



BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

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P.O. BOX 706 · DEMING, NEW MEXICO 88031
POPULATION 14,000

CITY COUNCIL MEETING

AGENDA

December 21, 2021

5:30 P.M.

*Those who would like to participate remotely can via GoToMeeting.com with the following credentials:
You may dial in 10-15 minutes before the meeting begins.*

Please join the meeting from your computer, tablet or smartphone.

<https://www.gotomeet.me/CityofDeming>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

United States: [+1 \(312\) 757-3119](tel:+13127573119)

Access Code: 595-334-189

Password: 595334189

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ATTENDANCE ROLL CALL

1. Consent Agenda
 - A. Minutes – City Council 11/16/2021
 - B. Minutes – Special City Council 12/06/2021
 - C. Minutes – Planning & Zoning Commission 10/18/2021
 - D. Minutes – Parks Commission 11/09/2021
 - E. Mayoral Appointment to the Deming Commission on Aging Board
2. Public Comments
3. Proclamation Declaring January 23-29, 2022 as School Choice Week
4. Oath of Office for Newly Elected Officials
5. Resolution: To Consider the Adoption of NMSA 29-1-18 Requiring Law Enforcement Agencies to Wear Body Cameras
6. Procurement:
 - a. Bid 22-04 Groundwater Monitoring Wells Installation Phase II
7. Public Hearing: To Consider the Execution of a Loan Agreement and Intercept Agreement with the New Mexico Finance Authority in the Amount of \$2,670,133 for the Remodel of a Newly Purchased Building to be Utilized as the City's Administrative Offices
8. Public Hearing: To Consider Amending Title 1, Chapter 4, Section 1 of the Municipal Code Regarding the Removal of Driving Under the Influence of Liquor or Drugs
9. Public Hearing: To Consider Amending Title 1, Chapter 11, Section 8 of the Municipal Code Updating the Uniform Traffic Ordinance
10. Administrator's Report
11. Adjourn Meeting

The next regular City Council Meeting is scheduled for January 18, 2022 at 5:30 p.m.

CITY COUNCIL MEETING MINUTES

December 21, 2021

**Remote meeting in compliance with the New Mexico Open
Meetings Act due to COVID-19 Pandemic.**

Council Present:

Benny L. Jasso, Mayor
Joe “Butter Milo, Mayor Pro Tem

Irmaisela “Irma” A. Rodriguez, Councilor
Monica Topham, Councilor

Council Present (Telephonically): Dr. Victor Cruz, Councilor

Council Absent:

Staff Present: Aaron Sera, Administrator
Joe Owen, Fire Chief
Lane Camfield, Planner

Jim Massengill, Public Works Director
Felipe Figueroa, CSD Admin. Asst.
Benjamin Jimenez, Court Administrator

Staff Present (Telephonically/Virtually):

Laura Holguin, Finance Director/CFO
Alexi Jackson, Community Services Director

Clint Hogan, Chief of Police
Adrian Coloma, IT

Recording Secretary: Mary Jo Valdez, CMC, Municipal Clerk

Mayor Jasso called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance.
A quorum was confirmed.

1. Consent Agenda

Mr. Sera presented the consent agenda to Council stating that there were no items to discuss.

Councilor Rodriguez motioned to approve the consent agenda, as submitted; Mayor Pro Tem Milo second the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Councilor Topham	Aye
Councilor Rodriguez	Aye
Mayor Pro Tem Milo	Aye

2. Public Comments

Mayor Jasso opened the meeting for public comment stating that comments entertained should not be related to any items on the agenda.

3. Proclamation Declaring January 23-29 as School Choice Week

Mayor Jasso read the proclamation into record. (Attached)

Mayor Pro Tem Milo motioned to accept the proclamation, Councilor Topham second the motion; motion carried by the following roll call vote:

ROLL CALL VOTE	
Councilor Rodriguez	Aye
Councilor Cruz	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye

4. Oath of Office for New Elected Officials

Mr. Sera swore in Edgar B. Davalos, Municipal Judge; Irmaisel A. Rodriguez, District 2 City Councilor; and Joe F. Milo, District 3 City Councilor. Mayor Pro Tem Milo thanked the citizens for electing him adding that he has served for 26 years and has watched Deming grow. (Oaths of Office Attached)

5. Resolution: To Consider the Adoption of NMSA 29-1-18 Requiring Law Enforcement Agencies to Wear Body Cameras

Mr. Sera explained that it's a New Mexico State law and the adoption is required for reimbursement of funds used to purchase body cameras.

Chief of Police Hogan stated that the Department has been utilizing body cams for approximately 9 years and that the policy has been updated to reflect all requirements by State law.

Councilor Rodriguez motioned to approve the resolution, as presented; Councilor Topham second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE	
Mayor Pro Tem Milo	Aye
Councilor Cruz	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye

6. Procurement:

a. Bid 22-04 Groundwater Monitoring Wells Installation Phase II

Mr. Massengill explained that bids were opened and recommended the approval of the lowest bid submitted by D&J Pump and Well Service in the amount of \$40, 024.35 including GRT. Mr. Massengill explained the new wells are required by the State. Mr. Massengill requested that authorization to be given to the Public Works Director and/or the City Administrator to enter into an agreement and execute any documents related to this project with D&J Pump and Well Service.

Mayor Pro Tem Milo motioned to approve the bid award and authorization, as presented; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE	
Councilor Cruz	Aye
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye
Councilor Rodriguez	Aye

Proclamation

City of Deming School Choice Week

WHEREAS all children in the City of Deming/Luna County should have access to the highest-quality education possible; and,

WHEREAS the City of Deming recognizes the important role that an effective education plays in preparing all students in Deming to be successful adults; and,

WHEREAS quality education is critically important to the economic vitality of the City of Deming; and,

WHEREAS the City of Deming is home to a multitude of high-quality public and nonpublic schools from which parents can choose for their children, in addition to families who educate their children in the home; and

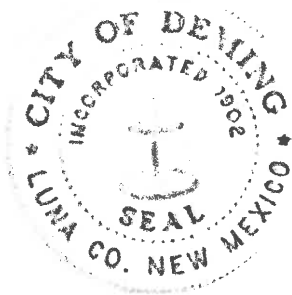
WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

WHEREAS the City of Deming has many high-quality teaching professionals in all types of school settings who are committed to educating our children; and,

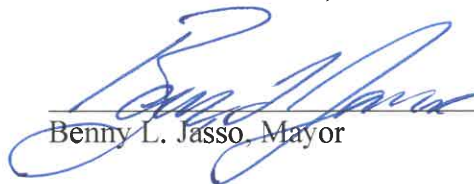
WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options.

NOW, THEREFORE, I, Benny L Jasso, do hereby recognize January 23 – January 29, 2022, as “City of Deming School Choice Week”, and I call this observance to the attention of all of our citizens.

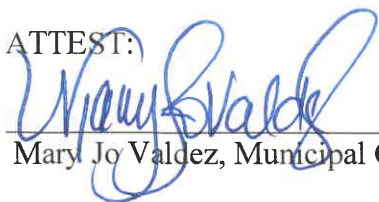
Signed this 21st day of December 2021 in the City of Deming, New Mexico.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk

OATH

I, Iramaisela A. Rodriguez, do solemnly swear that I will support the Constitution of the United States and the Constitution and the laws of the State of New Mexico and that I will faithfully and impartially discharge the duties of District 2 Councilor for the City of Deming, on which I am about to enter, to the best of my ability, SO HELP ME GOD.



Iramaisela A. Rodriguez
SIGNATURE

Subscribed and sworn to before me on
this 21st day of December, 2021.

Aaron S.
SIGNATURE

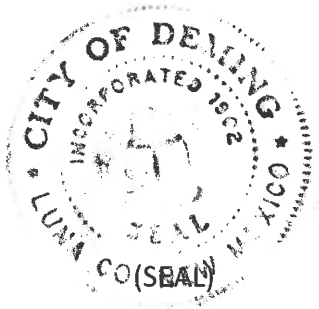
Notary Public / Administrator
TITLE

My commission/expires: 09-11-22

(This oath, when executed, must be forwarded immediately to the Secretary of State at Santa Fe, New Mexico, accompanied by a recording fee of \$3.00)

OATH

I, Edgar B. Davalos, do solemnly swear that I will support the Constitution of the United States and the Constitution and the laws of the State of New Mexico and that I will faithfully and impartially discharge the duties of Municipal Judge for the City of Deming, on which I am about to enter, to the best of my ability, SO HELP ME GOD.



SIGNATURE

Subscribed and sworn to before me on
this 21st day of December, 2021.

SIGNATURE

Notary Public/Administrator

TITLE

My commission/expires: 09-11-22

(This oath, when executed, must be forwarded immediately to the Secretary of State at Santa Fe, New Mexico, accompanied by a recording fee of \$3.00)

Affidavit

STATE OF NEW MEXICO

COUNTY OF LUNA

The undersigned, EDGAR DAVALOS, being duly sworn, hereby depose and says:

1. I am over the age of 18 and am a resident of the State of New Mexico. I have personal Knowledge of the facts, and, if called as a witness, could testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts forth below.
3. I have been elected to the position of Municipal Judge for the City of Deming and this affidavit will be submitted to the Governing Council of the City of Deming, NM. to request my Oath of Office to be on December 21st, 2021.

I declare that, to the best of my knowledge and belief, the information herein is true, correct and complete.

Executed this 5 day of November, 20 21

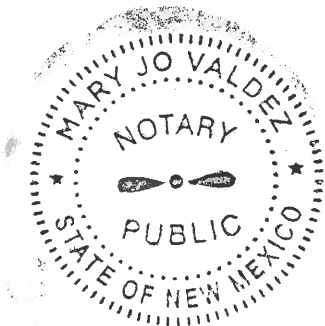


Edgar Davalos

Notary Acknowledgment

STATE OF NEW MEXICO, COUNTY OF LUNA, ss:

This Affidavit was acknowledged before me on this 5 day of NOV. 2021, by Edgar Davalos, who being first duly sworn on oath according to law, deposes and says that he/she has read the forgoing Affidavit subscribed by him/her, and that the matters stated herein are true to the best of his/her information, knowledge and belief.




Notary Public

Municipal Clerk

Title

My commission expires 12-16-21

OATH

I, Joe F. Milo, do solemnly swear that I will support the Constitution of the United States and the Constitution and the laws of the State of New Mexico and that I will faithfully and impartially discharge the duties of District 3 Councilor for the City of Deming, on which I am about to enter, to the best of my ability, SO HELP ME GOD.



Joe F. Milo
SIGNATURE

Subscribed and sworn to before me on
this 21st day of December, 2021.

Aaron S.
SIGNATURE

Notary Public / Administrator
TITLE

My commission/expires: 09-11-22

(This oath, when executed, must be forwarded immediately to the Secretary of State at Santa Fe, New Mexico, accompanied by a recording fee of \$3.00)

CITY OF DEMING
RESOLUTION NO. 21-33

**A RESOLUTION DIRECTING LAW ENFORCEMENT PERSONNEL
EMPLOYED BY THE CITY OF DEMING POLICE DEPARTMENT TO
UTILIZE BODY-WORN CAMERAS PURSUANT TO NMSA 29-1-18**

WHEREAS, the efforts of City of Deming official is to provide transparent services throughout the community.

WHEREAS, NMSA 29-1-18 became effective on September 20, 2020, requiring certain law enforcement agencies to use body-worn cameras while on duty; and

WHEREAS, NMSA 29-1-18 requires that law enforcement agencies adopt policies and procedures governing the use of body-worn cameras (Exhibit A and any subsequent amendments); and

WHEREAS, NMSA 29-1-18 requires that active duty and peace officers, within certain law enforcement agencies, comply with the policies and procedures that have been adopted (Exhibit A).

NOW THEREFORE, BE IT FURTHER RESOLVED by the governing body of the City of Deming, that NMSA 29-1-18 is required to be complied with by the Officers on active duty who are employed by the City of Deming Police Department and Officers who fail to comply with the policies and procedures, as adopted herein by reference (Exhibit A), shall be presumed to have acted in bad faith and shall be held accountable as set forth.


PASSED, ADOPTED, AND APPROVED this 21st day of December 2021




Mary Jo Valdez, Municipal Clerk


Benny L. Jasso, Mayor



	Policy Name: BODY-WORN CAMERAS Policy#-DPD 14A NMMLEPSC Standard OPR.14.01	
Effective Date: 05/07/18	Reviewed Date: 12/03/2021 Revision Date: 12/03/2021	
<input checked="" type="checkbox"/> Sworn Personnel <input type="checkbox"/> Civilian Personnel <input type="checkbox"/> All Personnel	Authorizing Signature:  Chief of Police	

I. PURPOSE

The purpose of this General Order is to establish procedures for the proper use of recording devices as well as the storage and management of digital recordings.

II. 2. POLICY

It is the policy of the Deming Police Department (DPD), that all officers **shall** use recording devices for the purposes of but not limited to: responding to calls for service, documenting citizen contacts, follow-up interviews, capturing evidence for use in criminal prosecution, training and evaluating work performance, any other law enforcement or investigative encounter between an officer and the public.

III. APPLICABILITY

This General Order applies to all sworn personnel who routinely interact with the public to include CODES/Animal Control Officers. This General Order supersedes all previous versions.

IV. REFERENCES

- 29-1-18 NMSA 1978
- 29-1-16 NMSA 1978
- 32A-2-14 NMSA 1978
- Inspection of Public Records Act (IPRA) Section 14 Article 2 NMSA 1978
- 1.19.8 NMAC (New Mexico Administrative Code)
- General Order 203 Domestic Family Disturbance
- Current contractual agreement between the City of Deming and the Deming Police Officers' Association (Contract)

V. DEFINITIONS

Body-worn camera (BWC) - means an electronic device worn on a person's body that records both audio and video data. The WatchGuard Cameras or other similar devices that are issued by the department.

Records Management System (RMS) – A data entry system that collects and manages digital audio and photo evidence to simplify the acquisition and archiving of field and lab gathered digital evidence.

Peace Officer (Officer) – any full-time salaried or certified part-time salaried officer who by virtue of office or public employment is vested by law with the duty to maintain the public peace.

LGRRDS – Local Government Records Retention and Disposition Schedule for New Mexico Municipalities. 1.19.8 NMAC

VI. PROCEDURES

- A. All Peace Officers who routinely interact with the public to include Codes/Animal Control Officers **shall** carry a properly functioning department issued recording device on their person at all times while on duty.
- B. Recording devices capable of capturing video shall be worn in a location that allows the device to capture images of what is in front of the officer.
- C. Employees **shall** immediately notify their supervisor of any malfunction of the recording device or the need for replacement parts.
- D. Recording devices shall be activated as soon as practical, consistent with officer safety.
- E. Once activated, recording devices **shall** be used for the entirety of the law enforcement or investigative encounter.
- F. Officers **shall** record all citizen contacts to include those listed below:

Responding to all calls for service or at the initiation of any other law enforcement or investigative encounter between a peace officer and a member of the public.

- G. **Officers are prohibited from deactivation of a body-worn camera once a law enforcement or investigative encounter has begun.**
- H. Employees are not required to disclose to the public the fact that recording equipment is in use.
- I. Employees shall not utilize recording devices in the following situations:

1. At any closed court proceedings or hearings.
 2. At any location legally authorized to limit recording and/or recording devices (i.e. hospitals, bathrooms) unless there are police related incident.
- J. Employees are prohibited from recording their conversations with other employees without the other employee's knowledge by any means. Exceptions include authorized criminal or administrative investigations, and/or where the labor Contract provides for such tape recording, or on any City telephone lines which are automatically recorded.

VII. DISPOSITION OF RECORDINGS

- A. Audio, image, and video recordings shall either be downloaded to the Motorola Evidence Library program or other similar system prior to going off-duty unless a supervisor authorizes an extension to this deadline.
- B. All evidence entered into Evidence Library shall be noted in an offense/incident report.
- C. Officers with BWC's shall label all video recordings downloaded to Evidence Library program with the proper category, case number (when applicable), and location of the incident. Officers shall label the video recordings on or before their next duty day.
- D. Employees **shall** not destroy, intentionally manipulate, prematurely erase or alter any type of recording.
- E. Recordings **shall** not be released to another criminal justice agency, excluding the District Attorney's Office for disclosure, without approval of the Chief of Police. When recordings are released, the department shall maintain the original recording and provide the requesting agency with a duplicate unless there are specific reasons for releasing the original recording. If an original recording is released, the department shall retain possession of a duplicate copy.
- F. Recordings are property of DPD and shall not be reviewed by unauthorized persons. Unauthorized persons include members of the media, family, friends, and other employees not involved in a supervisory or investigatory capacity. Employees are not authorized to copy or release recordings without supervisory approval. **Employees shall not post recordings to any social media website.**
- G. Recordings are subject to release under the Inspection of Public Records Act (IPRA). Any IPRA request must go through the official release of records procedure through the City of Deming.

VIII. RETENTION OF RECORDINGS

- A. All non-evidentiary recordings shall be retained for one hundred twenty (120) days from the date the recording was submitted. This retention and destruction meet all Local Government Records Retention and Disposition Schedules for New Mexico Municipalities (LGRRDS) and is pursuant to City Council Resolution No.15-212.
- B. All evidentiary recordings shall be retained as part of the case file and will be kept and destroyed according to the LGRRDS.

IX. SUPERVISORY RESPONSIBILITIES

- A. Routinely inspect recording devices to ensure they are functioning properly.
- B. Arrange for replacement or repair of any issued recording device that is not functioning properly.
- C. Supervisors shall randomly review recordings to assist in the periodic assessment of an employee's performance and the recording devices performance. Supervisors will determine whether the recording device is being fully and properly utilized, if downloads are taking place in a timely manner, if BWC videos are labeled appropriately, and if any material on a recording may benefit personnel in training. It is within a supervisor's discretion to review recordings more frequently.

X. DISCIPLINARY ACTIONS

- A. Officers who fail to comply with the policies and procedures outlined above shall be presumed to have acted in bad faith and shall be deemed liable for the independent tort of negligent spoliation of evidence or the independent tort of intentional spoliation of evidence;
- B. And subject to departmental disciplinary procedures, to include termination.

7. Public Hearing: To Consider the Execution of a Loan Agreement and Intercept Agreement with the New Mexico Finance Authority in the Amount of \$2,670,133 for the Remodel of a Newly Purchased Building to be Utilized as the City's Administrative Offices

Mayor Jasso conducted a public hearing to consider the execution of a loan agreement and intercept agreement with NMFA in the amount of \$2,670,133 for the remodel of a newly purchased building to be utilized as the City's Administrative Offices and called the hearing to order.

Mr. Sera explained that the ordinance was required for the increase in cost and to execute necessary documents.

Mayor Pro Tem Milo asked what the cost would be for the remodel. Mr. Sera stated that staff has managed to reduce the cost to \$7.25 million with furnishings and expects to go to bid in January timeframe; adding that if it's not affordable, it won't be done.

Mayor Jasso opened the hearing for public comment.

With no comments, Mayor Jasso closed public comments and asked Council if they were prepared to make a decision.

Councilor Rodriguez motioned to approve the ordinance, as presented; Councilor Topham second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE	
Councilor Rodriguez	Aye
Mayor Pro Tem Milo	Aye
Councilor Topham	Aye
Councilor Cruz	Aye

8. Public Hearing: To Consider Amending Title 1, Chapter 4, Section 1 of the Municipal Code Regarding the Removal of Driving Under the Influence of Liquor or Drugs

Mayor Jasso conducted a public hearing to consider the amendment of Title 1, Chapter 4, Section 1 of the Municipal Code, and called the hearing to order.

Ms. Valdez stated that citations regarding driving under the influence of liquor and/or drugs are cited under NM State Statutes and heard before the Magistrate Judge.

Mayor Jasso opened the hearing for public comment.

With no comments, Mayor Jasso closed public comments and asked Council if they were prepared to make a decision.

Mayor Pro Tem Milo motioned to approve the ordinance, as presented; Councilor Topham second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE	
Councilor Cruz	Aye
Councilor Rodriguez	Aye
Councilor Topham	Aye
Mayor Pro Tem Milo	Aye

STATE OF NEW MEXICO
CITY OF DEMING
LUNA COUNTY

The City Council (the “Governing Body”) of the City of Deming, New Mexico, met in regular session in full conformity with law and the rules and regulations of the Governing Body at 309 South Gold Avenue, Deming, New Mexico being the meeting place of the Governing Body for the regular meeting held on the 21st day of December, 2021, at the hour of 5:30 p.m. Upon roll call, the following members were found to be present:

Present: Mayor Benny L. Jasso

Mayor Pro Tem Joe F. Milo

Councilor Victor Cruz (Virtual)

Councilor Irmaísela Rodríguez

Councilor Monica Topham

Absent: _____

Also Present: Aaron Sera, City Administrator

Mary Jo Valdez, Municipal Clerk

City Staff

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

CITY OF DEMING, NEW MEXICO
ORDINANCE NO. 1308

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF DEMING, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (THE “FINANCE AUTHORITY”), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$2,660,396 TOGETHER WITH THE INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COSTS OF REMODELING AND EQUIPPING A NEWLY PURCHASED BUILDING INTO A PANDEMIC SAFE BUILDING FOR THE GOVERNMENTAL UNIT’S ADMINISTRATIVE OFFICES AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THREE-EIGHTHS OF ONE PERCENT (0.375%) OF MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX REVENUES IMPOSED PURSUANT TO SECTION 7-19D-9, NMSA 1978, AS AMENDED, AND ORDINANCE NO. 1263, AND DISTRIBUTED TO THE GOVERNMENTAL UNIT BY THE STATE TAXATION AND REVENUE DEPARTMENT; PROVIDING FOR THE DISTRIBUTION OF THE HOLD HARMLESS GROSS RECEIPTS TAX REVENUES TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE, AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

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

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

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

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

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

WHEREAS, other than as described in the Term Sheet, the Pledged Revenues have not been pledged to secure the payment of any obligation, which is currently outstanding; and

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

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

WHEREAS, other than the Pledged Revenues, no tax revenues collected by the Governmental Unit shall be pledged to the Loan Agreement; and

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

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DEMING, LUNA COUNTY, NEW MEXICO:

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

"Act" means the general laws of the State, including Sections 3-31-1 through 3-31-12, Sections 7-19D-9, 7-1-6.12, and 7-1-6.15, NMSA 1978, as amended, and enactments of the

Governing Body relating to the Loan Agreement and Intercept Agreement, including this Ordinance.

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

“Authorized Officers” means the Mayor, Treasurer and City Clerk.

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

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

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

“Completion Date” means the date of final payment of the cost of the Project.

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

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

“Finance Authority” means the New Mexico Finance Authority.

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

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

“Governing Body” means the City Council of the Governmental Unit, or any future successor governing body of the Governmental Unit.

“Governmental Unit” means the City of Deming, Luna County, New Mexico.

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

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

“Intercept Agreement” means the Intercept Agreement dated the Closing Date, between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

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

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

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

“Loan Agreement Reserve Account” means the loan agreement reserve account established in the name of the Governmental Unit, funded from the proceeds of the Loan Agreement and administered by the Trustee pursuant to the Indenture.

“Loan Agreement Reserve Requirement” means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account Deposit on the Term Sheet, which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

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

“Ordinance” means this Ordinance No. _____ adopted by the Governing Body on December 21, 2021 approving the Loan Agreement and the Intercept Agreement, as supplemented and amended from time to time.

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

“Pledged Revenues” means the three-eighths of one percent (0.375%) increment of Municipal Hold Harmless Gross Receipts Tax enacted pursuant to Section 7-19D-9, NMSA 1978, as amended, and the Tax Ordinance, distributed to the Governmental Unit, which is utilizing the Project and benefiting from the Loan Agreement, which distribution is made monthly by the Distributing State Agency.

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

“Project” means the project described in the Term Sheet.

“State” means the State of New Mexico.

“Tax Ordinance” means Ordinance No. 1263 passed and approved by the Governmental Unit pursuant to the Act on January 9, 2017, which imposed what was previously identifiable as the second three-eighths of one percent (0.375%) increment of the Municipal Hold Harmless Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit., effective July 1, 2017. Pursuant to laws 2019, Chapter 274, Section 16, the Municipal Hold Harmless Gross Receipts Tax imposed by Ordinance 1263 is no longer identifiable as the second increment, and instead comprises three-eighths of one percent (0.375%) of the maximum rate of municipal gross receipts tax that may be imposed under Section 7-19D-9, NMSA 1978, as amended, of two and one-half percent (2.5%).

“Term Sheet” means Exhibit “A” to the Loan Agreement.

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

Section 2. Ratification. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the acquisition and completion of the Project and the execution and delivery of the Loan Agreement and the Intercept Agreement, be, and the same hereby are, ratified, approved and confirmed.

Section 3. Authorization of the Project, the Loan Agreement and the Intercept Agreement. The acquisition of the Project and the method of financing the Project through execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Governmental Unit.

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

A. The Project is needed to meet the needs of the Governmental Unit and its residents and the issuance and delivery of the Loan Agreement is necessary and advisable.

B. Moneys available and on hand for the Project from all sources other than the Loan are not sufficient to defray the cost of acquiring the Project.

C. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

D. It is economically feasible to defray, in whole or in part, the costs of the Project by the execution and delivery of the Loan Agreement.

E. The Project and the execution and delivery of the Loan Agreement and the Intercept Agreement pursuant to the Act to provide funds for the financing of the Project are necessary and in the interest of the public health, safety and welfare of the residents of the Governmental Unit.

F. The Governmental Unit will acquire the Project, in whole or in part, with the net proceeds of the Loan.

G. Other than as described in the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from the Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement and the Intercept Agreement.

H. The net effective interest rate on the Loan does not exceed twelve percent (12.0%) per annum, which is the maximum rate permitted by State law.

I. Pursuant to Section 7-19D-9, NMSA 1978, as amended, the Governmental Unit heretofore has adopted the Tax Ordinance, which imposes a three-eighths of one percent (0.375%) increment of what was previously identifiable as the second three-eighths of one percent (0.375%) increment of the Municipal Hold Harmless Gross Receipts Tax on the gross receipts of persons engaging in business within the Governmental Unit.

J. Pursuant to Section 7-1-6.12, NMSA 1978, as amended, the Government unit receives Pledged Revenues from the Distributing State Agency.

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

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least a three-fourths (3/4) majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and acquiring the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of \$2,660,396, plus interest thereon, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the acquisition of the Project; (ii) fund the Loan Agreement Reserve Account; and (iii) make a deposit to the Finance Authority Debt Service Account. The Project will be owned by the Governmental Unit.

B. Detail. The Loan Agreement and Intercept Agreement shall be in substantially the forms of the Loan Agreement and Intercept Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an original aggregate principal amount of \$2,660,396, shall be payable in installments of principal due on May 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, beginning on May 1, 2022 at the rates designated in Exhibit "B" to the Loan Agreement.

Section 6. Approval of Loan Agreement and Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement, as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement, with such changes, insertions and omissions that are consistent with this Ordinance as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept Agreement by an Authorized Officer shall be conclusive evidence of such approval.

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

Section 8. Disposition of Proceeds: Completion of Acquisition of the Project.

A. Program Account, Finance Authority Debt Service Account and Loan Agreement Reserve Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held by the Finance Authority and to the Program Account and the Loan Agreement Reserve Account to be held by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves: (i) the deposit of a portion of the proceeds of the Loan Agreement in the Program Account and the Finance

Authority Debt Service Account; and (ii) the deposit of funds in the amount of the Loan Agreement Reserve Requirement in the Loan Agreement Reserve Account, all as set forth in the Term Sheet.

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

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

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

B. Completion of the Acquisition of the Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that acquisition of and payment for the Project have been completed. As soon as practicable, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.

C. Finance Authority and Trustee Not Responsible. The Finance Authority and the Trustee shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9. Deposit of Pledged Revenues, Distributions of the Pledged Revenues and Flow of Funds.

A. Deposit of Pledged Revenues. Pursuant to the Intercept Agreement, the Pledged Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal and interest, premium, if any, and other amounts due under the Loan Agreement, including sufficient Pledged Revenues in the Loan Agreement Reserve Account, if funded, to maintain the Loan Agreement Reserve Requirement.

B. Termination on Deposits to Maturity. No payment shall be made into the Finance Authority Debt Service Account if the amounts in the Finance Authority Debt Service Account and Loan Agreement Reserve Account, total a sum at least equal to the entire aggregate amount to become due as to principal, interest on, and any other amounts due under, the Loan Agreement in which case moneys in such account in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such accounts shall be transferred to the Governmental Unit and used as provided below.

C. Use of Surplus Revenues. After making all the payments hereinabove required to be made by this Section and any payments required by outstanding Parity

Obligations, any moneys remaining in the Finance Authority Debt Service Account shall be transferred to the Governmental Unit on a timely basis and shall be applied to any other lawful purpose, including, but not limited to, the payment of any Parity Obligations or bonds or obligations subordinate and junior to the Loan Agreement, or other purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement, subject to the uses hereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues as set forth herein and therein and the Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement, the Intercept Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance, the Loan Agreement and Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the publication of the summary of this Ordinance set out in Section 17 of this Ordinance (with such changes, additions and deletions as may be necessary).

Section 12. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Ordinance may be supplemented or amended by Ordinance of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Ordinance Irrepealable. After the Loan Agreement and Intercept Agreement have been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. Repealer Clause. All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Mayor and City Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 17 below) shall be published in a newspaper which maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and said Ordinance shall be in full force and effect thereafter, in accordance with law.

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

(Remainder of page intentionally left blank.)

[Form of Summary of Ordinance for Publication]

City of Deming, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 1308, duly adopted and approved by the Governing Body of the City of Deming, New Mexico, on December 21, 2021. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 309 South Gold Avenue, Deming, New Mexico. The title of the Ordinance is:

CITY OF DEMING, NEW MEXICO
ORDINANCE NO. 1308

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF DEMING, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (THE “FINANCE AUTHORITY”), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$2,660,396 TOGETHER WITH THE INTEREST THEREON, FOR THE PURPOSE OF FINANCING THE COSTS TO REMODEL AND EQUIP A NEWLY PURCHASED BUILDING INTO A PANDEMIC SAFE BUILDING FOR THE GOVERNMENTAL UNIT’S ADMINISTRATIVE OFFICES AND FUNDING A LOAN AGREEMENT RESERVE ACCOUNT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THREE-EIGHTHS OF ONE PERCENT (0.375%) OF MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX REVENUES IMPOSED PURSUANT TO SECTION 7-19D-9, NMSA 1978, AS AMENDED, AND ORDINANCE NO. 1263, AND DISTRIBUTED TO THE GOVERNMENTAL UNIT BY THE STATE TAXATION AND REVENUE DEPARTMENT; PROVIDING FOR THE DISTRIBUTION OF THE HOLD HARMLESS GROSS RECEIPTS TAX REVENUES TO BE REDIRECTED BY THE STATE TAXATION AND REVENUE DEPARTMENT TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE, AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

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

[End of Form of Summary for Publication]

PASSED, APPROVED AND ADOPTED THIS 21st DAY OF DECEMBER, 2021.

CITY OF DEMING, NEW MEXICO



By: _____

Benny L. Jasso, Mayor

By: _____

Mary Jo Valdez, City Clerk

Councilor Rodriguez then moved adoption of the foregoing Ordinance, duly seconded by Councilor Topham.

The motion to adopt said Ordinance, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye: Councilor Rodriguez
Mayor Pro Tem Milo
Councilor Topham
Councilor Cruz

Those Voting Nay: _____

Those Absent: _____

Four (4) members of the Governing Body having voted in favor of said motion, the Mayor declared said motion carried and said Ordinance adopted, whereupon the Mayor and the City Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

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



CITY OF DEMING, NEW MEXICO

By: 
Benny L. Jasso, Mayor

ATTEST:

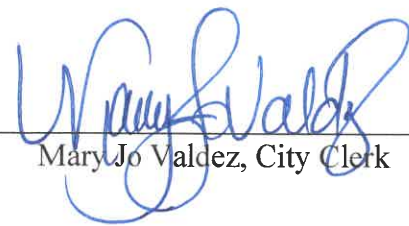
By: 
MaryJo Valdez, City Clerk

EXHIBIT “A”

Meeting Agenda
of the December 21, 2021
City Council Meeting

(See attached)



BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

Phone (575) 546-8848 · Fax (575) 546-6442
E-MAIL: deming@cityofdeming.org Website: www.cityofdeming.org
P.O. BOX 706 · DEMING, NEW MEXICO 88031
POPULATION 14,000

CITY COUNCIL MEETING AGENDA December 21, 2021 5:30 P.M.

*Those who would like to participate remotely can via [GoToMeeting.com](https://www.gotomeeting.com) with the following credentials:
You may dial in 10-15 minutes before the meeting begins.*

Please join the meeting from your computer, tablet or smartphone.

<https://www.gotomeet.me/CityofDeming>

You can also dial in using your phone.

United States (Toll Free): [1 866 899 4679](tel:18668994679)

United States: [+1 \(312\) 757-3119](tel:+13127573119)

Access Code: 595-334-189

Password: 595334189

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ATTENDANCE ROLL CALL

1. Consent Agenda
 - A. Minutes – City Council 11/16/2021
 - B. Minutes – Special City Council 12/06/2021
 - C. Minutes – Planning & Zoning Commission 10/18/2021
 - D. Minutes – Parks Commission 11/09/2021
 - E. Mayoral Appointment to the Deming Commission on Aging Board
2. Public Comments
3. Proclamation Declaring January 23-29, 2022 as School Choice Week
4. Oath of Office for Newly Elected Officials
5. Resolution: To Consider the Adoption of NMSA 29-1-18 Requiring Law Enforcement Agencies to Wear Body Cameras
6. Procurement:
 - a. Bid 22-04 Groundwater Monitoring Wells Installation Phase II
7. Public Hearing: To Consider the Execution of a Loan Agreement and Intercept Agreement with the New Mexico Finance Authority in the Amount of \$2,670,133 for the Remodel of a Newly Purchased Building to be Utilized as the City's Administrative Offices
8. Public Hearing: To Consider Amending Title 1, Chapter 4, Section 1 of the Municipal Code Regarding the Removal of Driving Under the Influence of Liquor or Drugs
9. Public Hearing: To Consider Amending Title 1, Chapter 11, Section 8 of the Municipal Code Updating the Uniform Traffic Ordinance
10. Administrator's Report
11. Adjourn Meeting

The next regular City Council Meeting is scheduled for January 18, 2022 at 5:30 p.m.

STATE OF NEW MEXICO
COUNTY OF LUNA
CITY OF DEMING

I, Mary Jo Valdez, the duly qualified and acting City Clerk of the City of Deming, New Mexico (the "Governmental Unit"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the City Council of the City of Deming, New Mexico (the "Governing Body"), constituting the governing body of the Governmental Unit had and taken at a duly called regular meeting held at 309 S. Gold Avenue, Deming, New Mexico, on December 21, 2021, at the hour of 5:30 p.m., insofar as the same relate to the execution and delivery of the proposed Loan Agreement and Intercept Agreement, a copy of each of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Said proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

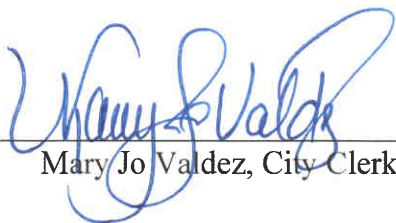
3. Notice of said meeting was given in compliance with the permitted methods of giving notice of regular meetings of the Governing Body as required by the Governmental Unit's open meetings standards presently in effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of February, 2022.



[SEAL]

CITY OF DEMING, NEW MEXICO

By: 
Mary Jo Valdez, City Clerk

6111920

**CITY OF DEMING
ORDINANCE NO. 1309**

AN ORDINANCE UPDATING TITLE 1, CHAPTER 4, SECTION 1, OF THE MUNICIPAL CODE REGARDING THE REMOVAL OF DRIVING WHILE UNDER THE INFLUENCE OF LIQUOR OR DRUGS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DEMING, NEW MEXICO:

THAT TITLE 1, CHAPTER 4, SECTION 1, BE AMENDED WITH THE REMOVAL OF SUBSECTION B TO NOW READ AS FOLLOWS:

1-4-1: PENALTY:

Unless a lesser maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation of this code or any city ordinance shall be as follows:


A. Violations Generally: Except for those violations of this code or city ordinances described in subsection B of this section, a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both;

B. Industrial User Wastewater Pretreatment: For violations of an industrial user wastewater pretreatment ordinance, or this code, as required by the United States environmental protection agency, a fine of not more than nine hundred ninety-nine dollars (\$999.00) a day for each violation. (Ord. 976, 6-8-1998)

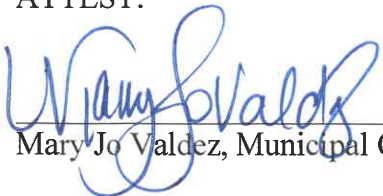
PASSED, APPROVED AND ADOPTED THIS 21st day of December 2021.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk

9. Public Hearing: To Consider Amending Title 1, Chapter 11, Section 8 of the Municipal Code Updating the Uniform Traffic Ordinance

Mayor Jasso conducted a public hearing to consider the amendment of Title 1, Chapter 11, Section 8 of the Municipal Code and called the hearing to order.

Mr. Sera stated that the amendment is to update the sections of the Uniform Traffic Ordinance in whole.

Mayor Pro Tem Milo asked if the fees can be changed. Mr. Sera stated that they can adopt the fees under the Uniform Traffic Ordinance or if the infractions are set separately under Municipal Ordinance, fees can be set as in the past; however, this amendment is only to update the Uniform Traffic Ordinance adopting all sections.

Councilor Cruz stated he is frequently questioned about how fines are calculated and asked for clarification on a failure to pay fines and the arrest process.

Mr. Jimenez addressed Council stating that after failing to pay a fine, there are 15-days allowed to appear; after those 15 days, a summons is issued followed by 3 letters before a warrant is issued for arrest. Mr. Jimenez also stated that there are payment options to take care of fines, as well.

With no further questions, Mayor Jasso closed public comments and asked Council if they were prepared to make a decision.

Councilor Cruz motioned to approve the ordinance, as submitted; Councilor Rodriguez second the motion; motion was approved by the following roll call vote:

ROLL CALL VOTE

Councilor Topham	Aye
Mayor Pro Tem Milo	Aye
Councilor Rodriguez	Aye
Councilor Cruz	Aye

10. Administrator's Report

Mr. Sera addressed Council reporting on the following items.

- \$1.1 million have been appropriated for redistricting.
- Working with Departments on funding requests.
- Legislative Session will begin on January 18th, and Silver Spikes will have a reception on February 1st.
- Staff is still working on staffing shortages, with Police being down 4 and Fire also having 2 vacancies.

**CITY OF DEMING
ORDINANCE NO. 1310**

AN ORDINANCE UPDATING FEES IN TITLE 1, CHAPTER 11, SECTION 8, OF THE MUNICIPAL CODE REGARDING THE ADOPTION OF THE NEW MEXICO UNIFORM TRAFFIC ORDINANCE BY THE CITY OF DEMING; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DEMING, NEW MEXICO:

1-11-8: FEES: 1. Penalty Amounts Assessed: As used in this subsection C, the words "penalty assessment misdemeanor" means violation of the following listed sections of the New Mexico uniform traffic ordinance, for which the listed penalty assessment is established:

**COMMON NAME OF
OFFENSE**

SECTION VIOLATED

**PENALTY
ASSESSMENT**

Obedience to officers	12-3-2	\$41.00
Accident (Personal injury)	12-4-1	Penalty Assessed by Municipal Judge
Accident (Vehicle damage)	12-4-2	Penalty Assessed by Municipal Judge
Accident (Duty to give info & aid)	12-4-3	Penalty Assessed by Municipal Judge
Accident (Duty upon striking unattended vehicle)	12-4-4	Penalty Assessed by Municipal Judge
Accident (Duty upon striking fixed object)	12-4-5	Penalty Assessed by Municipal Judge
Accident (Immediate notice)	12-4-6	Penalty Assessed by Municipal Judge
Obedience to traffic control	12-5-3	\$51.00
Speeding (Basic rule)	12-6-1.1	\$25.00
Speeding (1-10 MPH over)	12-6-1.2 (1)	\$25.00
Speeding (11-15 MPH over)	12-6-1.2 (2)	\$30.00
Speeding (16-20 MPH over)	12-6-1.2 (3)	\$65.00
Speeding (21-25 MPH over)	12-6-1.2 (4)	\$100.00
Speeding (26-30 MPH over)	12-6-1.2 (5)	\$125.00
Speeding (31-35 MPH over)	12-6-1.2 (6)	\$150.00
Speeding (35 MPH over and higher)	12-6-1.2 (7)	\$200.00
Minimum speed	12-6-1.5	\$25.00
Passing (Overtaking on the left)	12-6-2.3	\$10.00
Passing (Improper passing)	12-6-2.4	\$10.00
Passing (Overtaking on the right)	12-6-2.6 (B)	\$10.00
Passing (No passing zone)	12-6-2.7 (B)	\$25.00
Passing (School zone)	12-6-2.7 (D)	\$25.00
One way violation	12-6-2.9	\$41.00
Following too closely	12-6-2.13	\$25.00
Stop sign	12-6-4.3	\$25.00
Yield sign	12-6-4.3 (C)	\$25.00
Yield after stop	12-6-4.3 (B)	\$25.00
Position at stop sign	12-6-4.3 (D)	\$25.00

Required position and method of turning at intersection	12-6-5.1	\$41.00
Turning (Turning Lane for turning only)	12-6-5.1 (.C)	\$41.00
Turning (Drive across property to avoid traffic device/sign)	12-6-5.1 (E)	\$41.00
Obedience to no-turn signs	12-6-5.4	\$41.00
Turning (Unsafe U-turn)	12-6-5.5	\$10.00
Turning (U-turn Interfering w/traffic)	12-6-5.5 (1)	\$10.00
Turning (Unsafe Lane change)	12-6-5.8	\$25.00
Turning (Turning Lane use required)	12-6-5.8 (1)	\$25.00
Turn signal (Hand/Device)	12-6-5.9	\$41.00
Parking (Sidewalk)	12-6-6.1 (A)(1)	\$41.00
Parking (Blocking driveway)	12-6-6.1 (A)(2)	\$41.00
Parking (In an intersection)	12-6-6.1 (A)(3)	\$41.00
Parking (Within 15 feet of fire hydrant)	12-6-6.1 (A)(4)	\$41.00
Parking (On a crosswalk)	12-6-6.1 (A)(5)	\$41.00
Parking (Over 18 inches from curb)	12-6-6.2	\$41.00
Stop/Standing/Parking	12-6-6.3	\$25.00
Parking (Blocking alley)	12-6-6.4	\$41.00
Parking (over 30 mins in non-residential 2:00am - 5:00am)	12-6-6.5	\$41.00
Emerging from alley & other	12-6-7.1 (A)	\$25.00
Passing a school bus (onloading)	12-6-7.3 (A)	\$100.00
Yield to emergency vehicle	12-6-7.4	\$41.00
Reckless driving	12-6-12.3	Penalty Assessed by Municipal Judge
Careless Driving	12-6-12.4	Penalty Assessed by Municipal Judge
Careless Driving Fulltime and Entire Attention	12-6-12.4 (A)	Penalty Assessed by Municipal Judge
Due regard for roadway & conditions	12-6-12.4 (B)	\$51.00
Operators & chauffeurs to be licensed	12-6-12.5 (A)	\$25.00
License to be exhibited upon demand	12-6-12.5 (D)	\$25.00
Unlawful use (Suspended/Revoked)	12-6-12.6	Penalty Assessed by Municipal Judge
Unlawful use (Revoked-122G)	12-6-12.6 (8)	Penalty Assessed by Municipal Judge
Driving while license administratively suspended	12-6-12.6 (A)	\$25.00
Backing (With reasonable safety)	12-6-12.9 (A1)	\$25.00
Backing (Exit/entry/controlled access)	12-6-12.9 (A2)	\$25.00
Backing (Unless preceded by observer)	12-6-12.9 (A3)	\$25.00
Backing (From private drive into street w/safety)	12-6-12.9 (A4)	\$25.00
Backing (More than 60" w/ out observer)	12-6-12.9 (B)	\$25.00
Obstruction to driver's view (Over 3 persons in front seat)	12-6-12.10 (A)	\$41.00
Obstruction to driver's view	12-6-12.10 (B)	\$41.00


Driving on sidewalk	12-6-12.17	\$41.00
Prohibited activities while driving	12-6-12.18	\$51.00
Prohibited activities while driving (Interferes with safe operation)	12-6-12.18 (1)	\$51.00
Prohibited activities while driving (Person/animal on lap)	12-6-12.18 (2)	\$51.00
Prohibited activities while driving (Seated on lap of another)	12-6-12.18 (3)	\$51.00
Prohibited activities while driving (Arm around another person)	12-6-12.18 (4)	\$51.00
Prohibited activities while driving (use of lights/horn to distract)	12-6-12.18 (5)	\$51.00
Racing on streets (Exhibition of speed)	12-6-12.19	Penalty Assessed by Municipal Judge
Passing (Funerals/Parades processions)	12-6-12.20	\$41.00
Permitting unauthorized minor to drive	12-6-12.23 (A)	\$141.00
Permitting unauthorized person to drive	12-6-12.23 (B)	\$141.00
Parties to unlawful acts	12-6-12.24	\$196.00
Animal on street	12-6-13.10	\$25.00
Seatbelt (Child under 1yr)	12-6-13.12 (B1)	\$25.00
Seatbelt (Child 1yr-4yr)	12-6-13.12 (B2)	\$25.00
Seatbelt (Child 5yr-6yr)	12-6-13.12 (B3)	\$25.00
Seatbelt (Child 7yr-12yr)	12-6-13.12 (B4)	\$25.00
Seatbelt (All Occupants)	12-6-13.13	\$25.00
Open container	12-6-13.14 (B)	\$25.00
Unsecured load	12-6-13.5 (D)(E)	\$100.00
Improper opening of doors	12-6-13.8	\$41.00
Crossing at other than crosswalks	12-6-14.4	\$25.00
Eye protection (Motorcycle)	12-7-5	\$41.00
Mandatory use of helmet	12-7-6	\$41.00
Off road vehicle on streets	12-7-9.2 (B)	\$41.00
Parking (Handicap)	12-9-9 (A)	\$250.00
Improper equipment	12-10-1	\$25.00
Unsafe equipment	12-10-1.2 (A)	\$25.00
Headlamps (Required at night)	12-10-1.3	\$25.00
Headlamps (Headlight out)	12-10-1.5	\$25.00
Headlights (Emitting glaring/dazzling light)	12-10-1.5 (E)	\$25.00
Dimming of headlamps	12-10-1.6	\$10.00
Taillamps	12-10-1.7 (A)	\$25.00
Mufflers	12-10-1.10	\$10.00
Windshield obstructed	12-10-1.12	\$25.00
Sun screening on windshield (Below ASI line)	12-10-1.12 (A)	\$25.00
Sun screening on windshield (Red, yellow, amber in color)	12-10-1.12 (A)(B)	\$25.00

Sun screening on windshield (Reflective)	12-10-1.12 (A)(B1)	\$25.00
Sun screening on front windows/windshield (>20%)	12-10-1.12 (A)(B2)	\$25.00
Permission to use emergency equipment	12-10-1.14	\$36.00
Auxiliary lamps (Fog lamps)	12-10-1.37 (D)	\$25.00
Stopped vehicle not to interfere	12-10-1.47	\$41.00
Registration (Expired)	12-10-4	\$25.00
Registration (Display of plate)	12-10-4.1	\$25.00
Registration (Illegible plate)	12-10-4.1 (F)	\$25.00
Registration (Exhibited upon demand)	12-10-5	\$10.00
Mandatory financial responsibility	12-10-6	\$51.00

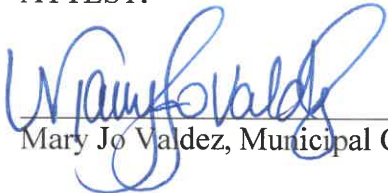
PASSED, APPROVED AND ADOPTED THIS 21st day of December 2021.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:

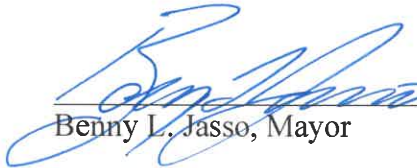

Mary Jo Valdez, Municipal Clerk

11. Adjourn Meeting

With no further business to discuss, Mayor Jasso entertained a motion to adjourn the meeting. Councilor Rodriguez motioned to adjourn the meeting; Councilor Topham second the motion; motion carried unanimously. The meeting adjourned at 6:29 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk