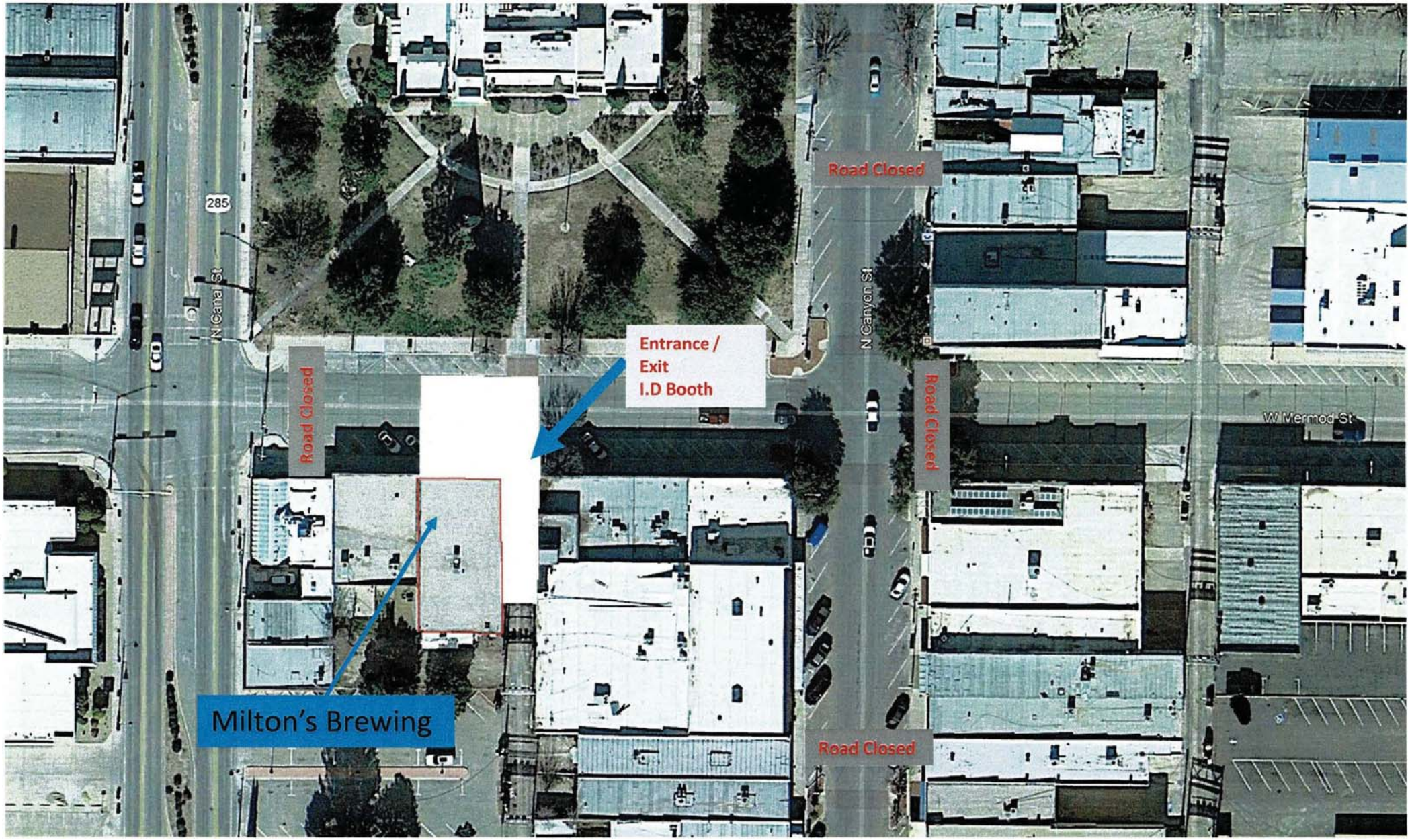
BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Cemetery Board	} ☐	**APPROVED**
☐ Museum Board	☐ San Jose Board	☐ Water Board	}	
☐ Library Board	☐ N. Mesa Board	☐ _____ Committee	} ☐	**DISAPPROVED**

Reviewed by
City Administrator /s/John Lowe **Date:** 08/04/2022

ATTACHMENT(S): Map

Outdoor Beer Garden for Milton's Brewing
Fireman's Challenge



All Areas in white will be fenced off
with a 4' high construction fence

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8/9/2022

Department: Planning & Regulation	**By:** Trysha Ortiz, Deputy Planning Director	**DATE**: 8/1/2022

SUBJECT: Request by Carlsbad Medical Center to serve alcohol (beer & liquor) on City streets during the On-Target Firefighter Combat Challenge

BACKGROUND, ANALYSIS AND IMPACT: *(Safety and Welfare/Financial/Personnel/Infrastructure/etc.)*

The City of Carlsbad Fire Department has been approved to host the On-Target Firefighter Combat Challenge on Friday & Saturday, August 26 & 27th, 2022.

As part of this event, Carlsbad Medical Center is hosting a Fire Fighters Combat Challenge Dinner. Food and alcohol service (beer & liquor) will be provided by Lucy's Mexicali Restaurant, from 4:00 pm to 10:00 pm on Saturday, August 27, 2022.

An Alcohol Tent will be set-up on Mermod St. between Canyon St. and the alley (see attached map). The alcohol area will be set up by a licensed alcohol server and will be cordoned off from the rest of the event. The alcohol area will also only have one controlled entrance for attendees. Entrants must provide a valid ID as proof of age; those under the age of 21 must be accompanied by someone 21 years or older. All approved entrants will be given a bracelet to wear and will be a requirement to purchase beer or liquor within the Alcohol Tent. No alcohol will be allowed to be taken out of the designated alcohol area.

DEPARTMENT RECOMMENDATION: If it is the will of the Council to allow beer and liquor sales and consumption within a designated Hospitality Area located on City streets, City staff recommends the following requirements:

1. The alcohol server obtain all required licenses and permits;
2. Carlsbad Medical Center and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security);
3. Carlsbad Medical Center and the alcohol server shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance in an amount to be approved by the City Administrator.

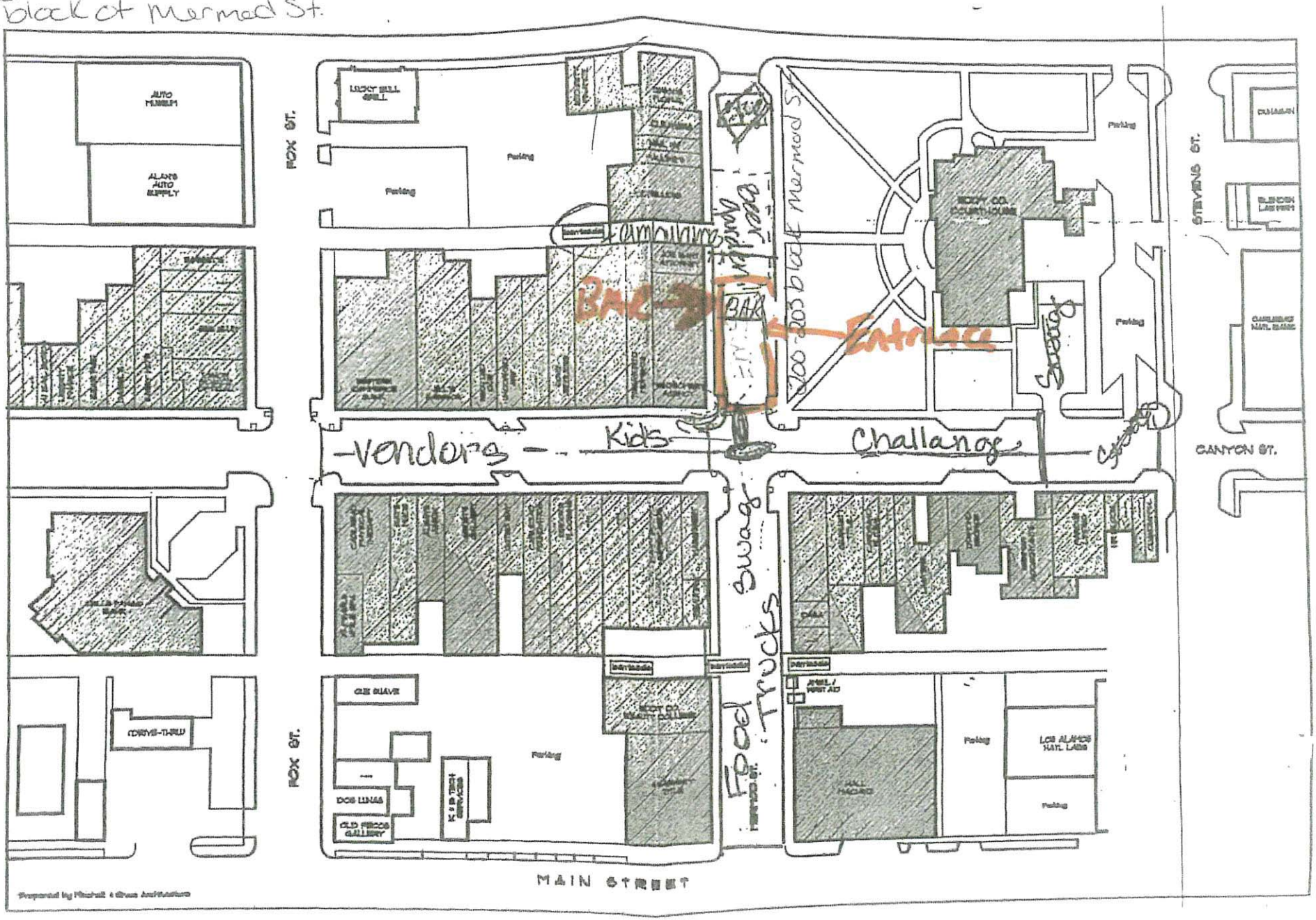
BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Cemetery Board	} ☐	**APPROVED**
☐ Museum Board	☐ San Jose Board	☐ Water Board	}	
☐ Library Board	☐ N. Mesa Board	☐ _____ Committee	} ☐	**DISAPPROVED**

Reviewed by
City Administrator /s/John Lowe **Date:** 08/04/2022

ATTACHMENT(S): Map

Area will be blocked off by Orange fencing and Tent will be enclosed in fencing. It is on 200-203 block of Marmad St.



1:480

1 inch = 40 feet

Fire Fighters Combat Challenge

Roads

Alcohol Tent

Parcel

0 20 40 80

Feet

IMPORTANT: Maps, products and data are NOT surveyor quality and are only to be used as a reference

City of Carlsbad GIS

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8/9/2022

Department: Planning & Regulation	**By:** Trysha Ortiz, Deputy Planning Director	**DATE**: 8/2/2022

SUBJECT: Request by Carlsbad Disc Golf Club to serve alcohol (beer & wine) on City property during the Carlsbad Disc Golf Tournament

BACKGROUND, ANALYSIS AND IMPACT: *(Safety and Welfare/Financial/Personnel/Infrastructure/etc.)*

The Carlsbad Disc Golf Club has requested to host a Tournament at the Disc Golf Course on Saturday & Sunday, October 29 & 30, 2022.

As part of this event, Carlsbad Disc Golf Club wishes to have alcohol service (beer & wine) provided by Milton's Brewing, from 10:00 am to 10:00 pm on Saturday, October 29. A "Beer Garden" will be set-up at the MLK Park Pavilion at 203 Plaza St.

The Beer Garden will be set up by a licensed alcohol server and will be cordoned off from the rest of the event area. The Beer Garden will also only have one controlled entrance for attendees, and security will be provided. Entrance to the Beer Garden will only be available to those 21 years or older, and entrants must provide a valid ID as proof of age. All approved entrants will be given a bracelet to wear and will be a requirement to purchase beer or liquor within the Beer Garden. All designated drivers that enter the Beer Garden will be given a separate bracelet as identification. No alcohol will be allowed to be taken out of the designated Beer Garden area.

DEPARTMENT RECOMMENDATION: If it is the will of the Council to allow beer and liquor sales and consumption within a Beer Garden located on City streets, City staff recommends the following requirements:

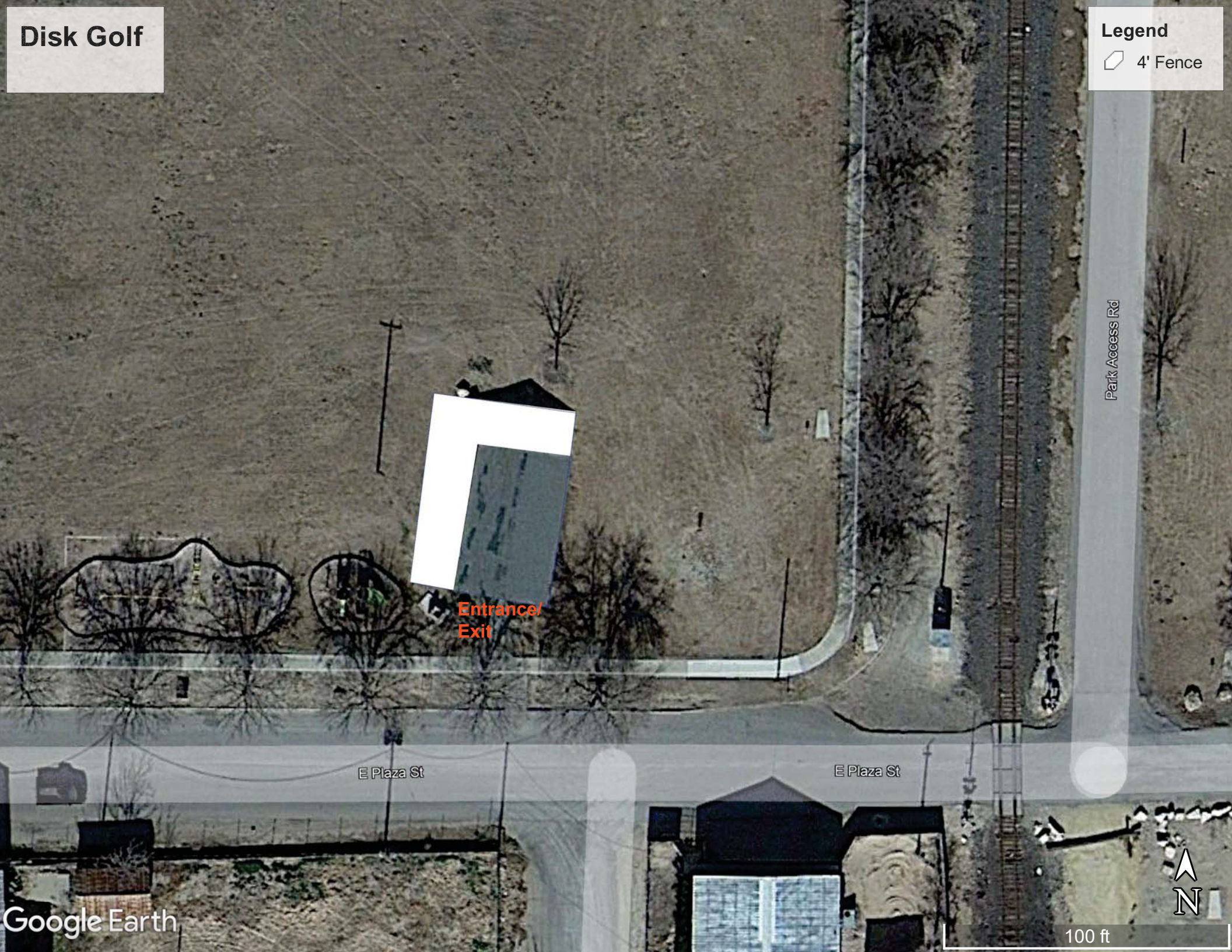
1. The alcohol server obtain all required licenses and permits;
2. Carlsbad Disc Golf Club and the alcohol server comply with all laws, rules, regulations, requirements and restrictions for service at the location (included, but not limited to fencing of service area, carding of customers, and providing appropriate security);
3. Both Carlsbad Disc Golf Club and the alcohol server shall name the City of Carlsbad as an Additional Insured on their general liability insurance and liquor server insurance in an amount to be approved by the City Administrator.

BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Cemetery Board	} ☐	**APPROVED**
☐ Museum Board	☐ San Jose Board	☐ Water Board	}	
☐ Library Board	☐ N. Mesa Board	☐ _____ Committee	} ☐	**DISAPPROVED**

Reviewed by
City Administrator /s/John Lowe **Date:** 08/04/2022

ATTACHMENT(S): Map


Disk Golf
Legend
4' Fence
Park Access Rd
Entrance/
Exit
E Plaza St
E Plaza St
N
Google Earth
100 ft

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8-9-2022

DEPARTMENT:	BY:	DATE:
Municipal Services	Angie Barrios-Testa, Director	8-1-2022

SUBJECT: Accept 2022 Bureau of Justice Assistance Byrne Discretionary Community Project Award in the Amount of $400,000 for Public Safety Hand-held Radio Upgrades

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The City of Carlsbad submitted an FY 2022 Congressionally Directed Spending Request to Senator Ben Ray Lujan, and Senator Martin Heinrich for consideration of funding for the Public Safety Hand-held Radio Equipment Upgrade Project. The funding was awarded through a grant application process under the funding opportunity entitled 2022 Bureau of Justice Assistance (BJA) Byrne Discretionary Community Project which was submitted May of 2022.

The enclosed grant award No. 15PBJA-22-GG-00169-BRND in the amount of $400,000 will upgrade 45 communication hand-held radios for the Carlsbad Fire Department, and 50 for the Carlsbad Police Department. The radios will be compatible with each other, as well as with the radios the departments have been upgrading recently. This critical equipment upgrade will directly help strengthen community safety and protect the public from crime and evolving threats. As the departments have more reliable, interoperable communication, they are better able to respond to safety and crime incidents.

As part of participation in this grant from the Department of Justice, the City agrees to all terms and conditions. These requirements encompass financial, administrative, and programmatic matters, as well as important matters (e.g., specific restrictions on use of funds) as per the enclosed award letter dated July 26, 2022. All eligible funds will be spent upfront by the City of Carlsbad and will be reimbursed by the Department of Justice Bureau of Justice Assistance. In anticipation of this award the City has budgeted the funds and is ready to begin the procurement process once the grant agreement is accepted by City Council. The period of performance for this funding award is July 1, 2022 through December 31, 2023.

DEPARTMENT RECOMMENDATION: If it is the will of City Council, staff requests acceptance of the BJA grant award, and to designate the City Administrator or his designee as the authorized representative to accept and manage this program.

BOARD/COMMISSION/COMMITTEE ACTION:

☐ P & Z	☐ Lodgers Tax Board	☐ Riverwalk Rec Center Board	☐ APPROVED
☐ Museum Board	☐ San Jose Board	☐ Water Board	☐ DISAPPROVED
☐ Library Board	☐ N. Mesa Board	☐ Beautification Committee	

Reviewed by:
City Administrator: /s/John Lowe **Date:** 08/04/2022

Award Letter

July 26, 2022

Dear Angie Barrios-Testa,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by CITY OF CARLSBAD for an award under the funding opportunity entitled 2022 BJA FY 22 Invited to Apply — Byrne Discretionary Community Project Funding/Byrne Discretionary Grants Program. The approved award amount is $400,000.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

Congratulations, and we look forward to working with you.

Maureen Henneberg
Deputy Assistant Attorney General

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal

financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Memorandum Regarding NEPA

NEPA Letter Type

OJP - Categorical Exclusion

NEPA Letter

None of the following activities will be conducted whether under the Office of Justice Programs federal action or a related third party action:

(1) New construction

(2) Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species

(3) A renovation that will change the basic prior use of a facility or significantly change its size

(4) Research and technology whose anticipated and future application could be expected to have an effect on the environment

(5) Implementation of a program involving the use of chemicals (including the

identification, seizure, or closure of clandestine methamphetamine laboratories)

Additionally, the proposed action is neither a phase nor a segment of a project that when reviewed in its entirety would not meet the criteria for a categorical exclusion.

Consequently, the subject federal action meets the Office of Justice Programs' criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of Title 28 of the Code of Federal Regulations.

Questions about this determination may be directed to your grant manager or Orbin Terry, Environmental Coordinator for the Bureau of Justice Assistance.

NEPA Coordinator

First Name	Middle Name	Last Name
Orbin	——	Terry

Award Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Recipient Information

Recipient Name
CITY OF CARLSBAD

UEI
LKCDUTRJHFY6

Street 1
101 N HALAGUENO ST

Street 2

City
CARLSBAD

State/U.S. Territory
New Mexico

Zip/Postal Code
88220

Country
United States

County/Parish
——

Province
——

Award Details

Federal Award Date
7/26/22

Award Type
Initial

Award Number
15PBJA-22-GG-00169-BRND

Supplement Number
00

Federal Award Amount
$400,000.00

Funding Instrument Type
Grant

Assistance Listing Number	Assistance Listings Program Title
16.753	

Statutory Authority

Pub. L. No. 117-103, 136 Stat 49, 125; 28 USC 530C

☐ *I have read and understand the information presented in this section of the Federal Award Instrument.*

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title
2022 BJA FY 22 Invited to Apply — Byrne Discretionary Community Project Funding/Byrne Discretionary Grants Program

Awarding Agency
OJP

Program Office
BJA

Application Number
GRANT13607517

Grant Manager Name	Phone Number	E-mail Address
Elaine Smokes	202-307-0611	Elaine.Smokes@usdoj.gov

Project Title
Carlsbad First Responder Radio Communications Equipment

Performance Period Start **Performance Period End**

Date	Date
07/01/2022	12/31/2023

Budget Period Start Date	Budget Period End Date
07/01/2022	12/31/2023

Project Description

BJA FY 2022 Invited to Apply – Byrne Discretionary Community Project Funding/
Byrne Discretionary
Solicitation (O-BJA-2022-171241)

Program Abstract

PROJECT TITLE: This project is to equip and update handheld communication radios for the Public Safety Departments – Carlsbad Fire and Carlsbad Police Departments in Carlsbad, New Mexico.

The City of Carlsbad was invited to participate in the Byrne Discretionary Community Project Funding Program. The $400,000 allocated through Byrne Discretionary funding will provide the City with the needed funding to complete the Public Safety Hand-held Radio Upgrade for its Public Safety Departments - Carlsbad Fire and Carlsbad Police Departments, in Carlsbad, New Mexico. The City of Carlsbad being the county seat and largest city within Eddy County in southeastern New Mexico with a population of approximately 62,314 and well up to 70,000 due to the transient workers covers Fire and EMS for an area of approximately 5,000 square miles. The Carlsbad Police Department also covers public safety for the large population within the City limits as well as provides mutual aid in the various surrounding communities in the region.

The Carlsbad Police Department has a total of 75 Law Enforcement Officers and 31 civilian personnel, and the Carlsbad Fire Department has a total of 60 Firefighter/EMS personnel and 4 administrative support staff. The Carlsbad Fire Department holds a dual role by handling Fire and EMS calls in this area. The plan is to purchase the equipment through a GSA/Cooperative Program approved vendor(s). The Carlsbad Fire Department is requesting to upgrade approximately 45 communication hand-held. The Carlsbad Police Department is requesting to replace approximately 50 hand-held communication radios. The radios will be compatible with each other as well as with the radios the department has been upgrading recently.

The hand-held radio communication upgrades will directly help strengthen community safety and protect the public from crime and evolving threats. As the departments have more reliable interoperable communication, they are better able to respond to safety and crime incidents. If they cannot communicate and share information quickly, critical time is wasted and lives could be lost. Interoperable communication is key to help improve operational efficiency and response time.

☐ *I have read and understand the information presented in this section of the Federal Award Instrument.*

Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

A financial analysis of budgeted costs has been completed. Costs under this award appear reasonable, allowable, and consistent with existing guidelines. Exceptions / Adjustments are noted below.

	Year 1	Total
Personnel	$0.00	$0.00
Fringe Benefits	$0.00	$0.00
Travel	$0.00	$0.00
Equipment	$400,000.0(	$400,000.0(
Supplies	$0.00	$0.00

Construction	$0.00	$0.00
SubAwards	$0.00	$0.00
Procurement Contracts	$0.00	$0.00
Other Costs	$0.00	$0.00
Total Direct Costs	$400,000.0(	$400,000.0(
Indirect Costs	$0.00	$0.00
Total Project Costs	$400,000.0(	**$400,000.0(**

Total Project Cost Breakdown

	Total	Percentage
Federal Funds	$400,000.0(	100.00%
Match Amount	$0.00	0.00%
Program Income Amount	$0.00	0.00%

Please note: After completing this budget detail summary, please confirm that the following final values entered in this section are identical to those entered in the corresponding estimated cost section of the Standard Applicant Information. Specifically, the following must be equivalent. If they are not, you will not be able to submit this application until they are updated to be equivalent.

Standard Applicant Information	Equals	Budget Summary
Total Estimated Funding	=	Total Project Costs

Federal Estimated Funding (federal share)	=	Federal Funds
Applicant Estimated Funding (non-federal share)	=	Match Amount
Program Income Estimated Funding	=	Program Income Amount

Budget Detail Summary View

	Budget Category
▸	Personnel
▸	Fringe Benefits
▸	Travel
▸	Equipment
▸	Supplies
▸	Construction
▸	SubAwards
▸	Procurement Contracts
▸	Other Costs
▸	Indirect Costs

DOES THIS BUDGET CONTAIN CONFERENCE COSTS WHICH IS DEFINED BROADLY TO INCLUDE MEETINGS, RETREATS, SEMINARS, SYMPOSIA, AND TRAINING ACTIVITIES? No

☐ *I have read and understand the information presented in this section of the Federal Award Instrument.*

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

1

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2022)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2022, are set out at https://ojp.gov/funding/Explore/FY22AppropriationsRestrictions.htm, and are incorporated by reference

here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

2

Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2022 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2022 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2022 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at https://ojp.gov/funding/Part200UniformRequirements.htm.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3

Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

4

OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at https://www.ojp.gov/funding/implement/training-guiding-principles-grantees-and-subgrantees.

5

Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after October 15, 2020, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after January 1, 2020, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at https://www.ojp.gov/training/fmts.htm. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6

Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

7

Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and

incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

8

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at https://www.ecfr.gov/cgi-bin/ECFR?page=browse), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

9

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

10

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

11

Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

12

Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

13

Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

14

Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

15

Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at https://ojp.gov/funding/Explore/Interact-Minors.htm (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16

Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

17

Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at https://ojp.gov/financialguide/DOJ/index.htm), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

18

Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

19

Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

20

Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (https://www.e-verify.gov/) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

21

Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

22

Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

23

All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at https://ojp.gov/funding/Explore/SubawardAuthorization.htm (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

24

Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov/. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at https://ojp.gov/funding/Explore/SAM.htm (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

25

Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the

awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26

Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $250,000)), and are incorporated by reference here.

27

Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

28

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency,

must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

29

Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

30

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

31

Verification and updating of recipient contact information

The recipient must verify its Grant Award Administrator, Financial Manager, and Authorized Representative contact information in JustGrants, including telephone number and e-mail address. If any information is incorrect or has changed, the award recipient's Entity Administrator must make changes to contact information through DIAMD. Instructions on how to update contact information in JustGrants can be found at https://justicegrants.usdoj.gov/training/training-entity-management.

32

Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

33

Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

34

Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

35

Copyright; Data rights

The recipient acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward (at any tier); and (2) any rights of copyright to which a recipient or subrecipient (at any tier) purchases ownership with Federal support.

The recipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under any such award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the recipient (and of each subrecipient (at any tier), if applicable) to ensure that the provisions of this condition are included in any subaward (at any tier) under this award.

The recipient has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the recipient shall promptly bring such refusal to the attention of the OJP program manager for the award and not proceed with the agreement in question without further authorization from the OJP program office.

36

Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https:/ / it.ojp.gov/ gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

37

Body-worn cameras, policies and procedures

In accepting this award, the recipient agrees not to use award funds for purchases of body-worn cameras or related expenses for any agency unless that agency has policies and procedures in place that reinforce appropriate agency Use of Force policies and training and address technology usage, evidence acquisition, data storage and retention, as well as privacy issues, accountability and discipline.

38

Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards, and is listed on the NIJ Compliant Body Armor Model List. In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information and the NIJ Compliant Body Armor List may be found by following the links located on the NIJ Body Armor page: https://nij.ojp.gov/topics/equipment-and-technology/body-armor. In addition, if recipient uses funds under this award to purchase body armor, the recipient is strongly encouraged to have a "mandatory wear" policy in effect. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

39

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

40

Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

41

Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements: "This project was supported by Grant No. <AWARD_NUMBER> awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities.

42

The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

43

FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of $30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at https://ojp.gov/funding/Explore/FFATA.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than $30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

44

The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

45

Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of $650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

46

Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

47

Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

48

The recipient shall submit semiannual performance reports. Performance reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted to the Office of Justice Programs, on-line through the Internet at https://justgrants.usdoj.gov

49

The recipient agrees that it will submit quarterly financial status reports (the SF 425 Federal Financial Report) to OJP in JustGrants, no later than the deadlines set out in the DOJ Financial Guide and the JustGrants guidance (typically 30 days after the end of each calendar quarter). Delinquent reports may lead to funds being frozen and other remedies.

50

Recipients utilizing award funds for forensic genealogy testing must adhere to the United States Department of Justice Interim Policy Forensic Genealogical DNA Analysis and Searching (https://www.justice.gov/olp/page/file/1204386/download), and must collect and report the metrics identified in Section IX of that document to BJA.

Load More

☐ *I have read and understand the information presented in this section of the Federal Award Instrument.*

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official	Name of Approving Official	Signed Date And Time
Deputy Assistant Attorney General	Maureen Henneberg	7/25/22 1:07 PM

Authorized Representative

Entity Acceptance

Title of Authorized Entity Official

Director of Municipal Services and Capital Programs

Signed Date And Time

——

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: 8-9-2022

DEPARTMENT: Municipal Services	BY: Angie Barrios-Testa, Director	DATE: 8-1-2022

SUBJECT: Resolution Adopting the FY2024-2028 Infrastructure Capital Improvement Plan (ICIP)

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

During the July 26, 2022 City Council meeting staff presented the recommended FY2024-2028 Infrastructure Capital Improvement Plan (ICIP) project list for review and comments by City Council. The City was not successful in its recent grant application request for the Alejandro Ruiz Senior Center Meals Program Kitchen Equipment, therefore, this project was the only one added back to the final list. This will allow staff to seek Aging & Long Term Services future funding for this project. City staff is pleased to submit for consideration the attached resolution adopting the FY2024-2028 Infrastructure Capital Improvement Plan.

Once approved, the FY2024-2028 ICIP becomes the working capital project list for the City of Carlsbad. In order to be more efficient and proactive in funding the projects through alternate sources, the City Council designates the Mayor or his/her designee signature authority to take all actions necessary to seek and apply for funding opportunities as they become available. The resolution ensures City Council retains authority to accept and approve awards or contracts related to any funding opportunity applications submitted by the City.

The deadline to submit the ICIP into the Department of Finance and Administration's database is August 19, 2022 for all Municipalities. The ICIP for Senior Citizen Facilities is due on September 9, 2022.

DEPARTMENT RECOMMENDATION: City Council approve the resolution adopting the FY2024/2028 Infrastructure Capital Improvement Plan for the City of Carlsbad.

BOARD/COMMISSION/COMMITTEE ACTION:

P & Z	Lodgers Tax Board	Riverwalk Rec Center Board	APPROVED
Museum Board	San Jose Board	Water Board	DISAPPROVED
Library Board	N. Mesa Board	Beautification Committee	

Reviewed by:
City Administrator: /s/John Lowe **Date:** 08/04/2022

CITY OF CARLSBAD

RESOLUTION NO. 2022-37

A RESOLUTION ADOPTING THE FY 2024-2028 INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP)

WHEREAS, the City of Carlsbad recognized that the financing of public capital projects has become a major concern in New Mexico and nationally; and

WHEREAS, in times of scarce resources, it is necessary to find new financing mechanisms and maximize the use of existing resources; and

WHEREAS, systematic capital improvements planning is an effective tool for communities to define their development needs, establish priorities, and pursue concrete actions and strategies to achieve necessary project development; and

WHEREAS, this process contributes to local and regional efforts in project identification and selection in short and long range capital planning efforts; and

WHEREAS, the City of Carlsbad desires to improve the process of financing public improvement projects with state, federal or local funding for capital projects identified in the Infrastructure Capital Improvement Plan (Exhibit A – Municipality ICIP List and Exhibit B Senior Facility ICIP List); and

WHEREAS, the City Council recognizes that state, federal, and local notice of funding opportunities have specific, and at times, short submission deadlines; and

WHEREAS, the City Council desires to be more effective and proactive, hereby, directs staff to seek, prepare, and submit applications as state, federal, and local notices of funding opportunity become available; and

WHEREAS, the City Council retains its authority to accept and approve funding awards or contracts related to any funding opportunity applications submitted by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CARLSBAD, NEW MEXICO, that**:**

1. The City of Carlsbad has adopted the attached FY 2024-2028 Infrastructure Capital Improvement Plan, and

2. It is intended that the Plan be a working document and is the first of many steps toward improving rational, long-range capital planning and budgeting for New Mexico's infrastructure.

3. The Mayor or his/her designee is delegated signature authority and shall take all actions necessary to seek and apply for funding the Infrastructure Capital Improvement Plan projects, and

4. The City Council retains its authority to accept and approve funding awards or contracts related to any funding opportunity applications submitted by the City, and

5. This Resolution supersedes Resolution No. 2021-44

PASSED, APPROVED and ADOPTED by the governing body at its meeting of August 9, 2022

_____

Mayor, City of Carlsbad

ATTEST:

_____

City Clerk

EXHIBIT "A"
CITY OF CARLSBAD
INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP) FY2024-2028
MUNICIPALITY ICIP (49 PROJECTS)

1. **Double Eagle Waterline Replacement**
2. **Double Eagle Waterline – Connection to Tatum Wells**
3. **Dark Canyon Bridge & Bikeway**
4. **Primary Sewer Lift Station Wet Well**
5. **National Parks Hwy Sewer**
6. **East Greene St. Waterline Upgrade**
7. **Effluent Water Reuse Project Ph#5-B**
8. **Cavern Theater Rehabilitation**
9. **PD Vehicle Fleet**
10. **Old Cavern Hwy Reconstruction**
11. **Repair Riverwalk Recreation Center**
12. **New Fire Station-North Ph. 1-3**
13. **Road Safety Assistance Vehicle**
14. **Six-Mile Dam Recreation Area**
15. **Recycling Program Improvements**
16. **Dark Canyon Erosion Control and Divergence Feasibility Study**
17. **MainStreet Pedestrian Safety and Public Restrooms**
18. **Purchase Land for Affordable Housing Project**
19. **Library HVAC Renovations**
20. **Water System Improvements**
21. **Fire Station 2 Remodel**
22. **PD In-Car Video System**
23. **Civic Center Improvements**
24. **Fire Department SCBA & RIT Equipment Upgrades**
25. **New Main Fire Station**
26. **Sage Area Sidewalk Improvements**
27. **Museum Archives/Collections Annex**

28. **Municipal Court Security Upgrades**
29. **PD Evidence Holding and Processing Facility**
30. **Sheep's Draw Reservoir #5**
31. **Golf Course Irrigation System Replacement**
32. **Library Archive Digitization**
33. **Library Security Upgrades (RFID Security Gates)**
34. **Primrose Street Extension**
35. **W. Orchard Lane Sewer Upgrade/Upsize**
36. **MainStreet Wayfinding Signage**
37. **Fire Station 1 – Solar Carport**
38. **Fixed Base Radios Read Water Meter System**
39. **Halagueno Arts Parks**
40. **Traffic Signalization Improvements**
41. **Carlsbad Police Main Station Renovations**
42. **Fire Department – Rescue Boat Replacement**
43. **South Carlsbad Sewer Improvements**
44. **Carlsbad Sewer Improvement**
45. **Sewer Line Rehab Program**
46. **Halagueno/East Greene Storm Drainage Improvements**
47. **Fiber Network Upgrades**
48. **Davis Street Reconstruction**
49. **Lazy River Expansion - Water Park**

EXHIBIT B
CITY OF CARLSBAD
INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP) FY2024-2028
SENIOR CENTER FACILITY (6 PROJECTS)

ALEJANDRO RUIZ SENIOR CENTER (ARSC) *

1. **Alejandro Ruiz Senior Center - Building Renovation**
2. **Alejandro Ruiz Senior Center Meals Kitchen Equipment**
3. **Alejandro Ruiz Senior Center Nutritional Program Vehicles**
4. **Alejandro Ruiz Senior Center (Activities) Transportation Vehicle**

*Note: Alejandro Ruiz Senior Center formally known as the San Jose Senior Recreation Center – facility was renamed in March 9, 2021

NORTH MESA SENIOR RECREATION CENTER

1. **North Mesa Senior Recreation Center – Outdoor Fitness Recreation**
2. **North Mesa Senior Recreation Center Expansion and Renovations**

MUNICIPALITY ICIP FY2024-2028

PROJECT SUMMARIES (49)

1. **Double Eagle Waterline Replacement - $3,000,000 Phase III (EDA/Capital Outlay Funded $3.6 Million for Phase I and II)**
   To plan, design, construct, and replace existing water lines in the Double Eagle water well field in Carlsbad, NM. The lines to be replaced serve as gathering lines and transmission lines from the two well fields. This project is being phased.

2. **Double Eagle Waterline – Connection to Tatum Well Fields - $9,772,830 ($330,757 Funded/FY2021 $1,431,100)**
   To plan (including environmental Studies), design and construct a new water line from the Tatum Wells area to the existing Double Eagle Water System. Also included in this project will be the drilling of up to 21 additional permitted wells in the Tatum Well Field area. Phase 1 includes design and construction of the waterline to connect the two water fields and the drilling and equipping of new wells.

3. **Dark Canyon Bridge & Bikeway – $22,000,000**
   To plan, design, and construct a new bridge at Boyd Dr. and Radio Blvd. crossing Dark Canyon including a bikeway, in Eddy County.

4. **Primary Sewer Lift Station Wet Well - $500,000 (Construction Estimate $2,000,000)**
   To plan and design a second sewer wet well for the City's Primary sewer lift station. All of the City's sewer flows through this critical facility.

5. **National Parks Hwy Sewer - $3,600,000 (Received $500,000 in 2020 Capital Outlay)**
   To plan, design, and construct a sewer line; including sewer interceptor, manholes, fittings, and attachments.

6. **East Greene St. Waterline Upgrade - $1,554,000 Phase I**
   The project involves repurposing approximately 9,750 LF of existing water line and installing 4,040 LF of new waterline to increase fire flow capacities to the industrial park areas along E. Greene St. The length of line that will be impacted is approximately 13,790 LF (approximately 2.6 miles). The project scope includes planning, design, and construction. Phase 1 of this project has a budgetary cost of $1,526,000, which includes engineering, construction, 20% contingency, and NMGRT.

7. **Effluent Water Reuse Project Ph#5-B - $3,706,826 (Additional $3,900,000 Previously Funded)**
   To Construct Phase 5B of the Effluent Reuse Project. Phase 5B will include a third storage pond, waterlines, appurtenances and facilities needed to reuse effluent water to water the East and west side of Lake Carlsbad's extensive Park system. This phase will complete a water conservation project that has taken over a decade to complete and insure our citizens have a supply of freshwater.

8. **Cavern Theater Rehabilitation - $2,500,000 ($3,103,410 Funded)**
   To plan, design, renovate, equip, install, and furnish the historic Cavern Theater performance arts cultural center in Carlsbad, in Eddy County. Phase 4B will complete the rehabilitation of the concession stand including plumbing and electrical. This phase will include rehab of the ceiling area, install of the new acoustic clouds, install new house lights, fire sprinkler heads and lines, and the audio video projection system and screen, sound system and control panel, stage curtains and rigging, and seating.

9. **PD Vehicle Fleet Replacement - $1,000,000 ($200,000 Funded/$200,000 Each for Five Years)**
   To purchase and equip new police vehicles. The need exists to continuously upgrade older marked patrol vehicles due to excessive use, wear and tear. The necessity to maintain a newer fleet is paramount regarding both officer and community safety. A continuous replacement system allows for sustainment of a newer and safer fleet.

10. **Old Cavern Hwy Reconstruct - $3,100,000 ($300,000 Funded)**
    This project will be a complete rebuild from the subgrade up to finished surface, from the intersection of Farris St. and Old Cavern Highway at the north end of this phase, to city limits approximately 600 feet south of Chapman Road. This phase encompasses approximately 5,977 LF of roadway reconstruction. Total project budget requested is $3,100,000.00.

11. **Repair Riverwalk Recreation Center –$1,700,000 (Pending $750,000 in 2022 Capital Outlay)**
    To plan, design, equip, furnish and construct improvements to the Riverwalk Recreation Center. Phase 2 improvements will include an energy efficiency plan, HVAC improvements, and renovations of interior spaces, security system for doors and cameras.

12. **New Fire Station-North Ph. 1-3 - $1,500,000**
    To acquire the land, plan, design, construct, furnish and equip a new fire station north of the Pecos River in Carlsbad, NM, Eddy County. Plan and acquire property (Ph.1), design (Ph.2), and construct, equip (Ph.3) a new 6,400 sq. foot Fire Station Facility-North of the Pecos River, including parking lot, storage and landscaping etc. This area is secluded from the rest of the City. Floods and frequent railway traffic impede and often totally block access to this area from existing emergency facilities. The Insurance Services Organization (ISO) standards describe the need for a fire station to serve this area.

13. **Road Safety Assistance Vehicle - $750,000**
    To purchase, install, and equip a road safety assistance vehicle to help clear the roadways of debris and other road hazards caused by emergencies such as flooding and other man-made or natural disasters.

14. **Six-Mile Dam Recreation Area (New Project) - $900,000**
    To plan, acquire property, design, and construct a recreation area at the City's 6 Mile Dam. Phase I includes preliminary design and planning. Phase II will be to construct the recreation area in existing City owned property. Future phases will connect walking, running, and non-motorized bike trails from the Lower Tansil area along the Pecos River to the new 6 Mile Dam Recreation area.

15. **Recycling Program Improvements - $150,000**
    To plan, design, construct and equip a receiving building for a recycling program. Improvements to the City's recycling program include the design and construction of a receiving building and purchasing and installation of

conveyance and sorting equipment. Also included is the purchase of professional services to explore the idea of program expansion and the construction of a new recycling material processing facility.

16. **Dark Canyon Erosion Control Feasibility Study – $100,000**
    Feasibility study to find erosion control and divergence methods ideal for Dark Canyon.

17. **MainStreet Pedestrian Safety and Public Restrooms- $1,000,000**
    Plan, Design and Construct alley connections as attractive pedestrian walkways to encourage visitors and downtown employees to use them as convenient and safe pedestrian links to downtown. Provide public restrooms for tourists and those using the downtown area.

18. **Purchase Land for Affordable Housing Project - $5,230,000**
    This project will purchase land for affordable housing project, conduct all environmental studies, conduct site planning, and solicit RFPs from affordable housing developers. The selected developer and proposal will then be contracted to construct an affordable housing product. This project will have two phases. Phase 1 consists of the acquisition of property and all studies needed to build on this property. Phase 2 will consist of the RFP, design, and construction of the project.

19. **Library HVAC Renovations - $600,000**
    To plan, design, equip, and install new air flow units for the boiler are needed to provide required air handling for separate building areas, incorporate variable speed drives to improve temperature control, moderate excessive air flow to certain areas, and reduce energy usage.

20. **Water System Improvements - $1,000,000 (FY2021 Funded $1,000,000, Total Project $6,000,000)**
    To plan, design and construct system wide waterline improvements. Plan, design and construct improvements to the Municipal Water System including waterline extensions, waterline replacement, minor repairs to booster and pressure reducing stations, repairs to reservoirs, fire lines and dead end lines.

21. **Fire Station 2 Remodel - $2,500,000**
    This project will remodel the entire station, add one apparatus bay, and extend the two existing apparatus bays.

22. **PD In-Car Video System - $300,000 ($48,000 Funded)**
    To purchase, furnish and equip all new vehicles with an in-car camera system and accompanying body worn cameras. The PD needs to place in-car videos and accompanying body cameras into all marked patrol units. This is not only industry wide best practice, but it also provides for crucial prosecutorial evidence as well as significant administrative assistance.

23. **Civic Center Improvements - ($2,550,000 - $550,000 Funded) $2,000,000**
    To plan, design, equip, install, and construct improvements to the Walter Gerrells Performing Arts Center (Civic Center) in the City of Carlsbad in Eddy County. The project being phased includes; Fire Suppression Sprinkler System to update fire code compliance, ADA compliant entrance lobby and seating replacements, upgrade HVAC System, parking improvements including RV hook-ups, and auditorium and annex wall partitions.

24. Fire Department SCBA & RIT Equipment Upgrades - $75,000

The Fire Department needs to equip and update its SCBA (Self Contained Breathing Apparatus) air packs and its RIT (Rapid Intervention Team) air packs. The Department needs to purchase the SCBA's and RIT packs to be compliant with NFPA. The Department currently has air packs that are serviceable but that are not within the NFPA guidelines. The Department currently does not have RIT packs.

25. New Main Fire Station - $10,350,000

Plan, design, demolish current station, construct and furnish new Fire Station #1. Plan, design, demolish current station, construct and furnish new Fire Station #1. The Carlsbad Fire Department desperately needs a new main facility. Expansion of the Fire Department with additional personnel, vehicles, and equipment in response to a dramatically increased call volume over the last 20 years has severely impacted our dormitory occupancy, living space, training areas, vehicle parking and protection, equipment repair areas, administrative office space, storage, and all operational infrastructure.

26. Sage Area Sidewalk Improvements - $498,000

To plan, design, and construct sidewalks on Sage St., Montgomery and Caviness St.

27. Museum Archives/Collections Annex - $2,500,000 ($300,000 for local funds for acquisition)

To acquire property, plan, design and renovate a facility to be used as an annex to the museum for archives and art displays. This will allow the collections currently stored-away to be accessible to the public for research and viewing. The City is also exploring the possible alternative of renovating existing space in another City owned facility as a viable option.

28. Municipal Court Security Upgrades – $100,000

Municipal Court Security Upgrades to include security bulletproof glass and other improvements and equipment

29. PD Evidence Holding and Processing Facility - $650,000

To plan, design and construct additional bays to house a holding facility for vehicles and offices for processing. The City plans to renovate an old fire station to become a substation located on the south portion of the City.

30. Sheep's Draw Reservoir #5 - $6,000,000

To plan, design, and construct a new 5 million gallon reservoir tank in the Sheep's Draw water well field in Carlsbad, NM, Eddy County. To plan, design, and construct a new 5 Million Gallon Reservoir at the Sheep's Draw Wellfield. The City will issue an RFP for the design and engineering of the new reservoir.

31. Golf Course Irrigation System Replacement - $2,000,000

To design, replace and upgrade the entire irrigation system at Lake Carlsbad Golf Course for reliability and efficiency.

32. Library Archive Digitization - $100,000

To plan, design, purchase and install a digitized public library archives system. The plan and design phase will include hiring a consultant to determine the scope of work and the first implementation phase to digitize archives. Once established, the next phase will include digitizing additional portions of the collection.

33. Library Security Upgrades (RFID Security Gates) - $30,000

To purchase, and install a RFID security system. The library currently uses RFID technology on all items for checkout purposes. This project would enable RFID technology for inventory and anti-theft purposes.

34. Primrose Street Extension - $475,000

To plan, design, and construct a street extension on Primrose Street connecting to Wood Ave. This will benefit the newly constructed Desert Willow Elementary School.

35. W. Orchard Lane Sewer Upgrade/Upsize - $1,900,000

The project involves replacing approximately 3,010 linear feet of undersized 12-inch vitrified clay pipe (VCP) with 15-inch C-900 PVC pipe, including new manholes and service laterals, from a utility easement north of West Orchard Lane near Country Club Way to the intersection of West Orchard Lane and North Canal Street. The project scope includes planning, design, and construction. This project has a planning level budgetary cost of $1,900,000, which includes engineering, construction, 20% contingency, and NMGRT.

36. MainStreet Wayfinding Signage - $78,000

To plan, design and install wayfinding signage in downtown MainStreet Carlsbad as well as surrounding areas that include both the Arts and Cultural District and Historical District.

37. Fire Station 1 – Solar Carport - $30,000

To plan and design a solar carport at its Main Fire Station No. 1. To provide energy savings as well as protect fire units from the elements. This initial phase is mainly for planning to determine cost of construction.

38. Fixed Base Radios Read Water Meter System - $4,500,000

To purchase and install a fixed base radio reading system for water meters in Carlsbad, NM, Eddy County. This project will consist of the purchasing and installation of radio read meters and collectors for a fixed base reading system for the City's water meters.

39. Halagueno Arts Parks – $500,000 ($800,000 Funded)

To plan, design and construct art exhibits, landscaping, lighting and other improvements to the Halagueno Art Park (Phase IV).

40. Traffic Signalization Improvements - $1,050,000 ($350,000 Each for 3 Years)

To furnish and replace existing traffic signals with new ones at 2 intersections. Several key intersections lack proper traffic signals and most existing signals are old and outdated. New signals have brighter LED lamps, video detection, and upgraded controllers.

41. Carlsbad Police Main Station Renovations - $2,750,000

The project involves the design of new construction and renovations to the Carlsbad Police Department. It will include the completion of the 4th floor which has remained incomplete for 15 years and the renovation of the 1st floor. This project could be completed in two phases. Phase 1 being the completion of construction on the 4th floor. Phase 2 being the renovation to the 1st floor.

42. Fire Department – Rescue Boat Replacement - $75,000

To purchase and equip a rescue boat for the Fire Department's rescue boat and dive operations. The existing boat is in need of replacement. The boat is used for river patrol and for special events from Memorial Weekend to Labor Day, as well as Christmas on the Pecos when hundreds and thousands of people are enjoying the Pecos River in Carlsbad, NM

43. South Carlsbad Sewer Improvement - $8,719,215 (FY2022 $3,108,300, FY 2023 $2,165,841, FY2024 $3,445,074)

To plan, design and construct new sewer improvements for south, Carlsbad, NM in Eddy County. Design and construct the expansion of sewer lines to different areas in the south half of Carlsbad where sewer service is not currently available. The first phase of the project includes an infrastructure assessment. Once the assessment is complete, extending the sewer lines to areas such as Standpipe Road, Old Cavern Hwy., Chapman Road, Radio Blvd., Union Street and Quay will be scheduled for inclusion in the subsequent phases. Phases will be set due to need and growth patterns.

44. Carlsbad Sewer Improvement - $14,260,678 ($600,000 funded/FY2022 $1,778,211)

To design and construct new sewer line extensions. Design and construct expansion of sewer lines to different areas located north of the Pecos River where sewer service is not currently available. This project includes the unincorporated area of La Huerta. The project will eliminate the use of septic tanks in an area adjacent to the Pecos River. This is a Joint City Of Carlsbad/County of Eddy Project.

45. Sewer Line Rehab Program - $1,349,774 ($1,000,000 funded/FY2021 $349,774 for Design)

To design a program and purchase or acquire the equipment needed to clean and video tape sewer lines. Design a sewer line rehab program consisting of cleaning and video-taping to identify problems and implementing repairs to existing clay pipe sewer lines which are more than 40 years old.

46. Halagueno/East Greene Storm Drainage Improvements – $3,298,200 ($600,000 Capital Outlay Funded)

To plan, design, and construct extensions to the Canal Street Storm Drain for the City of Carlsbad, Eddy County, NM.

47. Fiber Network Upgrades – $1,000,000

Improve broadband capabilities for various City facilities by upgrading to fiber optics infrastructure. Fiber optic cables provide higher bandwidth and transmit data over longer distances. Fiber optic cables support much of the community's internet, cable television, and telephone systems. This has become even more of a critical infrastructure as the City and the community faced negative impacts caused by closures and the need for internet increased during the COVID-19 pandemic.

48. Davis Street Reconstruction - $1,100,000

To design and reconstruct Davis Street with new paving, curb, gutter, sidewalk, water and sewer lines and ADA curb returns.

49. Lazy River Expansion - Water Park - $1,650,000 ($150,000 Previously Funded)

To design and construct a separate lazy river feature complete with new support facility for water treatment, water pumps, restrooms, and shade structures at the Carlsbad Water Park.

SENIOR CENTER FACILITY ICIP FY2024-2028 - DRAFT

PROJECT SUMMARIES PER FACILITY

ALEJANDRO RUIZ (SAN JOSE) SENIOR CENTER (4)

1. **Alejandro Ruiz Senior Center - Building Renovation - $2,500,000 ($4,040,307 Previous and Pending Funds)**
   To plan, design, and construct improvements at the Alejandro Ruiz Senior Center located at 120 Kircher St. in Carlsbad in Eddy County. This will include Phase 4 renovations for additional rooms for activity rooms, office spaces, and additional ADA restrooms on the east side of the building. Phase 4 will require asbestos abatement. A future phase will include outdoor improvements to xeriscape and for outdoor recreation improvements.

2. **Alejandro Ruiz Senior Center Nutritional Program Kitchen Equipment - $87,000**
   To purchase, install, and furnish upgraded kitchen equipment for the Alejandro Ruiz/San Jose Senior Center.

3. **Alejandro Ruiz Senior Center Nutritional Program Vehicles - $200,000 (Pending ALTSD 2022 Funding $162,024)**
   To purchase, install, and equip ADA accessible passenger vehicles and food transportation units for the Alejandro Ruiz/San Jose Senior Center.

4. **Alejandro Ruiz Senior Center (Activities) Transportation Vehicle - $30,000**
   To purchase a new vehicle for the senior services program at San Jose Senior Center. This will allow staff to transport seniors for various programs.

NORTH MESA SENIOR RECREATION CENTER (2)

1. **North Mesa Senior Recreation Center – Outdoor Fitness Recreation Area - $431,021**
   To plan, design, purchase, install, and furnish an outdoor recreation structure and exercise equipment for the North Mesa Senior Recreation Center.

2. **North Mesa Senior Recreation Center Expansion and Renovations $800,000 ($1,000,000)**
   To purchase property, plan, design, and construct renovations to the North Mesa Senior Center. This will include property acquisition, and expansion of the parking area. A later phase will include expansion of the facility to add a large activity area and more activity rooms.

CITY OF CARLSBAD

AGENDA BRIEFING MEMORANDUM

Council Meeting Date: August 9, 2022

DEPARTMENT: Legal	**BY:** Denise Madrid Boyea DB	**DATE**: July 28, 2022

SUBJECT:

Proposed Resolution requiring the removal of the ruins, rubbish, wreckage, debris and weeds at **2301 & 2303 Iowa Street/305 S. 6th Street**

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The property commonly known as **2301 & 2303 Iowa Street/305 S. 6th Street, Carlsbad, NM** is in a residential neighborhood near the intersection of 6th Street and Texas. This property has non-running vehicles in the back yard, overgrown weeds in the alley and on the property, a camper next to the house that is inhabited and trash, debris and appliances in the yard. The Eddy County Assessor's Office lists **Maria L. Ramos** as owning or having an interest in the property. The Assessor's records list **Maria L. Ramos'** address as **305 S. 6th Street Carlsbad, NM 88220**.

The camper on the property appears to be occupied, but the lot has not been maintained. Code enforcement has been to the property. This property is a problem and has come to the attention of code enforcement as a result of the condition of the property. There is trash, debris and weeds throughout the property.

The property has been inspected by the City Code Enforcement Officer and the Fire Marshal. They found that the property remains out of compliance with applicable codes. The trash, debris and weeds remain on the property. The Fire Marshal found that the property presents an extreme fire hazard for responding firefighters and emergency personnel. Code enforcement placed a door hanger Notice of Violation on the door on 4/1/22 and mailed a Notice of Violation on 4/14/22 via certified mail, which was picked up on 6/9/22.

A resolution has been prepared which, if adopted, would require the property owner to remove all ruins, rubbish, wreckage, debris and weeds from the property within thirty days of the service of the resolution.

On July 25, 2022, a certified letter was sent to **Maria L. Ramos** at the address on the records of the County Assessor at **305 S. 6th Street Carlsbad, NM 88220**.

DEPARTMENT RECOMMENDATION:

Adopt the proposed resolution.

BOARD/COMMISSION/COMMITTEE ACTION: N/A

☐ P & Z	☐ Lodgers Tax Board	☐ Cemetery Board	} ☐ **APPROVED**
☐ Museum Board	☐ San Jose Board	☐ Water Board	}
☐ Library Board	☐ North Mesa Board	☐ _____ Committee	} ☐ **DISAPPROVED**

Reviewed by:
City Administrator /s/John Lowe **Date:** 08/04/2022

ATTACHMENT(S):

Proposed Resolution with Attachments
Photographs
Letter to **Maria L. Ramos** dated July 25, 2022.

RESOLUTION NO. 2022-38

A RESOLUTION FINDING 2301 & 2303 IOWA/305 S. 6TH TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, DEBRIS, AND/OR WEEDS AND REQUIRING THE REMOVAL OF THE RUINS, RUBBISH, WRECKAGE, DEBRIS, AND/OR WEEDS

WHEREAS, the records of the Eddy County Assessor's Office show **Maria L. Ramos** to be the owners of or to have an interest in the property commonly known as **2301 & 2303 Iowa/305 S. 6th Street**, Carlsbad, Eddy County, New Mexico, and more particularly described as:

> Subd: MITCHELL (AMENDED) Lot: 1 Block: 4 LOT 1 MAP# 220-MA4-1 CAB# 1-1-1 LOC 305 S SIXTH LOT SIZE 50' X 162'
>
> Subd: MITCHELL (AMENDED) Lot: 3 Block: 4 LOT 3 MAP# 220-MA4-3 CAB# 1-1-1 LOC 305 S SIXTH ST LOT SIZE 50' X 162'

hereinafter referred to as “Property”, and

WHEREAS, the Property has been inspected by the Carlsbad Code Enforcement Officer and the City Fire Marshal; and

WHEREAS, the Code Enforcement Officer and the Fire Marshal found that the Property has not been adequately maintained; and

WHEREAS, the Property contains a large amount of ruins, rubbish, wreckage, and/or debris, and some weeds; and

WHEREAS, the Property is in an unsafe condition and constitutes a hazard to the surrounding properties, residents and passersby; and

WHEREAS, the Code Enforcement Officer found that the specific violations, under Code of Ordinances of the City of Carlsbad, at the Property include, but are not limited to those listed on the attached Exhibit “A”; and

WHEREAS, the City Fire Marshal has inspected the Property and found that the specific violations at the Property under Fire Code include, but are not limited to those listed on the attached Exhibit “B”; and

WHEREAS, the Property and all ruins, rubbish, wreckage, debris, and weeds are a menace to the public comfort, health, peace, and safety and require removal forthwith;

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Carlsbad, Eddy County, New Mexico that:

1. A copy of this Resolution shall be served on the record owner, as shown by the real estate records of the County Clerk, occupants, or agents in charge of the Property. Such service shall be in person if such a person can be found within the City of Carlsbad, New Mexico after a reasonable search.

2. If a record owner, occupant, or agent in charge of the Property cannot be located within the City of Carlsbad, New Mexico, notice shall be by posting at the Property and by publishing this Resolution one time in a newspaper in general circulation in the City of Carlsbad.

3. Within ten days of either the receipt of a copy of this Resolution or the posting and publishing of this Resolution, the owner, occupant, or agent in charge of the Property shall either:

A. Commence removing all ruins, rubbish, wreckage, debris, and weeds from the premises; or

B. File a written objection with the Carlsbad Municipal Clerk at 101 N. Halagueno, Carlsbad, New Mexico 88220 and request a hearing before the City Council.

4. If a written objection is filed as required, the City Council shall proceed as directed by Chapter 22, Article II of the Code of Ordinances, City of Carlsbad, New Mexico.

5. The removal of the ruins, rubbish, wreckage, debris, and weeds shall:

A. Begin immediately;

B. Proceed properly and with diligence; and

C. Be completed in a timely manner;

D. BUT IN NO CASE SHALL SUCH WORK TAKE LONGER THAN THIRTY (30) DAYS FROM THE DATE THE RESOLUTION WAS SERVED UNLESS THE CARLSBAD CITY COUNCIL CONSENTS IN WRITING TO AN EXTENSION.

6. Any removal of the ruins, rubbish, wreckage, debris, or weeds shall leave the property from which the materials have been removed in a clean, level, and safe condition, suitable for further occupancy or construction and with all excavations filled.

7. If the owner, occupant, or agent in charge does not commence the removal of the stated items, and if no written objection is filed as required, or if the removal of the stated items is not completed in a timely manner, the City may remove the ruins, rubbish, wreckage, debris, and/or weeds at the cost and expense of the owner.

8. The reasonable cost of such a removal shall constitute a lien against the ruins, rubbish, wreckage, debris, and/or weeds so removed and against the lot or parcel of land from which it was removed.

9. The City Clerk shall make out, sign, attest, file, and record in the office of the Eddy County Clerk's Office, a claim of lien upon the described premises.

10. The lien shall bear interest at the rate of twelve percent (12%) per annum from the date of filing until paid, together with reasonable attorney's fees for the foreclosure of the same. The lien shall be foreclosed in any manner proved by an applicable state lien foreclosure law.

INTRODUCED, PASSED, ADOPTED, AND APPROVED this 9th day of August, 2022.

_____
DALE JANWAY, MAYOR

ATTEST:

_____
NADINE MIRELES, CITY CLERK

CITY OF CARLSBAD
Planning, Engineering, and Regulation Department
114 S. Halagueno, PO Box 1569
Carlsbad, New Mexico 88220
Phone (575) 885-1185, Fax (575) 628-8379

CODE ENFORCEMENT REPORT

Case Number:	Date of Complaint:	Complaint Taken By:
CE- ___-_____	6/1/2022	Lonnie Jaquez
	Complainant Name:	Phone Number:

Complaint Location:
2301 & 2303 Iowa Street, Carlsbad, N.M. 88220

Details of Complaint:
-Non-Running vehicles in back yard.
-Overgrown weeds in alley and on property.
-Campers on property with occupants.
-Trash, debri's, and appliances.

Primary Structure:	Photographs Taken (attach):	CE District:
■ Residential ☐ Commercial	■ Yes	☐ North
☐ Occupied ☐ Vacant	☐ No	■ South
☐ Secured ☐ Unsecured		
☐ No structure on property		

Narrative:
-Letter taped on door.
-Final notice letter mailed.
-Unable to make contact with property owners.

Disposition of Case:

- ☐ No Basis for Complaint: _____
- ■ Mailed Notice of Violation/Date: April 14, 2022
- ■ Door Hanger Notice of Violation/Date: April 1, 2022
- ☐ Verbal Warning/Date: _____
- ☐ Referred to Other Agency: _____
- ☐ Other: _____

Code Enforcement Signature	Printed Name	Date
	Lonnie Jaquez	6/1/22

Report Information:
Entered into Database on: _____ By: _____

Page ___ of ___

EXHIBIT A

15 CITY OF CARLSBAD
Planning, Engineering, and Regulation Department
Code Enforcement Division
101 N. Halagueno St., PO Box 1569
Carlsbad, New Mexico 88220
Phone (575) 885-1185, Fax (575) 628-8379

NOTICE OF CODE VIOLATION

Date: April 14, 2022
Case: CE- 2022 - Pending
Address: 2301 & 2303 Iowa
Carlsbad, New Mexico 88220

Name and Address of Property Owner or Occupant*
4-155-127-524-359
Maria Ramos
305 South 6th
CARLSBAD, NM 88220

FINAL NOTICE

The following violation(s) of the Carlsbad Code of Ordinances have been identified as existing on your property.It is your responsibility, if you have any control over the property, to take immediate action to correct these violation(s), even if you do not actually occupy the property or if the property is occupied by others.

COMPLETION OF CORRECTIVE ACTION(S) IS REQUIRED NO LATER THAN: APRIL 21, 2022.

CORRECTIVE ACTION TO BE TAKEN (WHAT YOU SHOULD DO) BEFORE DEADLINE:
Please clean and remove RV camper and non-running vehicles off the property. Thank you for your compliance, should you have any questions please call our office at 575-885-1185.

CODE VIOLATED:
Accessory Sec. 56-70. - Uses and structures.
(13). Outdoor storage or parking of operable RV's and other operable recreational equipment, including but not limited to, boats, camping trailers, and trailers, provided the RV or other recreational equipment is not placed within the front or side-yard setbacks. An RV or other major recreational equipment may be stored in an enclosed building but may not be stored or in the public right-of-way.

CODE VIOLATED:
WASTE STORAGE (CCO 22-03):
ESTABLISHMENT OF A JUNKYARD (CCO 22-3):
EXCESS WEEDS - LOTS (CCO 22-64):

FINAL NOTICE

CODE VIOLATED:
EXCESS WEEDS - TRACTS (CCO 22-65):
VEHICLE STORAGE (CCO 50-06(d)):

FINAL NOTICE

Note: Specific details regarding the applicable ordinance may be obtained from the Code Enforcement Division Office listed above. The complete Code of Ordinances may be found on the City of Carlsbad website: www.cityofcarlsbadnm.com or in the office of the City Clerk.

The required Corrective Active listed above must be initiated immediately and be completed no later than the deadline. Failure to comply with the Ordinances of the City of Carlsbad is subject to specific actions. If the owner of the property cannot be located or refuses compliance, the City may initiate condemnation procedures under Chapter 22, Article II, of the Carlsbad Code of Ordinances to remedy the violation. Under this procedure the City will file a claim of lien against the premises in the amount of the expenditure by the City to correct each violation. Optionally, the City may seek a judgment in Municipal Court for the maximum penalty allowed by ordinance for violation of municipal ordinances. Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, a fine of not more than $500 or imprisonment for not more than 90 days, or both, plus court costs, may be imposed by the court.

*Property and owner information is received from the Eddy County Assessor's Office, Occupant, or City records.

Code Enforcement Signature	Lonnie Jaquez	04/14/22
	Printed Name	Date

7020 2450 0000 9228 0166

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

OFFICIAL USE

Certified Mail Fee	$ 3.75
Extra Services & Fees *(check box, add fee as appropriate)*	
☑ Return Receipt (hardcopy)	$ 3.05
☐ Return Receipt (electronic)	$
☐ Certified Mail Restricted Delivery	$
☐ Adult Signature Required	$
☐ Adult Signature Restricted Delivery	$
Postage	$ 0.53
Total Postage and Fees	$ 7.33

U.S. POSTAL SERVICE
APR 18 2022
CARLSBAD NM 8822[illegible]
Postmark Here

15

Sent To: Maria Ramos
Street and Apt. No., or PO Box No.: 305 South 6th
City, State, ZIP+4®: Carlsbad N.M. 88220

PS Form 3800, April 2015 PSN 7530-02-000-9047 — See Reverse for Instructio

USPS Tracking®

FAQs >

Track Another Package +

Tracking Number: 70202450000092280166

Remove ×

Your item was picked up at the post office at 11:45 am on June 9, 2022 in CARLSBAD, NM 88220.

USPS Tracking Plus® Available ∨

Delivered, Individual Picked Up at Post Office

June 9, 2022 at 11:45 am
CARLSBAD, NM 88220

Feedback

Get Updates ∨

Text & Email Updates ∨

Tracking History ∧

June 9, 2022, 11:45 am
Delivered, Individual Picked Up at Post Office
CARLSBAD, NM 88220
Your item was picked up at the post office at 11:45 am on June 9, 2022 in CARLSBAD, NM 88220.

June 9, 2022, 6:56 am
Available for Pickup
CARLSBAD, NM 88220

June 9, 2022, 6:55 am
Arrived at Post Office

CARLSBAD, NM 88220

May 3, 2022
In Transit to Next Facility

April 29, 2022, 9:48 am
Departed USPS Regional Facility
COPPELL TX DISTRIBUTION CENTER

April 25, 2022, 11:54 am
Arrived at USPS Regional Facility
COPPELL TX DISTRIBUTION CENTER

April 20, 2022, 11:41 am
Forward Expired
CARLSBAD, NM 88220

April 19, 2022, 1:45 pm
Departed USPS Regional Facility
LUBBOCK TX DISTRIBUTION CENTER

April 18, 2022, 10:38 pm
Arrived at USPS Regional Facility
LUBBOCK TX DISTRIBUTION CENTER

Feedback

USPS Tracking Plus®

Product Information

See Less

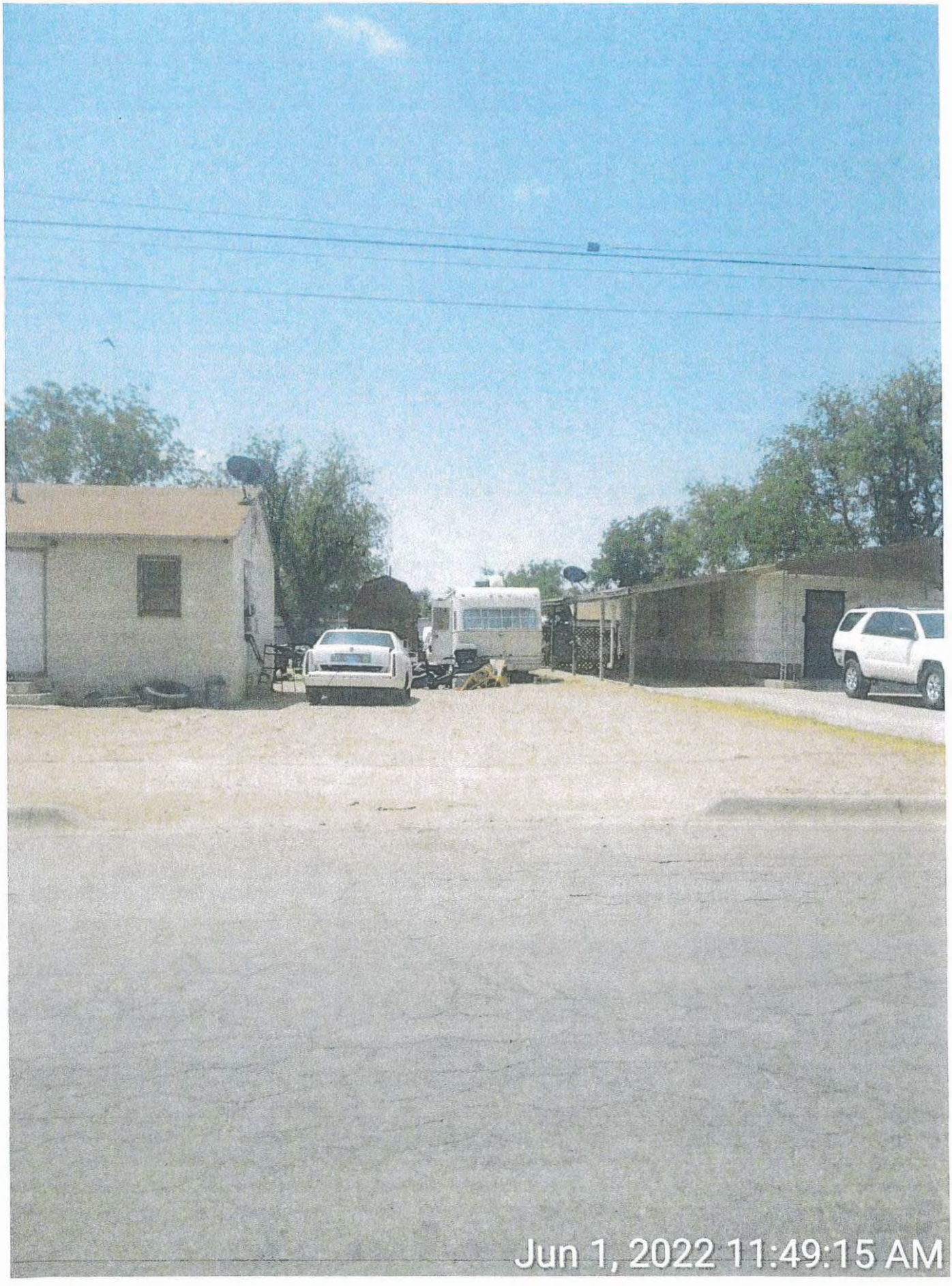
Can't find what you're looking for?

Apr 22, 2022 11:35:55 AM
2301 + 2303 Iowa Street
Carlsbad
Eddy County
New Mexico

Apr 22, 2022 11:36:12 AM
2301 & 2303 Iowa Street
Carlsbad
Eddy County
New Mexico

Apr 22, 2022 11:35:52 AM
2301 + 2303 IOWA
Carlsbad
Eddy County
New Mexico

Jun 1, 2022 11:48:42 AM


Jun 1, 2022 11:49:15 AM

Jun 1, 2022 11:49:01 AM

Jun 1, 2022 11:49:22 AM

City Of Carlsbad

Inter-Office Memorandum

Dale Janway Mayor

John Lowe, City Manager

Date: 24 June 2022

To: Denise Madrid Boyea, City Attorney

From: Ken Ahrens, Assistant Fire Chief

Re: 2301 & 2303 Iowa

On June 24, 2022, I inspected a property located at 2301 and 2303 Iowa. The increase fuel load from trash and debris around this property presents an ***extreme*** fire hazard for responding Firefighters and emergency personnel. I recommend that the property be cleaned up and the trash and debris be removed under the following fire codes.

The International Fire Code, 2015 edition states:

Section 110 Unsafe Buildings

110.1 General. If during the inspection of a building or structure or any building system, in whole or part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

110.4 Abatement. The owner, the owner's authorized agent, operator or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other approved corrective action.

Section 304 Combustible Waste Material

304.1 Waste accumulation prohibited. Combustible waste material creating a fire hazard shall not be allowed to accumulate in buildings or structures or upon premises.

304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter, or combustible or flammable rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle, or other similar structure.

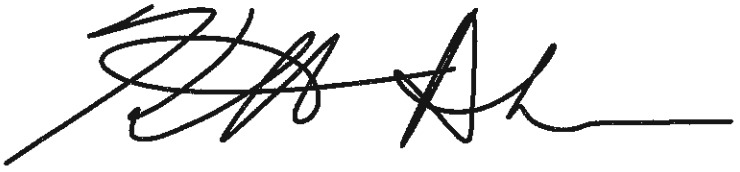
EXHIBIT B

304.1.2 Vegetation. Weeds, grass, vines or other growth that is capable of being ignited and endangering property, shall be cut down and removed by the owner or occupant of the premises.

304.2 Storage. Storage of combustible rubbish shall not produce conditions that will create a nuisance or hazard to the public health, safety, or welfare.

Section 315 Miscellaneous Combustible Materials Storage

315.3 Outside Storage. Outside storage of combustible materials shall not be located within 10 feet of a property line.



Ken Ahrens, Assistant Chief
Carlsbad Fire Department

CARLSBAD

Post Office Box 1569
Carlsbad, NM 88221-1569
(575) 887-1191
1-800-658-2713
www.cityofcarlsbadnm.com

DALE JANWAY
MAYOR

JOHN N. LOWE
CITY ADMINISTRATOR

July 25, 2022

Maria L. Ramos
305 S. 6th
Carlsbad, NM 88220

RE: Dangerous Premises at the property known as 2301 & 2303 Iowa St/305 S. 6th., Carlsbad, NM

Dear Ms. Ramos:

According to the records of the Eddy County Assessor's Office, you are the owner or have an interest in the property commonly known as **2301 & 2303 Iowa St./305 S. 6th,** Carlsbad, NM. The property has been inspected by the City Code Enforcement Office and the Fire Marshal. They have found the property to be in violation of a number of health, safety, and building laws.

Because of the condition of the property, a Resolution has been prepared requiring the cleaning of the property. The Carlsbad City Council will consider passing that Resolution at its meeting on **Tuesday, August 9, 2022 at 6:00 PM**. That meeting will be held in the Council Chambers in the Janell Whitlock Municipal Complex at 114 S. Halagueno St., Carlsbad, NM. You are encouraged to come to the meeting and speak with Council about the property. A draft of the Resolution is included with this letter.

If the Council adopts the Resolution, you must begin removing the ruins, rubbish, wreckage, debris, and weeds from the property within ten days and complete the work within thirty days. The property must be left in a clean, level, and safe condition, suitable for further occupancy or construction and with all excavations filled. If the work is not done, the City may do the work itself or hire someone to do the work. All reasonable costs to the City for such work will become a lien against the property. The City may then foreclose the lien as allowed by law.

If you have any questions regarding this matter, please contact me at (575) 887-1191, or at the Municipal Building, 101 N. Halagueno, Carlsbad, NM 88220.

Sincerely,

Denise Madrid Boyea

Denise Madrid Boyea
City Attorney

Enclosure

COUNCILORS

Ward 1	Ward 2	Ward 3	Ward 4
EDDIE T. RODRIGUEZ	JEFF FORREST	KARLA NIEMEIER	MARK WALTERSCHEID
LISA A. ANAYA FLORES	J J CHAVEZ	JUDI WATERS	WESLEY A. CARTER

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM

Council Meeting Date: August 9, 2022

DEPARTMENT: Legal	**BY:** Denise Madrid Boyea DB	**DATE:** July 29, 2022

SUBJECT: Proposed Resolution requiring the removal of the ruined, damaged or dilapidated buildings or structure, ruins and weeds at **2202 S. Davis Street (2 lots).**

BACKGROUND, ANALYSIS AND IMPACT: (Safety and Welfare/Financial/Personnel/Infrastructure/etc.)

The property commonly known as **2202 S. Davis Street** is on two lots located in a residential neighborhood near the intersection of Plum and Davis St. There appears to be an abandoned structure on the property and weeds.

The Eddy County Assessor's Office lists **Kevin Bollin** and **Karen Nilson** as owning or having an interest in the property. The Assessor's records lists **Kevin Bollin** and **Karen Nilson's** address as 150 Racoon Ln., Ben Lomond, CA 95005-9311.

The property appears to be vacant, the doors and windows are broken and unsecured, there is a large amount of weeds and the property has not been maintained. Code enforcement has been to the property. This property is an ongoing problem. A letter was sent by certified mail to the owners on 6/24/22. The property has been inspected by the City Code Enforcement Officer and the Fire Marshal. They found that the property remains out of compliance with applicable codes. The overgrown weeds, damaged, ruined or dilapidated structure, and weeds remain on the property. The Fire Marshal found that the property presents an extreme fire hazard for responding firefighters and emergency personnel.

A resolution has been prepared which, if adopted, would require the property owner to remove all ruins, dilapidated structure, rubbish, wreckage, debris and weeds from the property within thirty days of the service of the resolution.

On July 22, 2022, a certified letter was sent to **Kevin Bollin** and **Karen Nilson** at the address on the records of the County, 150 Racoon Ln., Ben Lomond, CA 95005-9311, which invited them to attend the meeting and speak with Council about the property.

DEPARTMENT RECOMMENDATION:
Adopt the proposed resolution.

BOARD/COMMISSION/COMMITTEE ACTION: N/A

☐ P & Z	☐ Lodgers Tax Board	☐ Cemetery Board	☐ **APPROVED**
☐ Museum Board	☐ San Jose Board	☐ Water Board	☐ **DISAPPROVED**
☐ Library Board	☐ North Mesa Board	☐ _____ Committee	

Reviewed by:
City Administrator /s/John Lowe **Date:** 08/04/2022

ATTACHMENT(S):

Proposed Resolution with Attachments
Photographs
Letter to **Kevin Bollin** and **Karen Nilson** dated July 22, 2022.

RESOLUTION NO. 2022-39

A RESOLUTION FINDING THE BUILDINGS OR STRUCTURES AT THE PROPERTY COMMONLY KNOWN AS 2202 S. DAVIS STREET TO BE RUINED, DAMAGED, AND DILAPIDATED AND FINDING THE PREMISES TO BE COVERED WITH RUINS, RUBBISH, WRECKAGE, WEEDS, DEBRIS; AND REQUIRING THE REMOVAL OF THE BUILDINGS, STRUCTURES, RUINS, RUBBISH, WRECKAGE, WEEDS, AND DEBRIS

WHEREAS, the records of the Eddy County Assessor's Office show **Kevin Bollin & Karen Nilson** to be the owners of or to have an interest in the property commonly known as **2202 S. Davis Street, Carlsbad**, **Eddy County, New Mexico**, and more particularly described as:

Subd: DAVIS Lot: 2 Block: A
Subd: DAVIS Lot: 4 Block: A N2

hereinafter referred to as “Property”, and

WHEREAS, the Property has been inspected by the Carlsbad Code Enforcement Officer, the Fire Marshal and the Certified Building Official; and

WHEREAS, the Carlsbad Code Enforcement Officer, the Fire Marshal and the Certified Building Official found that the Property has not been adequately maintained; and

WHEREAS, the Property contains a large amount of ruins, rubbish, wreckage, and/or debris, and some weeds; and

WHEREAS, the Property is in an unsafe condition and constitutes a hazard to the surrounding properties, residents and passersby; and

WHEREAS, the Carlsbad Code Enforcement Officer found that the specific violations, under Code of Ordinances of the City of Carlsbad, at the Property include, but are not limited to those listed on the attached Exhibit “A”; and

WHEREAS, the City Fire Marshal has inspected the Property and found that the specific violations at the Property under Fire Code include, but are not limited to those listed on the attached Exhibit “B”; and

WHEREAS, the specific Building Code violations include, but are not limited to those listed on the attached Exhibit "C;" and

WHEREAS, the Property and all structures, ruins, rubbish, wreckage, debris, and weeds are a menace to the public comfort, health, peace, and safety and require removal forthwith.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Carlsbad, Eddy County, New Mexico that:

1. A copy of this Resolution shall be served on the record owners, as shown by the real estate records of the County Clerk, occupants, or agents in charge of the Property. Such service shall be in person if such a person can be found within the City of Carlsbad, New Mexico after a reasonable search.

2. If a record owners, occupant, or agent in charge of the Property cannot be located within the City of Carlsbad, New Mexico, notice shall be by posting at the Property and by publishing this Resolution one time in a newspaper in general circulation in the City of Carlsbad.

3. Within ten days of either the receipt of a copy of this Resolution or the posting and publishing of this Resolution, the owner, occupant, or agent in charge of the Property shall either:

A. Commence removing all ruins, rubbish, wreckage, debris, and weeds from the premises; or

B. File a written objection with the Carlsbad Municipal Clerk at 101 N. Halagueno, Carlsbad, New Mexico 88220 and request a hearing before the City Council.

4. If a written objection is filed as required, the City Council shall proceed as directed by Chapter 22, Article II of the Code of Ordinances, City of Carlsbad, New Mexico.

5. The removal of the structure, ruins, rubbish, wreckage, debris, and weeds shall:

A. Begin immediately;

B. Proceed properly and with diligence; and

C. Be completed in a timely manner;

D. BUT IN NO CASE SHALL SUCH WORK TAKE LONGER THAN SIXTY (30) DAYS FROM THE DATE THE RESOLUTION WAS SERVED UNLESS THE CARLSBAD CITY COUNCIL CONSENTS IN WRITING TO AN EXTENSION.

6. Any removal of the structures, ruins, rubbish, wreckage, debris, or weeds shall leave the property from which the materials have been removed in a clean, level, and safe condition, suitable for further occupancy or construction and with all excavations filled.

7. If the owner, occupant, or agent in charge does not commence the removal of the stated items, and if no written objection is filed as required, or if the removal of the stated items is not completed in a timely manner, the City may remove the structures, ruins, rubbish, wreckage, debris, and/or weeds at the cost and expense of the owner.

8. The reasonable cost of such a removal shall constitute a lien against the structures, ruins, rubbish, wreckage, debris, and/or weeds so removed and against the lot or parcel of land from which it was removed.

9. The City Clerk shall make out, sign, attest, file, and record in the office of the Eddy County Clerk's Office, a claim of lien upon the described premises.

10. The lien shall bear interest at the rate of twelve percent (12%) per annum from the date of filing until paid, together with reasonable attorney's fees for the foreclosure of the same. The lien shall be foreclosed in any manner proved by an applicable state lien foreclosure law.

INTRODUCED, PASSED, ADOPTED, AND APPROVED this 9th day of August, 2022.

_____
DALE JANWAY, MAYOR

ATTEST:

_____
NADINE MIRELES, CITY CLERK

CITY OF CARLSBAD
Planning, Engineering,
and Regulation Department
114 S. Halagueno, PO Box 1569
Carlsbad, New Mexico 88220
Phone (575) 885-1185, Fax (575) 628-8379

CODE ENFORCEMENT REPORT

Case Number:	Date of Complaint:	Complaint Taken By:
CE- 22 - 072	7/19/22	EHarrell
	Complainant Name: Anon	**Phone Number:**

Complaint Location:
2202 Davis

Details of Complaint:
Weeds and old building

Primary Structure:	Photographs Taken (attach):	CE District:
■ Residential ☐ Commercial	■ Yes	☐ North
☐ Occupied ☐ Vacant	☐ No	■ South
☐ Secured ■ Unsecured		
☐ No structure on property		

Narrative:
Dried weeds and old house falling down, not secured

Disposition of Case:

- ☐ No Basis for Complaint: _____
- ■ Mailed Notice of Violation/Date: Certified on 6/24/22
- ☐ Door Hanger Notice of Violation/Date: _____
- ☐ Verbal Warning/Date: _____
- ☐ Referred to Other Agency: _____
- ■ Other: Will ask fire marshal and building department for an inter office memo to start a condemnation.

Code Enforcement Signature	Printed Name	Date
EHarrell	EHarrell	7/19/22

Report Information:
Entered into Database on: _____ By: _____

Page ___ of ___

EXHIBIT A

15 CITY OF CARLSBAD
Planning, Engineering, and Regulation Department
Code Enforcement Division
101 N. Halagueno St., PO Box 1569
Carlsbad, New Mexico 88220
Phone (575) 885-1185, Fax (575) 628-8379

NOTICE OF CODE VIOLATION

Date: 6/24/2022
Case: CE- 22 - 072
Address: 2202 Davis St.
Carlsbad, New Mexico 88220

Name and Address of Property Owner or Occupant*
4-157-129-374-140 & 4-157-129-374-137
BOLLIN, KEVIN & NILSON, KAREN (JT)
150 RACOON LN
BEN LOMOND, CA 95005-9311

FINAL NOTICE

The following violation(s) of the Carlsbad Code of Ordinances have been identified as existing on your property.It is your responsibility, if you have any control over the property, to take immediate action to correct these violation(s), even if you do not actually occupy the property or if the property is occupied by others.

COMPLETION OF CORRECTIVE ACTION(S) IS REQUIRED NO LATER THAN: 7/4/2022.

CORRECTIVE ACTION TO BE TAKEN (WHAT YOU SHOULD DO) BEFORE DEADLINE:

Please clean all grass/weeds from the property and board up the structure until it can be demo it. This will be your only notice before a condemnation takes place. Thank you for your compliance. Any questions call 575-885-1185 ext. 2239

CODE VIOLATED:

EXCESS WEEDS - LOTS (CCO 22-64): It shall be unlawful for any owner having charge or control of any lot within the city to permit or maintain on any such lot, including the area located between the property line and the middle of the alley adjacent to the property, and the area located between the property line and the curb, and the area located ten feet outside the property line where there is no curb, any growth of weeds to a greater height than 12 inches, or any accumulation of weeds.

CODE VIOLATED:

DILAPIDATED BUILDINGS AND STRUCTURES
Sec. 22-32. - Determination; resolution requiring removal
Whenever any building or structure is ruined, damaged and dilapidated, or any premises covered with ruins, rubbish, wreckage, debris or weeds, the city council may, by resolution, find that the ruined, damaged and dilapidated building or structure or weed covered premises is a menace to the public comfort, health, peace or safety and require the removal from the city of the building, structure, ruin, rubbish, wreckage, debris or weeds.

CODE VIOLATED:

Note: Specific details regarding the applicable ordinance may be obtained from the Code Enforcement Division Office listed above. The complete Code of Ordinances may be found on the City of Carlsbad website: www.cityofcarlsbadnm.com or in the office of the City Clerk.

The required Corrective Active listed above must be initiated immediately and be completed no later than the deadline. Failure to comply with the Ordinances of the City of Carlsbad is subject to specific actions. If the owner of the property cannot be located or refuses compliance, the City may initiate condemnation procedures under Chapter 22, Article II, of the Carlsbad Code of Ordinances to remedy the violation. Under this procedure the City will file a claim of lien against the premises in the amount of the expenditure by the City to correct each violation. Optionally, the City may seek a judgment in Municipal Court for the maximum penalty allowed by ordinance for violation of municipal ordinances. Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, a fine of not more than $500 or imprisonment for not more than 90 days, or both, plus court costs, may be imposed by the court.

*Property and owner information is received from the Eddy County Assessor's Office, Occupant, or City records.

Code Enforcement Signature	Printed Name	Date
EHarrell	EHarrell	6/24/2022

GENERAL NOTES REGARDING COMPLIANCE

This Notice of Violation was based on a recent inspection of your property by Carlsbad Code Enforcement Personnel. A re-inspection of your property will be made after the date specified for compliance. A decision will be made at that time regarding the need for further action.

If you are willing to complete the required actions, but are unable to do so in a reasonable manner by the compliance date, the date for compliance may be extended for certain violations with a demonstration of a realistic need and supported with appropriate justification. This extension must be requested prior to the original compliance date. The date, however, for mitigation of violations that involve a serious and/or immediate threat to the health, safety, and/or welfare of the occupants of the property or general population may not be extended, but must be resolved without delay.

Code Enforcement Personnel will evaluate each request, as sole arbitrator, and will offer an Agreement to Abate, if appropriate. An Agreement to Abate is a written agreement between the individual responsible for mitigation, most generally the owner of the property or agent, and the Code Enforcement Personnel by which the applicant is afforded additional time to achieve compliance without threat of sanction. If awarded, the Agreement will extend the date for compliance the minimum amount of time required for compliance, and is generally not renewable.

The Code Enforcement Division is located in the Municipal Building Annex at 114 S. Halagueno Street.
Code Enforcement Personnel may also be contacted by phone at (575) 885-1185 for additional information or guidance regarding resolution of this matter.

PLEASE DON'T DELAY—CORRECT THE PROBLEM NOW!

15

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bollin, Kevin
Nilson, Karen
150 Racoon Ln
Ben Lomond, CA 95005-9311

9590 9402 2177 6193 9115 84

2. Article Number *(Transfer from service label)*

7017 1070 0000 6424 3530

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X K. Bollin ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* Kevin Bollin

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☑ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☑ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

City Of Carlsbad

Inter-Office Memorandum

Dale Janway Mayor

John Lowe, City Manager

Date: June 28, 2022

To: Denise Madrid Boyea, City Attorney

From: Ken Ahrens, Assistant Fire Chief

Re: 2202 Davis St

On June 27, 2022, I inspected a property located at 2202 Davis St. This property presents an ***extreme*** fire hazard for responding Firefighters and emergency personnel. I recommend that the buildings be secured or demolished, the property be cleaned up, and the weeds and debris be removed under the following fire codes.

The International Fire Code, 2015 edition states:

Section 110 Unsafe Buildings

110.1 General. If during the inspection of a building or structure or any building system, in whole or part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

110.1.1 Unsafe Conditions. Structures or existing equipment that are or here after become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be unsafe.

110.1.2 Structural Hazards. When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire official shall immediately notify the building official in accordance with Section 110.1

110.4 Abatement. The owner, operator or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions by repair, rehabilitation, demolition, or other approved corrective action.

EXHIBIT B

Section 304 Combustible Waste Material

304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter, or combustible or flammable rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle, or other similar structure.

304.1.2 Vegetation. Weeds, grass, vines or other growth that is capable of being ignited and endangering property, shall be cut down and removed by the owner or occupant of the premises.

Section 311 Vacant Premises

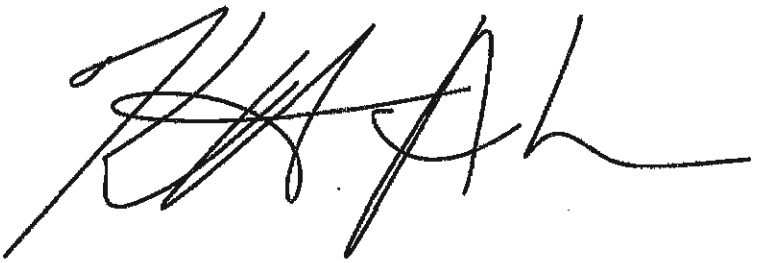
311.1 General. Temporarily unoccupied buildings, structures, premises, or portions there of including tenant spaces shall be safeguarded and maintained in accordance with this section.

311.1.1 Abandoned premises. Buildings, structures and premises for which an owner cannot be identified or located by dispatch of a certificate of mailing to the last known address, which persistently or repeatedly become unprotected or unsecure, which have been occupied by unauthorized persons or for illegal purposes, or which present a danger of structural collapse or fire spread to adjacent properties shall be considered, declared unsafe and abated by demolition or rehabilitation.

311.2 Safeguarding vacant premises. Temporarily unoccupied buildings, structures, premises, or portions thereof shall be secured and protected in accordance with this section.

311.2.2 Security. Exterior openings and interior openings accessible to other tenants or authorized persons shall be boarded, locked, blocked or otherwise protect to prevent entry by unauthorized individuals. The Fire Code Official is authorized to placard, post signs, erect barrier tape or take similar measures as necessary to secure public safety.

311.3 Removal of combustibles. Persons owning, or in charge of a vacant building or portion thereof, shall remove therefrom all accumulations of combustible material, flammable or combustible waste or rubbish and shall securely lock or otherwise secure doors, windows, and other openings to prevent entry by unauthorized persons. The premises shall be maintained clear of waste or hazardous materials.



Ken Ahrens, Assistant Fire Chief
Carlsbad Fire Department

CITY OF CARLSBAD

INTER-OFFICE MEMORANDUM

Dale Janway, Mayor — John Lowe, City Administrator

June 24, 2022

TO: Denise Madrid Boyea, City Attorney

FROM: Nick Sullivan, City Building inspector

RE: 2202 Davis St

On June 24, 2022, I performed an inspection on the property located at 2202 Davis St. The house has been abandoned for quite some time and has begun to deteriorate beyond repair. In its current state it is a danger to the community or anyone who decides to enter the property. I was able to take some pictures from the doorway but could not enter the property due to the deterioration of the existing flooring and structure. The Roof is completely destroyed and only a small portion of it remains. There was an opening in the raised flooring which appeared to be quite deep but I could not get close enough to inspect it thoroughly. There are no utilities to the property. The above-mentioned property should be condemned under the following sections of the International Property Maintenance Codes.

The International Property and Maintenance Code- 2009 edition states:

Section 108- Unsafe Structures and Equipment

108.1.1- Unsafe Structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.3- Structure Unfit for Human Occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.5- Dangerous Structure or Premises- For the purpose of this code, any structure or premises that have any or all of the conditions or defects described below shall be considered dangerous:
Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one- half the original designed value.
The building or structure, or part of the building or structure, because of dilapidation, deterioration,

decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

Section 304- Exterior Structure
304.1- General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
304.7- Roofs and Drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Section 305- Interior Structure
305.1- General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

Section 505 Water System
505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code (and/or Uniform Plumbing Code).

Section 602- Heating Facilities
602.2 Residential Occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68 degrees F (20 degrees C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Section 604- Electrical Facilities
604.2- Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

Nick Sullivan, City Building Inspector

City Of Carlsbad
June 24, 2022

CARLSBAD

Post Office Box 1569
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(575) 887-1191
1-800-658-2713
www.cityofcarlsbadnm.com

DALE JANWAY
MAYOR

JOHN N. LOWE
CITY ADMINISTRATOR

July 22, 2022

Kevin Bollin & Karen Nilson
150 Racoon Ln.
Ben Lomond, CA 95005-9311

RE: Dangerous Premises at the property known as 2202 S. Davis St., Carlsbad, NM

Dear Kevin & Karen:

According to the records of the Eddy County Assessor's Office, you are the owner or have an interest in the property commonly known as **2202 S. Davis St., Carlsbad, NM.** The property has been inspected by the City Code Enforcement Office, the Building Inspector and the Fire Marshal. They have found the property to be in violation of a number of health, safety, and building laws.

Because of the condition of the property, a Resolution has been prepared requiring the removal of the structure and cleaning of the property. The Carlsbad City Council will consider passing that Resolution at its meeting on **Tuesday, August 9, 2022 at 6:00 PM**. That meeting will be held in the Council Chambers in the Janell Whitlock Municipal Complex at 114 S. Halagueno St., Carlsbad, NM. You are encouraged to come to the meeting and speak with Council about the property. A draft of the Resolution is included with this letter.

If the Council adopts the Resolution, you must begin removing the structure, ruins, rubbish, wreckage, debris, and weeds from the property within ten days and complete the work within (30) thirty days. The property must be left in a clean, level, and safe condition, suitable for further occupancy or construction and with all excavations filled. If the work is not done, the City may do the work itself or hire someone to do the work. All reasonable costs to the City for such work will become a lien against the property. The City may then foreclose the lien as allowed by law.

If you have any questions regarding this matter, please contact me at (575) 887-1191, or at the Municipal Building, 101 N. Halagueno, Carlsbad, NM 88220.

Sincerely,

Denise Madrid Boyea

Denise Madrid Boyea
City Attorney

Enclosure

COUNCILORS

Ward 1	Ward 2	Ward 3	Ward 4
EDDIE T. RODRIGUEZ	JEFF FORREST	KARLA NIEMEIER	MARK WALTERSCHEID
LISA A. ANAYA FLORES	J J CHAVEZ	JUDI WATERS	WESLEY A. CARTER

Committee Reports

Adjourn

Carlsbad MainStreet Project
102 S Canyon St
Carlsbad, NM 88220
Carlsbadmainstreet@gmail.com
Office : 575-628-3768 Cell: 575-988-0145

August 1, 2022

Mr. John Lowe
City Administrator
City of Carlsbad

Dear Mr. Lowe:

The following report is submitted to the City of Carlsbad to update the progress and status of the Carlsbad MainStreet Project for July 2022, per the Downtown Revitalization Services Contract. With this report, MainStreet is enclosing an invoice requesting the monthly allocation from the City of Carlsbad for $7,500.00 based on the total annual services contract of $90,000.

NEW MEXICO MAIN STREET (NMMS) REQUIRED MEETINGS (MAINSTREET EXECUTIVE DIRECTOR):

- NMMS Roundtable- June 22nd Amy Barnhart hosted with a roundtable on volunteer recruitment and engagement
- Met with Daniel Gutierrez and Lucas Pedraza in regard to submitting and application for Capital Outlay Funding for FY 23
- Registered for NMMS Summer Institute which will be held in Ruidoso this year
- Completed and submitted Carlsbad MainStreets's 2022 Q2 report

EXECUTIVE DIRECTOR BOARDS AND COMMITTEES:

- Kat Davis is the Communications Chair of the Carlsbad Downtown Club Executive Board in the 2022/2023 year, was inducted on June 28th
- In addition to MainStreet activities, the Carlsbad MainStreet Executive Director serves on the following boards and committees related to downtown promotion and economic development and attends weekly and monthly meetings to support their priorities and activities:

Carlsbad Area Art Association, Cavern Theater Task Force, Carlsbad Downtown Lions Club, Pearl of the Pecos Committee, Chamber of Commerce Tourism Council, Chamber of Commerce Non-Profit Council, Chamber of Commerce Age Friendly Council, Eddy County DWI Mayors Fine Arts and Acquisition Committee (FAAV), Mayors Beautification Committee, Anti-Drug and Gang Coalition, Rotary, Chamber of Commerce, City Council, Eddy County Commission, and Carlsbad Department of Development

ECONOMIC DEVELOPMENT-MAINSTREET STYLE

Metropolitan Redevelopment Area (MRA)

- Reaching out to Property owners to receive support of the MRA Designation.
- Must obtain 51% Property owner approval
- Advertise 2 times to the public before Resolution can be approved.
- Council will need to adopt Resolution.

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Downtown Farmers Market / Third Thursday

- Farmers Market will start Downtown on June 16th and run through September 29th
- Our "Third Thursday" event days will be June 16th, July 21st, August 18th, and September 15th
- Our July Third Thursday focused all on the arts and was led by the Pearl of the Pecos Steering Committee. Local artists came out and did live painting demonstrations or shared information about the work that they do. There was a free foam party and freestyle art stations set up on the lawn for children of all ages to enjoy. We saw over 60 vendors set up, making it the largest Third Thursday/Market to date.

MainStreet Business/Merchants Economic Vitality

- Carlsbad MainStreet launched a new webpage that shows community and visitors where to shop, eat, stay, events, and tourist attractions
- July saw the grand opening for Berkshire Hathway Real Estate
- Kat had a meeting with a potential new business owner who has their sites set on a building in the district. I provided him with resources at the local and state level and offered our assistance however needed
- Kat and Eyenid have been meeting with different MainStreet merchants to introduce Eyenid and keep them informed about our season of events ahead.

Downtown MainStreet Rejuvenation Project

- Carlsbad MainStreet received the Chevron Catalyst grant in the amount of $2500 for instillation of the speaker system.
- The majority of the second shipment of benches and trash cans have been installed- Kat is working with the City construction crew on the final benches
- Eyenid Manzo successfully got a grant from AARP to be able to work on another phase of the project to get our crosswalks repainted in the Downtown district. We are excited for this project and will partner with the City of Carlsbad to get it done, it will make our district more walkable and user friendly, especially for the elderly of our community to safely be able to get around. We have met with KC Cass, Justin Ramos and Amy Bell with New Mexico MainStreet in regard to the planning and design of the crosswalks to be compliant with the NMDOT laws.

Firefighter Combat Challenge

- August 26th & 27th, 2022
- Planning is going well for MainStreet to host the Firefighter Combat Challenge Downtown again this year. We will have food trucks, live music, vendors, kids' course and this year we will be one of 6 communities in the nation to host a charity relay challenge along side the combat challenge. This portion of the event will be held from 9am-11am on Saturday August 27th. The EMS appreciation awards will also be held as part of the event this year.

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MainStreet Board Meeting – 4th Thursday of each month

- MainStreet Board of Directors Meeting July 28, 2022
- Combat Challenge Planning Meeting

Pearl of the Pecos

- POP Steering Committee Meeting was cancelled for the month of July-please refer to report for ACD work can be found in the POP Directors report

City of Carlsbad

- Attended NMDOT Luncheon
- Attended City Council on July 26th
- Meeting with Ted Cordova & John Lowe on July 25th

Eddy County

- N/A

Department of Development

- Provided Jeff with our updated vacant building list for the district

HAPPENING AT THE MAINSTREET OFFICE

Staff at the MainStreet office

- Kat & Eyenid attended the NMMS Roundtable discussion regarding volunteer recruitment, hosted by Amy Barnhart
- Kat applied for the New Mexico MainStreet Capital Outlay FY 23. Applications were due on July 31st so a lot of work was put into gathering documents, data and budget numbers in the lead up. The application submitted was for $350,000.00, the intended funds would be used for the film projection system of the Cavern Theatre which is in phase 4B of its rehabilitation
- Kelly Childs our Farmers Market Manager has been working on vendors for our market season

Reporting

- All monthly and quarterly reports have been submitted to the City and County, as well as end of Q2

Speaking Opportunity

- N/A

OTHER MAINSTREET ED MEETINGS AND ACTIVITIES:

- Attended Carlsbad Chamber's Age Friendly Council Meeting
- Attended the Chamber of Commerce's Annual banquet
- Met with Ken Britt, Angie Testa and Larry Mithchell to discuss funding and budget for the Cavern Theater

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- Attended a non-profit brunch hosted by the Carlsbad Coalition
- Met with Chief Lopez and Kris Armendariz to discuss the Firefighter Combat Challenge and EMS appreciation portion of the event

PROMOTION FOR MAINSTREET and CARLSBAD

New Mexico Magazine

- Working on more digital and social media advertising with Chris Romero
- Signed an agreement to utilize more digital and social media marketing

Focus Magazine

- N/A

Carlsbad Local

- Advertising for the Farmers Market & Third Thursday

Current-Argus

- Attended Musica Buena, CavernFest and Third Thursday Kick off events.

Artesia Radio

- Ads running for market season

Carlsbad Radio

- Recorded market/Third Thursday ads

KCC Radio

- Ads running to promote Carlsbad Farmers Market- increased budget to run ads through the end of September

If you have any questions, please feel free to contact me.
Thank you for your continued support of Carlsbad MainStreet!

Respectfully,

Kat Davis

Kat Davis
Executive Director