



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
October 18, 2022
5:30 P.M.

Those who would like to participate remotely can via GoToMeeting.com with the following credentials:

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

<https://meet.goto.com/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
 - a. Regular City Council September 20, 2022
 - b. Special City Council September 29, 2022
 - c. Parks Commission September 13, 2022
 - d. P&Z Commission September 19, 2022
2. Public Hearing: To Consider the Adoption of a Bond Ordinance and Bond Purchase Agreement
3. Proclamations:
 - a. Veteran's Day
 - b. Domestic Violence Awareness
 - c. Lights On After School
 - d. Head Start Awareness Month
 - e. Friends of Community Candy Drop Day
 - f. Lung Cancer Awareness Month
4. Approval of Organizational Chart Update
5. Approval of Job Descriptions for Code Enforcement Supervisor, Aquatic Manager, and Aquatic Assistant Manager
6. Presentation of Rate Analysis
7. Procurement:
 - a. Bid #22-10 Rehabilitation of Apron Mill and Overlay Phase I
8. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for the Operation of a Tire Shop by Eraclio Nevarez DBA The Brother's Tire Shop at 2701 E. Pine Street, within the City Limits
9. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for the Construction of an Energy Facility by Pivot Energy at Peru Mill (NM394), and 2nd and 4th Streets, within the City Limits
10. Administrator's Report
11. Adjourn Meeting

The next regular City Council Meeting is scheduled for November 15, 2022 at 5:30 p.m.

CITY COUNCIL MEETING MINUTES

October 18, 2022

Remote meeting in compliance with the
New Mexico Open Meetings Act

Council Present:

Benny L. Jasso, Mayor

Joe "Butter Milo, Councilor

Alex Valdespino, Councilor

Monica Topham, Mayor Pro Tem

Irmaisela A. Rodriguez, Councilor

Council Present (Telephonically/Virtually):

Council Absent:

Staff Present: Aaron Sera, City Administrator

Clint Hogan, Chief of Police

Jim Massengill, Public Works Director

Adrian Coloma, IT

Laura Holguin, Finance Director/CFO

Joe Owen, Fire Chief

Azucena Vargas, Asst. Public Works Director

Lane Camfield, Planner

Staff Present (Telephonically/Virtually): Alexi Jackson, Community Services Director

Cassie Ward, Economic Development Coordinator

Benjamin Jimenez, Municipal Court Clerk

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.

Mayor Jasso confirmed there was a quorum with the following roll call:

ROLL CALL VOTE

Councilor Valdespino Aye

Councilor Rodriguez Aye

Councilor Milo Aye

Mayor Pro Tem Topham Aye

Mayor Pro Tem Topham motioned to reorganize the items within the agenda moving item 7 up to number 2 and renumbering the items accordingly, without any additions; Councilor Rodriguez second the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Milo Aye

Councilor Valdespino Aye

Mayor Pro Tem Topham Aye

Councilor Rodriguez Aye

1. Consent Agenda

Mr. Sera stated he had nothing to discuss on the consent agenda. Mayor Jasso asked Council if they had any questions or if they were prepared to make a motion.

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

ROLL CALL VOTE

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

2. Public Hearing: To Consider the Adoption of a Bond Ordinance and Bond Purchase Agreement

Mayor Jasso conducted a public hearing to consider the adoption of a bond ordinance and bond purchase agreement.

Mr. Sera introduced Ms. Linda Melendres and stated that Mr. Mark Valenzuela was also attending virtually.

Ms. Melendres explained to Council that this is the second step in finalizing the authorization of the issuance and sale of the City's gross receipts tax revenue bonds, series 2022. Ms. Melendres explained that the funds will be used for a broad range of projects, including updating the SCADA system; energy efficiency; WWTP; well refurbishment and other needed projects that qualify for the use of the funds. Mr. Sera explained that there is a \$4 million cap resulting in an approximate 6 year payoff for solar projects; 8 year pay off for SCADA; and 6 year pay off on well projects.

Councilor Milo asked when the $\frac{1}{4}$ would take effect. Mr. Sera reiterated the projects the funds could be used for; adding that it would take effect on January 1, 2023.

Mayor Jasso opened for public comments; there were none.

Mayor Jasso closed public comments and asked Council if they were prepared to make a motion.

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

ROLL CALL VOTE

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

STATE OF NEW MEXICO)
COUNTY OF LUNA) ss.
CITY OF DEMING)

The City Council (the “Council”) of the City of Deming (the “City”), in the State of New Mexico, met in open regular session in full conformity with law and the ordinances of the City, in City Hall, 309 S. Gold Ave., Deming City, New Mexico, being the regular meeting place of the Council, at 5:30 p.m., on Tuesday, October 18, 2022, at which time there were present and answering the roll call the following members:

Mayor:	Benny L Jasso
Councilors:	Monica Topham Irmaisela Rodriguez Alex Valdespino Joe F. “Butter” Milo
Absent:	N/A

Thereupon the following proceedings, among others, were taken at such meeting:

There was officially filed with the City Clerk, the Mayor and each Councilor, a copy of an ordinance in final form, which is as follows:

ORDINANCE NO. 1314

AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF DEMING, NEW MEXICO GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2022 IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000 FOR THE PURPOSE TO (1) DEFRAYING THE COST OF PUBLIC PROJECTS RELATED TO ANY MUNIICIPAL PURPOSE INCLUDING, BUT NOT LIMITED TO DESIGNING, DEVELOPING, ENGINEERING, CONSTRUCTING, RECONSTRUCTING, REHABILITATING, RENOVATING, MODERNIZING, ENHANCING AND OTHERWISE IMPROVING CERTAIN CAPITAL IMPROVEMENTS OF PUBLIC FACILITIES, PUBLIC PARKS AND RECREATIONAL FACILITIES, SOLAR PV SYSTEMS, WATER AND WASTEWATER SYSTEMS AND FACILITIES, (2) FUND A DEBT SERVICE RESERVE FUND, AND (3) PAY COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM AND SECURED BY A PLEDGE OF A 0.25 OF ONE PERCENT UNRESTRICTED MUNICIPAL GROSS RECEIPTS TAX DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-19D-9 NMSA 1978, AS AMENDED, AND CITY ORDINANCE NO. 1313; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM SAID TAX PROCEEDS; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE TERMS AND OTHER DETAILS CONCERNING THE BONDS; PROVIDING FOR CERTAIN DOCUMENTS PERTAINING TO THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE; AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUE AND SALE OF THE BONDS.

Capitalized terms used in the following preambles are defined in Section 1 of this Bond Ordinance, unless the context requires otherwise.

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

WHEREAS, pursuant to Section 7-19D-9 NMSA 1978, the City has heretofore enacted Ordinance No. 1313 adopted and approved on September 20, 2022 which impose, in part, an increment of unrestricted municipal gross receipts tax at a rate of 0.25% of the gross receipts reported or required to be reported by persons engaging in business within the City, with certain specified exemptions and deductions which is being pledged to the Bonds herein authorized; and

WHEREAS, pursuant to Sections 7-1-6.1 and Section 7-1-6.46 NMSA 1978, the City receives monthly distributions from the New Mexico Taxation and Revenue Department in lieu of gross receipts tax revenue that the City would have received but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978; and

WHEREAS, the Municipal Gross Receipts Tax Revenues are collected by the Revenue Division of the New Mexico Taxation and Revenue Department, and are remitted to the City after deductions for administrative costs pursuant to Section 7-19D-7 NMSA 1978; and

WHEREAS, the Bonds shall be issued with a first (but not necessarily exclusively first) lien on the Pledged Revenues; and

WHEREAS, the City has no outstanding obligations payable from the Pledged Revenues; and

WHEREAS, the City has entered into certain capital improvement projects (as herein after defined the "Project") which provides for a lump-sum payment by the City in an amount that exceeds the revenue available to the City for such purpose in a single fiscal year; and

WHEREAS, the City has determined that there is an urgent public need for the Project to be funded with certain of the proceeds of the Bonds; and

WHEREAS, the City expects to receive an offer to purchase the Bonds, potentially in one or more series, pursuant to a Bond Purchase Agreement, which will provide for an underwriting discount not to exceed 3% of the par amount of the Bonds and an original issue discount not to exceed 6% of the par amount of the Bonds; and

WHEREAS, Section 3-31-6(C) NMSA 1978, provides that any law which authorizes the pledge of any or all of the Pledged Revenues to the payment of any revenue bonds issued pursuant to the Act or which affects the Pledged Revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, including the Bonds, unless such outstanding revenue bonds, including the Bonds, have been discharged in full or provision has been fully made therefor; and

WHEREAS, Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, permit the City to issue revenue bonds for the Project and to pledge the Pledged Revenues to the payment of the interest on and principal of revenue bonds; and

WHEREAS, the Council hereby determines that the Project is for a municipal purpose within the meaning of Section 3-31-1(D) NMSA 1978; and

WHEREAS, all required authorizations, consents or approvals of any State governmental body, agency or authority for the authorization, execution and delivery of the Bonds which are required to have been obtained by the date of the adoption of the Bond Ordinance have been obtained, and which will be required to be obtained prior to the Closing Date, will have been obtained by that Closing Date.

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

Section 1. Definitions. As used in ordinance and any ordinance or resolution amendatory hereof or supplemental hereto, or relating hereto:

“Act” means Sections 3-31-1 to 3-31-12 and Sections 6-14-8 to 6-14-11 NMSA 1978, as amended, all enactments of the Council, including this Bond Ordinance, relating to the issuance of the Bonds.

“Authorized Officer” means the Mayor, Administrator, Clerk or other officer or employee of the City when designated by a Certificate signed by the Mayor of the City from time to time.

“Bond Counsel” means an attorney or firm of attorneys nationally recognized as bond counsel.

“Bond Fund” has the meaning specified in Section 18.

“Bond Insurance Policy” means the financial guaranty insurance policy, if any, issued by the Bond Insurer insuring the payment when due of the principal and interest due on the Bonds as provided therein.

“Bond Insurer” means the municipal bond insurer, if any, as identified in the Sale Certificate.

“Bond Ordinance” means this City Ordinance duly adopted on October 18, 2022.

“Bond Purchase Agreement” means the Bond Purchase Agreement by and between the City and the Purchaser relating to the sale of the Series 2022 Bonds to the Purchaser.

“Bonds” means the “City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022” issued in one or more series.

“City” means the municipal body corporate and politic known as the City of Deming, New Mexico.

“Commitment” means the commitment from a Bond Insurer to the City for a Bond Insurance Policy.

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

“Council” means the City Council of the City.

“Event of Default” has the meaning assigned in Section 28.

“Expenses” means the reasonable and necessary fees, costs and expenses incurred by the City with respect to the issuance of the Bonds, including the fees, premiums, compensation, costs and expenses paid or to be paid to the Purchaser and attorneys' fees.

“Federal Securities” means direct obligations of, or obligations the timely payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Fiscal Year” means the 12 months beginning on the first day of July of each calendar year and ending on the last day of June of the next calendar year, but it may mean any other 12-month period which any appropriate authority may hereafter establish for the its Fiscal Year.

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

“Independent Counsel” means an attorney duly admitted to the practice of law before the highest court of the State who is not a full-time employee of the City.

“Insured Bank” means a bank that is a member of the Federal Deposit Insurance Corporation.

“Insured Bonds” means any Bonds the payments on which are insured by a Bond Insurance Policy.

“Interest Payment Date” means June 1 and December 1 of each year (or if such day is not a Business Day, then the next succeeding Business Day), commencing on the date specified in the Sale Certificate.

“Municipal Gross Receipts Tax Income Fund” has the meaning specified in Section 18.

“Municipal Gross Receipts Tax Revenues” means the amounts of money derived from the City’s 0.25% increment of Municipal Gross Receipts Tax that is imposed on all persons engaging in business in the City pursuant to City Ordinance No. 1313, adopted and approved on September 20, 2022, as authorized by Sections 7-19D-1 through 7-19D-9 NMSA 1978, (1) which tax equals, subject to the exemptions specified in 7-19D-7 NMSA 1978, 0.25% of the gross receipts reported or required to be reported by persons engaging in business in the City, (2) which amounts are dedicated for general municipal purposes and payment of municipal debt, and (3) which amounts are collected and, after deductions for administrative costs and any disbursements for tax credits, refunds and the payment of interest applicable to such Municipal Gross Receipts Tax and subject to any increase or decrease pursuant to Section 7-1-6.15 NMSA 1978, are distributed monthly by the Revenue Division of the Taxation and Revenue Department of the State of New Mexico to the City pursuant to Sections 7-1-6.12 and 7-19D-9 NMSA 1978. Municipal Gross Receipts Tax Revenues also includes (i) the portion of the gross receipts tax distribution to the City to be made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of Municipal Gross Receipts Tax Revenues set forth in the sentence above that would have

been remitted to the City but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar distributions made to the City in lieu of Municipal Gross Receipts Tax Revenues.

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

“Outstanding” when used with reference to the Bonds and as of any particular date, means all Bonds theretofore executed by the City and authenticated by the Registrar except: (i) any Bonds cancelled or fully paid on or before such date; (ii) any Bond in lieu of or in substitution for which another Bond has been delivered pursuant to this Bond Ordinance; (iii) any Bond for the payment or redemption of which funds or securities permitted by Section 26 in the necessary amount have theretofore been deposited with the Paying Agent (whether upon or prior to the maturity or redemption date of such Bond); and (iv) for the sole purpose of determining the percentage of Owners consenting to any amendment to this Bond Ordinance or authorizing the exercise of any remedy hereunder, any Bonds owned by the City. For all other purposes, Bonds owned by the City which are not described in clauses (i), (ii) or (iii) shall be treated as Outstanding.

“Owner” means the registered owner of any Bond.

“Parity Obligations” means the Bonds and other obligations payable from Municipal Gross Receipts Tax Revenues hereafter issued with a lien on the Municipal Gross Receipts Tax Revenues on parity with the Bonds.

“Paying Agent” means BOKF, NA (or successor in function), as agent for the City for the payment of the principal of and interest and premium, if any, on the Bonds.

“Payment Date” means any date upon which any payment of principal of or interest on any Bond is scheduled to be made.

“Permitted Investments” means securities which are at the time legal investments of the City for the money to be invested, as applicable, including but not limited to the following if permitted by law: (i) direct obligations of, or obligations fully guaranteed by the United States of America or instruments evidencing ownership interests in those obligations or in specified portions of the principal of or interest on those obligations; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody’s Investors Service, Inc., or Standard & Poor’s Rating Group; and (iv) the State Treasurer’s short-term investment fund created pursuant to Section 6-10-10.1 NMSA 1978, and operated, maintained and invested by the office of the State Treasurer.

“Pledged Revenues” means the Municipal Gross Receipts Tax Revenues.

“Preliminary Official Statement” or “Official Statement” means the disclosure document to be used by the Purchaser in connection with the sale of the Bonds to the public.

“Project” means the certain municipal capital improvement projects including, but not limited to, designing, developing, engineering, constructing, reconstructing, rehabilitating, renovating, modernizing, enhancing and otherwise improving certain capital improvements of public facilities, public parks and recreational facilities, solar pv systems, water and wastewater systems and facilities entered into for the benefit of the City and its residents.

“Project Fund” has the meaning specified in Section 18.

“Purchaser” means the original purchasers of the Bonds as identified in the Sale Certificate.

“Registrar” means BOKF, NA (or successor in function), as registrar and transfer agent for the Bonds.

“Regular Record Date” means the 15th day of the calendar month (whether or not a business day) preceding each regularly scheduled interest payment date on the Bonds.

“Reserve Fund” has the meaning specified in Section 18.

“Reserve Fund Insurance Policy” means any policy of insurance, surety bond, letter of credit or other financial instrument issued to the City, the proceeds of which shall be used to prevent deficiencies in the payment of the principal of or interest on the Bonds resulting from insufficient amounts being on deposit in the Bond Fund to make the payment of principal of and interest on the Bonds as the same become due. Each policy shall be written by a bank, insurance company or any financial institution experienced in insuring or guaranteeing municipal bonds whose policies of insurance, surety bond, letter of credit or other financial instrument would not adversely affect the rating of the Bonds by Moody’s and/or Standard & Poor’s to the extent that the Bonds are to be so rated and provided that at the time of the issuance of such policy such bank, insurance company or any financial institution shall have received the highest policy claims rating accorded insurers by the A.M. Best Company or any comparable service, if applicable to the provider of the Reserve Fund Insurance Policy, and either of the two highest Rating Categories of Moody’s and Standard & Poor’s to the extent that each rating agency provides such a rating and is then rating the Bonds.

“Reserve Requirement” means an amount which is equal to the lesser of (i) ten percent of the proceeds of the Bonds, (ii) the maximum annual debt service on the Bonds, or (iii) 125% of the average annual debt service on the Bonds.

“Sale Certificate” means one or more certificates executed by the Mayor or Administrator dated on or before the date of delivery of the Bonds, setting forth the following final terms of the Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund or a debt service reserve account, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; (ix) the federal tax status of the Bonds; and (x) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, all subject to the parameters and conditions contained in this Bond Ordinance.

“Series Date” means the date of original issuance of each series of Bonds.

“Special Record Date” means a special date fixed to determine the names and addresses of registered owners of the Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest thereon, all as further provided in Section 6(b).

“State” means the State of New Mexico.

Section 2. Ratification. All action heretofore taken (not inconsistent with the express provisions of this Bond Ordinance) by the Council and officers of the City directed toward the Project, and toward the authorization, sale and issuance of the Bonds is ratified, approved and confirmed.

Section 3. Authorization of Project. The Project and the method of financing the Project are hereby authorized and ordered at a total cost estimated not to exceed the amount of the Bond proceeds and any investment earnings thereon, excluding any such cost defrayed or to be defrayed by any source other than Bond proceeds. The Project is found and declared to be necessary and for a municipal purpose pursuant to Section 3-31-1(D) NMSA 1978.

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

A. Moneys available for the Project from all sources other than the issuance of revenue bonds are not sufficient to defray the cost of the Project.

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

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

D. The issuance of the Bonds, in one or more series, pursuant to the Act, to provide funds for the financing of the Project is necessary and in the interest of the public health, safety, morals and welfare of the residents of the City.

E. The net effective interest rate on the Bonds, as set forth in the Sale Certificate, shall be less than 12% per annum, the maximum rate permitted by State law.

F. The underwriting discount shall not exceed 3% of the par amount of the Bonds and an original issue discount shall not exceed 6% of the par amount of the Bonds.

G. The final maturity of the Bonds shall not exceed twenty years from the date of issuance of the Bonds.

H. The Project is needed to meet the needs of the City and its residents.

Authorization of Bonds. This Bond Ordinance has been adopted by the affirmative vote of at least a three-fourth's (3/4^{ths}) majority of all of the members of the Council. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the City, it is hereby declared necessary that the City, pursuant to the Act, issue its negotiable, fully registered, revenue bonds, in one or more series, to be designated "City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022," in an aggregate principal amount not to exceed \$4,000,000. The issuance, sale and delivery of the Bonds are hereby authorized. The Project is authorized and approved. The Bonds shall be sold to the Purchaser pursuant to the Bond Purchase Agreement at a negotiated or public sale, a sale of the City's bonds to investors by a bond underwriter or a private placement of the bonds with a bank, financial institution, state instrumentality, the New Mexico Finance Authority or other person, with interest rates, maturity dates and other terms that are satisfactory to the City, pursuant to the terms in the Sale Certificate.

Section 5. Bond Details.

A. Basic Details. The Bonds shall be dated the date of delivery, are issuable in the denomination of \$5,000 each or any integral multiple thereof (provided that no Bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual Bond will be issued for more than one maturity), numbered consecutively from 1 upwards, shall bear interest from their dated date until maturity at a rate of interest not to exceed twelve percent (12%) per annum, as set forth in the Sale Certificate, and shall be payable on June 1 and December 1 in each year as set forth in the Sale Certificate. The Bonds may be issued in one or more series.

B. Payment. The principal of and any prior redemption premium applicable to any Bond shall be payable to the Owner thereof as shown on the registration books kept by the Registrar (which is appointed as registrar and transfer agent for the Bonds), upon maturity or prior redemption thereof and upon presentation and surrender at office of the Paying Agent (which is appointed as paying agent for the Bonds). If any Bond shall not be paid upon such presentation and surrender at or after maturity or on a designated prior redemption date on which the City may have exercised its right to prior redeem any Bond pursuant to Section 7, it shall continue to draw interest at the rate borne by the Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the registered owner thereof as of the Regular Record Date by check or draft mailed by the Paying Agent, on or before each interest payment date (or, if such interest payment date is not a business day, on or before the next succeeding business day without accruing any additional interest), to the Owner thereof on the Regular Record Date at such Owner's address as it last appears on the registration books kept by the Registrar on the Regular Record Date (or by such other arrangement as may be mutually agreed to by the Paying Agent and any registered owner on such Regular Record Date). All such payments shall be made in lawful money of the United States of America. The person in whose name any Bond is registered at the close of business on any Regular Record Date with respect to any interest payment date shall be entitled to receive the interest payable thereon on such interest payment date notwithstanding any transfer or exchange thereof subsequent to such Regular Record Date and prior to such interest payment date; but any such interest not so timely paid or duly provided for shall cease to be payable as provided above and shall be payable to the person in whose name any Bond is registered at the close of business on a Special Record Date fixed by the Paying Agent for the payment of any such defaulted

interest. Such Special Record Date shall be fixed by the Paying Agent whenever moneys become available for defaulted interest, and notice of any such Special Record Date shall be given not less than ten days prior thereto, by first-class mail, to the Owners of the Bonds as of a date selected by the Paying Agent, stating the Special Record Date and the date fixed for the payment of such defaulted interest.

Section 6. Prior Redemption.

A. Redemption. The Bonds may be subject to optional redemption or mandatory sinking fund redemption prior to their stated maturities at the redemption price(s) and on the dates established in the Sale Certificate.

B. Notice by City. Unless waived by the Registrar, at least 45 days prior to any date selected by the City for prior redemption of any of the Bonds, the City shall give written instructions to the Registrar (and, if the Registrar is not also the Paying Agent, to the Paying Agent) with respect to such prior redemption.

C. Notice by Registrar. Additionally, notice of redemption shall be given by the Registrar by sending a copy of such notice by first class, postage prepaid mail, not more than 60 days and not less than 30 days prior to the redemption date to each Owner as shown on the registration books kept by the Registrar as of the date of selection of units of principal for redemption. The Registrar shall not be required to give notice of any prior redemption unless it has received written instructions from the City in regard thereof, at least 45 days prior to such redemption date or unless the 45-day deadline is waived by the Registrar. Failure to give such notice by mailing to the registered owner of any Bond, or any defect therein, shall not affect the validity of the proceedings for the redemption of any of the Bonds for which proper notice was given.

D. Conditional Redemption. If money or Federal Securities sufficient to pay the optional redemption price of the Bonds to be called for optional redemption are not on deposit with the Paying Agent prior to the giving of notice of optional redemption pursuant to Section 7(D), such notice shall state such Bonds will be redeemed in whole or in part on the optional redemption date in a principal amount equal to that part of the optional redemption price received by the Paying Agent by 2:00 p.m. on the applicable optional redemption date. If the full amount of the optional redemption price is not received as set forth in the preceding sentence, the notice shall be effective only for those Bonds for which the optional redemption price is on deposit with the Paying Agent. If all Bonds called for optional redemption cannot be redeemed, the Bonds to be redeemed shall be selected in a manner deemed reasonable and fair by the City, and the Registrar shall give notice, in the manner in which the original notice of optional redemption was given, that such money was not received. In that event, the Registrar shall promptly return to the Owners thereof the Bonds or certificates which it has received evidencing the part thereof which have not been redeemed.

E. Other Redemption Details. The notice required by Section 7(D) shall specify the number or numbers of the Bond or Bonds or portions thereof to be so redeemed (if less than all are to be redeemed); and all notices required by this Section 7 shall specify the date fixed for redemption, and shall further state that on such redemption date there shall become and be due

and payable upon each \$5,000 unit of principal so to be redeemed at the office of the Paying Agent the principal thereof and the applicable prior redemption premium thereon (if any), and that from and after such date interest shall cease to accrue. Accrued interest to the redemption shall be paid by check or draft mailed to the Owner (or by alternative means if so agreed to by the Paying Agent and the Owner). Notice having been given in the manner hereinbefore provided, the Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated; and upon presentation thereof at the office of the Paying Agent, the City shall pay the Bond or Bonds so called for redemption and the applicable prior redemption premium (if any). In the event that only a portion of the principal amount of a Bond is so redeemed, a new Bond representing the unredeemed principal shall be duly completed, authenticated and delivered by the Registrar to the Owner pursuant to Section 10 and without charge to the Owner thereof.

Section 7. Negotiability. Subject to the provisions specifically made or implied herein, the Bonds shall be fully negotiable, and shall have all the qualities of negotiable paper, and the Owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

Section 8. Execution.

A. Method of Execution. Each Bond shall be executed by the manual or facsimile signature of the Mayor under the seal of the City, each Bond shall be executed and attested with the manual or facsimile signature of the City Clerk; and each Bond shall be authenticated by the manual signature of an authorized officer of the Registrar as hereafter provided. The Bonds bearing the manual or facsimile signatures of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the City (subject to the requirement of authentication by the Registrar) notwithstanding that before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose manual or facsimile signatures appear thereon shall have ceased to fill their respective offices.

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

Section 9. Registration, Transfer, Exchange, Replacement and Cancellation.

A. Registration Books; Transfer and Exchange. Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bonds at the office of the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at office of the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Registrar shall

authenticate and deliver a Bond or Bonds that the Owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds as herein provided shall be without charge to the Owner or any transferee, but the Registrar may require the payment by the Owner of any Bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

B. When Transfer or Exchange Not Required. The Registrar shall not be required: (i) to transfer or exchange all or a portion of any Bond subject to prior redemption during the period of 15 days next preceding the mailing of notice to the Owners calling any Bonds for prior redemption pursuant to Section 7; or (ii) to transfer or exchange all or a portion of a Bond after the mailing to registered owners of notice calling such Bond or portion thereof for prior redemption.

C. Payment to Registered Owners. The person in whose name any Bond shall be registered on the registration books kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of interest as is provided in Section 6(B), and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the Owner thereof or the Owner's legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

D. Replacement Bonds. If any Bond is lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it may reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond has matured, the Paying Agent may pay such Bond in lieu of replacement.

E. Delivery of Bond Certificates to Registrar. The officers of the City are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in custody by the Registrar pending use as herein provided.

F. Cancellation of Bonds. Whenever any Bond is surrendered to the Paying Agent or Registrar upon payment thereof, or for transfer, exchange or replacement as provided herein, such Bond shall be promptly cancelled by the Paying Agent or the Registrar, as the case may be, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or the Registrar, as the case may be, to the City.

Section 10. Book-Entry. Except as set forth in this Bond Ordinance, the Bonds may be issued in book-entry form with no physical distribution of Bonds made to the public. The Depository Trust Company or any successor securities depository ("DTC") may act as securities depository for the Bonds. A single certificate for each maturity of the Bonds may be issued to DTC and immobilized in its custody. The book-entry system shall evidence ownership of the Bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of ownership

effected on the records of DTC and its participants (the "Participants") pursuant to rules and procedures established by DTC and the Participants. As a condition to delivery of the Bonds, the Purchaser may, immediately after acceptance of delivery thereof, deposit the Bonds with DTC, registered in the name of DTC or its nominee. Principal and interest may be paid to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to the Participants shall be the responsibility of DTC; transfer of principal and interest payment to beneficial owners of the Bonds (the "Beneficial Owners") by the Participants shall be the responsibility of the Participants and other nominees of the Beneficial Owners maintaining a relationship with the Participants. Neither the City, the Registrar nor the Paying Agent shall be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, the Participants or persons acting through the Participants. If (i) the Bonds are not eligible for DTC services, (ii) DTC determines to discontinue providing its services with respect to the Bonds, or (iii) the Registrar determines that a continuation of the system of book-entry transfers through DTC is not in the best interest of the Registrar or the Beneficial Owners, the Registrar shall either identify another qualified securities depository or cause physical Bonds to be delivered to the Beneficial Owners or their nominees and thereupon the Beneficial Owners or their nominees, upon authentication of the Bonds and registration of the Bonds in the Beneficial Owners' or nominees' name, shall become the Owners of the Bonds for all purposes. Upon the occurrence of any such event, the Registrar shall mail an appropriate notice to DTC for notification to the Participants and the Beneficial Owners of the substitute depository or the issuance of Bonds to the Beneficial Owners or their nominees, as applicable. All notices and payments addressed to DTC shall contain the information required by, and sent as set forth in, the Letter of Representation executed by the City. Notices of redemption shall be given to DTC as provided in such Letter of Representation.

Section 11. Special Obligations. All of the Bonds, together with the interest accruing thereon, shall be payable and collectible solely out of the Pledged Revenues, which are irrevocably so pledged. The registered owner or owners thereof may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged therefor; and the Bonds shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City; and each of the Bonds shall recite that it is payable and collectible solely from the Pledged Revenues, which are so pledged, and that the Owner thereof may not look to any general or other fund for the payment of principal and interest on, and prior redemption premium due in connection with, the Bonds.

Section 12. Forms of Bonds, Certificate of Authentication and Assignment. The Bonds and the related Certificate of Authentication and Form of Assignment shall be in substantially the following forms:

(Form of Bond)

UNITED STATES OF AMERICA
STATE OF NEW MEXICO
CITY OF DEMING

No. R-____

\$_____

GROSS RECEIPTS TAX REVENUE BONDS
SERIES 2022

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Series Date</u>	<u>CUSIP</u>
____ % per annum	June 1, 20__	____, 2022	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The City of Deming, New Mexico (the “City”), for value received, promises to pay upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, to the registered owner named above, or registered assigns, on the Maturity Date specified above (unless this bond, if subject to prior redemption, shall have been called for prior redemption in which case on such redemption date), upon the presentation and surrender hereof at the office of the Administrator (or successor in function) of the City (the “Paying Agent”), the Principal Amount stated above, in lawful money of the United States of America, and to pay to the registered owner hereof as of the Regular Record Date (being the 15th day of the calendar month preceding each regularly scheduled interest payment date as defined in Ordinance No. 1314, adopted on October 18, 2022, as supplemented by the Sale Certificate executed on _____, 2022 (which authorizes this bond and which is referred to herein collectively as the “Bond Ordinance”), by check or draft mailed to such registered owner, on or before each interest payment date as hereinafter provided (or, if such interest payment date is not a business day, on or before the next succeeding business day without accruing any additional interest), at his address as it last appears on the Regular Record Date on the registration books kept for that purpose by the Administrator (or successor in function) of the City as registrar for the bonds (the “Registrar”) or by such other arrangement as may be agreed to by the Paying Agent and the registered owner hereof, interest on said sum in lawful money of the United States of America from the Series Date specified above or the most recent interest payment date to which interest has been fully paid or duly provided for in full (as more fully provided in the Bond Ordinance) until maturity at the per annum Interest Rate specified above, payable on December 1, 2022 and semiannually thereafter on June 1 and December 1 in each year. Any such interest not so timely paid or duly provided for shall cease to be payable to the registered owner as of the Regular Record Date and shall be payable to the registered owner as of a Special Record Date (as defined in the Bond Ordinance), as further provided in the Bond Ordinance. If upon presentation and surrender to the Paying Agent at or after maturity or on a designated prior redemption date on which the City may have exercised its right to prior redeem this bond pursuant to the Bond Ordinance, payment of this bond is not made as herein provided, interest hereon shall continue at the rate herein designated until the principal hereof is paid in full.

The bonds of the series of which this bond is a part (the “Bonds”) maturing on or after June 1, 20__ are subject to prior redemption at the option of the City in one or more units of principal of \$5,000 on and after June 1, 20__, in whole or in part at any time in such order of maturities as the City may determine (and by lot if less than all of the Bonds of such maturity is called, such selection by lot to be made by the Registrar in such manner as it shall consider

appropriate and fair), for the principal amount of each \$5,000 unit so redeemed, accrued interest thereon to the redemption date.

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

The Bonds are fully registered (i.e., registered as to payment of both principal and interest), and are issuable in the denomination of \$5,000 or any denomination which is an integral multiple of \$5,000 (provided that no bond may be in a denomination which exceeds the principal coming due on any maturity date and no individual bond shall be issued for more than one maturity).

This bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the same aggregate principal amount and maturity shall be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The City, the Paying Agent and the Registrar may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This bond is one of a series of bonds designated "City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022" of like tenor and date, except as to interest rate, number and maturity, authorized for the purpose to (1) pay, discharge and satisfy certain outstanding risk management mitigation measures entered into for the benefit of the City and its residents, (2) fund a debt service reserve fund, and (3) pay costs of issuance of the Bonds.

This bond is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

This bond does not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the City, and is payable and collectible solely from the Pledged Revenues. The "Pledged Revenues" are the revenues from the City's 0.25% Unrestricted Municipal Gross Receipts Tax which is imposed on all persons engaging in business within the City pursuant to City Ordinance No. 1314, adopted and approved on October 18, 2022, and as authorized by Sections 7-19D-1 through 7-19D-9 NMSA 1978; and provided further, the City intends that Section 3-31-6(C) NMSA 1978 applies expressly to the amount of revenues pledged pursuant to the Bond Ordinance.

The bonds are equitably and ratably secured by a lien on the Pledged Revenues; and the bonds constitute an irrevocable and first lien (but not necessarily an exclusively first lien) upon the Pledged Revenues. Additional obligations may be issued and made payable from the Pledged Revenues and having a lien thereon inferior and junior to the lien, or, subject to designated conditions, having a lien thereon on a parity with the lien of the bonds of the series of which this bond is a part, in accordance with the provisions of the Bond Ordinance.

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

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

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the Council and officers of the City in the issue of this bond; and that it is issued pursuant to and in strict conformity with the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12 NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

IN WITNESS WHEREOF, the City of Deming, New Mexico has caused this bond to be signed, subscribed, and executed, and attested with the manual or facsimile signatures of the Mayor and the City Clerk, respectively; has caused its corporate seal to be affixed hereon, all as of the Series Date.



CITY OF DEMING, NEW MEXICO

By

Mayor

ATTEST

By

City Clerk

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

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

BOKF, NA, as Registrar

By _____
Authorized Officer

(End of Form of Certificate of Authentication)

(Form of Assignment)

ASSIGNMENT

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

Signature Guaranteed:

Name and Address of Transferee:

Dated: _____ Social Security Number or
Other Tax Identification Number: _____

(End of Form of Assignment)

(End of Form of Bond)

Section 13. Delivery of Bonds and Initial Registration. When the Bonds have been duly executed, authenticated, registered and sold, the City shall deliver them to the Purchaser on receipt of the agreed purchase price. The Registrar shall initially register the Bonds in the name of the Purchaser as identified in the Sale Certificate.

Section 14. Disposition of Proceeds; Completion of Project. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds shall be used and paid solely for the valid costs of the Project.

A. Accrued Interest. Upon the sale of the Bonds, all moneys received as accrued interest, if any, shall be deposited into the Bond Fund, to apply on the payment of interest next due on the Bonds.

B. Project Fund. An amount necessary from the Bonds, together with other legally available funds of the City, shall be deposited for the payment of the costs of the Project.

C. Expenses. To the extent not paid by the Purchaser, an amount necessary, together with other legally available funds of the City, shall be used to pay Expenses for the Bonds, from Bond proceeds.

D. Additional Deposit. Upon the issuance and sale of the Bonds, the City Administrator shall cause legally available moneys to be deposited in the Project Fund in such amount as he determines shall be necessary to assure that the amount of the Project Fund will be sufficient to pay the costs of the Project.

E. Use of Project Fund. The Project Fund shall be used to pay the costs of the Project when due. As soon as practicable after completion of the Project, and in any event not more than sixty (60) days after completion of the Project, any balance remaining in the Project Fund (other than any amount retained by the City for any Project costs not then due and payable) shall be transferred from the Project Fund and deposited in the Bond Fund and used by the City to pay principal and interest on the Bonds as same become due.

Section 15. Use of Proceeds. Except as otherwise specifically provided in this Bond Ordinance, the proceeds derived from the sale of the Bonds shall be used and paid solely for the purposes of the Project and including any costs relating to the issuance of the Bonds.

Section 16. Purchaser Not Responsible. The validity of the Bonds is neither dependent on nor affected by the validity or regularity of any proceedings related to the completion of the Project. Neither the Purchaser nor any subsequent Owner of any Bonds shall in any manner be responsible for the application or disposal by the City or by any officer or any employee or other agent of the City of the moneys derived from the sale of the Bonds or of any other moneys designated in this Bond Ordinance.

Section 17. Funds and Accounts. The City hereby creates or continues the following special and separate funds:

A. Project Fund. The “City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022, Project Fund” to be maintained by the City.

B. Municipal Gross Receipts Tax Income Fund. The “City of Deming, New Mexico Municipal Gross Receipts Tax Income Fund” to be maintained by the City.

C. Bond Fund. The “City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022, Bond Fund” to be maintained by the City.

D. Reserve Fund. The “City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022, Reserve Fund” to be maintained by the City.

Section 18. Deposit of Pledged Revenues and Flow of Funds.

A. Municipal Gross Receipts Tax Income Fund. So long as any of the Bonds are outstanding either as to principal or interest, or both, the City shall credit all Pledged Revenues to the Municipal Gross Receipts Tax Income Fund. The following payments shall be made from the Municipal Gross Receipts Tax Income Fund.

B. Bond Fund.

(i) As a first charge on the Municipal Gross Receipts Tax Income Fund, the following amounts shall be withdrawn from the Municipal Gross Receipts Tax Income Fund and shall be credited to the Bond Fund:

(1) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Bonds, and monthly thereafter, commencing on each Interest Payment Date, one-sixth ($1/6^{\text{th}}$) of the amount necessary to pay the next maturing installment of interest on the Bonds then outstanding.

(2) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Bonds, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the outstanding Bonds and monthly thereafter, commencing on each principal payment date, one twelfth ($1/12^{\text{th}}$) of the amount necessary to pay the next maturing installment of principal on the Bonds then outstanding.

C. Deficiency. After deposits from the Municipal Gross Receipts Tax Income Fund set forth in Paragraph B of this Section, if on any Payment Date the accumulated amount on deposit in the Bond Fund is less than the amount required to make the payments then due on the Bonds, the Paying Agent shall draw upon amounts in the Reserve Fund as hereafter provided in Paragraph F of this Section.

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

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

F. Reserve Fund. Immediately upon the sale and delivery of the Bonds, a deposit in an amount equal to the Reserve Requirement will be made into the Reserve Fund from proceeds of the Bonds or, alternatively, the City may acquire a Reserve Fund Insurance Policy in an amount equal to all or part of the Reserve Requirement so that the combined amount of cash in the Reserve Fund and the amount of the Reserve Fund Insurance Policy is equal to the Reserve Requirement. Amounts on deposit in the Income Fund, after making the deposits into the Bond Fund and the debt service funds for additional Parity Bonds required by Paragraphs B and H of

this Section, may also be used by the City pursuant to this Paragraph F to make deposits into the Reserve Fund if required to meet the Reserve Requirement or to pay the annual premiums, reimbursement or other costs required by or associated with any Reserve Fund Insurance Policy. No payment need be made into the Reserve Fund so long as the moneys or the Reserve Fund Insurance Policy therein shall equal not less than the Reserve Requirement. The moneys in the Reserve Fund shall be accumulated and maintained as a continuing reserve to be used, except as hereinafter provided in Paragraph J of this Section, only to prevent deficiencies in the payment of the principal of and interest on the Bonds resulting from failure to deposit into the Bond Fund sufficient funds to pay the principal and interest as the same become due.

G. Defraying Delinquencies in the Bond Fund and Reserve Fund. If, in any month, the City shall, for any reason, fail to pay into the Bond Fund the full amount above stipulated for the Bonds from the Pledged Revenues, then an amount shall be paid into the Bond Fund in such month from the Reserve Fund equal to the difference between that paid from the Pledged Revenues and the full amount so stipulated. If the moneys paid into the Bond Fund from the Reserve Fund are not equal to the amount required to be paid into the Bond Fund for such month, then in the following month, an amount equal to the difference between the amount paid and the amount required shall be deposited into the Bond Fund, in addition to the normal payment required to be paid in such month, from the first Pledged Revenues thereafter received and not required to be otherwise applied. The money deposited in the Bond Fund from the Reserve Fund, if any, shall be replaced in the Reserve Fund from the first Pledged Revenues thereafter received not required to be otherwise applied. If, in any month, the City shall, for any reason, fail to pay into the Reserve Fund the full amount required, the difference between the amount paid and the amount so stipulated shall in a like manner be paid therein from the first Pledged Revenues thereafter received and not required to be otherwise applied. The moneys in the Reserve Fund shall be used solely and only for the purpose of paying any deficiencies in the payment of the principal of and the interest on the Bonds. Any investments held in the Reserve Fund shall be valued annually, on or about June 1, at their current fair market value and, if the amount then on deposit in the Reserve Fund exceeds the Reserve Requirement, all amounts in excess of such Reserve Requirement shall be transferred to the Bond Fund and used to pay principal of and interest on the Bonds.

H. Payment of Parity Obligations. Concurrently with the payment of the Pledged Revenues required by paragraphs (B), (G) and (G) of this Section, any amounts on deposit in the Municipal Gross Receipts Tax Income Fund shall be used by the City for the payment of principal of, interest on and debt service reserve fund deposits relating to Parity Obligations, payable from the Municipal Gross Receipts Tax Revenues, as the same accrue. If funds on deposit in the Municipal Gross Receipts Tax Income Fund are not sufficient to pay when due the required payments of principal of, interest on and debt service reserve fund deposits relating to the Bonds and any other outstanding Parity Obligations, then the available and applicable funds in the Municipal Gross Receipts Tax Income Fund will be used, first, on a pro rata basis, based on the amount of principal and interest then due with respect to each series of outstanding Parity Obligations, for the payment of principal of and interest on all series of outstanding Parity Obligations and, second, to the extent of remaining available funds in the Municipal Gross Receipts Tax Income Fund, on a pro rata basis, based on the amount of debt service reserve fund deposits then required with respect to each series of outstanding Parity Obligations, for the required debt service reserve fund deposits for all series of outstanding Parity Obligations.

I. Termination Upon Deposits to Maturity. No payment shall be made into the Bond Fund or the Reserve Fund if the amounts (excluding any amount in the Reserve Fund represented by a Reserve Fund Insurance Policy) in such funds total a sum at least equal to the entire aggregate amount due as to principal, premium, if any, and interest, on the Bonds to their respective maturities or applicable redemption dates, in which case moneys in the Bond Fund and the Reserve Fund in an amount at least equal to such respective principal and interest requirements shall be used solely to pay such obligations as the same accrue, and any moneys in excess thereof in the Bond Fund and the Reserve Fund may be used as provided below.

J. Payment for Subordinate Obligations. Subsequent to the payments required by paragraphs (B), (F), (G) and (H) of this Section, any balance remaining in the Municipal Gross Receipts Tax Income Fund, after making the payments hereinabove provided, shall be used by the City for the payment of interest on and the principal of additional obligations, if any, hereafter authorized to be issued and payable from the Municipal Gross Receipts Tax Revenues with a lien on the Municipal Gross Receipts Tax Revenues junior or subordinate to the lien thereon of the Bonds (provided that such payments may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional obligations).

K. Payment from Other Sources. Notwithstanding any other provisions of this Bond Ordinance, the City may, in its sole discretion, choose to apply other legally available funds to the payment of the Bonds.

Section 19. General Administration of Funds. The funds designated in Section 18 shall be administered and invested as follows:

A. Places and Times of Deposits. The funds shall be separately maintained as a trust fund or funds for the purposes established and shall be deposited in one or more bank accounts in an Insured Bank or Banks. Each fund or account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any purpose other than the designated purpose. Payments shall be made into the proper fund or account on the first day of the month except when the first day shall not be a Business Day, then payment shall be made on the next succeeding Business Day. No later than two Business Days prior to each Interest Payment Date, moneys sufficient to pay interest and principal then due on the Bonds shall be transferred to the Paying Agent. Nothing in this Bond Ordinance shall prevent the City from establishing one or more bank accounts in an Insured Bank or Banks for all the funds required by this Bond Ordinance or shall prevent the combination of such funds and accounts with any other bank account or accounts or investments for other funds and accounts of the City.

B. Investment of Moneys. Moneys in the Reserve Fund shall be invested in accordance with paragraph (C) of this Section and moneys in any other fund or account not immediately needed may be invested in any Permitted Investment allowed by the laws of the State. The obligations so purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account, and the interest accruing thereon and any profit realized therefrom shall be credited to such fund or account, and any loss resulting from such investment shall be charged to such fund or account. The City Administrator shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund or account whenever it shall be necessary to do so in order to provide moneys to meet any payment

or transfer from such fund.

C. Reserve Fund. Moneys in the Reserve Fund may be invested only in Permitted Investments with a maturity not greater than five years (except for investment agreements approved in writing by the Bond Insurer). The City shall annually, on or about June 1 of each year, value the Reserve Fund on the basis of the current fair market value of deposits and investments credited to the Reserve Fund. For purposes of determining the amount on deposit in the Reserve Fund, any Reserve Fund Insurance Policy held by, or the benefit of which is available to, the City as security for the Bonds shall be deemed to be a deposit in the face amount of the policy or the stated amount of the credit facility provided, except that, if the amount available under a Reserve Fund Insurance Policy has been reduced as a result of a payment having been made thereunder or as a result of the termination, cancellation or failure to such Reserve Fund Insurance Policy and not reinstated or another Reserve Fund Insurance Policy provided, then, in valuing the Reserve Fund, the value of such Reserve Fund Insurance Policy shall be reduced accordingly. If, upon any valuation, the value of the Reserve Fund exceeds the Reserve Requirement, the excess amount shall be withdrawn and deposited into the Bond Fund; if the value is less than the applicable requirement, the City shall replenish such amounts from the first Pledged Revenues thereafter received not required to be otherwise applied or other monies legally available therefor.

At such time as the Bonds are paid in full or are deemed to be paid in full, the amount on deposit in the Reserve Fund may be used to pay the final installments of principal and interest on the Bonds and otherwise may be withdrawn and transferred to the City to be used for any lawful purpose.

If moneys have been withdrawn from the Reserve Fund or a payment has been made under a Reserve Fund Insurance Policy constituting all or a portion of the Reserve Fund, and deposited into the Bond Fund to prevent a default on the Bonds, then the City will pay, from Pledged Revenues or other monies legally available therefor, the full amount so withdrawn, together with interest, if any, required under the terms of the Reserve Fund Insurance Policy, or so much as shall be required to restore the Reserve Fund to the Reserve Requirement and to pay such interest, if any. Such repayment shall be made as required by paragraph (G) of Section 19.

The City may in part, or in whole, replace amounts in the Reserve Fund with a Reserve Fund Insurance Policy if the City receives written consent of the Bond Insurer prior to such replacement.

Section 20. First Lien on Pledged Revenues. The Pledged Revenues and the moneys on deposit in the Municipal Gross Receipts Tax Income Fund, the Bond Fund, and the Reserve Fund are hereby authorized to be pledged to, and are hereby pledged, and the City grants a security interest therein and a first lien thereon for, the payment of the principal of and interest on the Bonds, subject to the uses thereof permitted by, and the priorities set forth in, Section 19 of the Bond Ordinance.

Section 21. Additional Bonds and Other Obligations Payable from Municipal Gross Receipts Tax Revenues.

A. Limitations Upon Issuance of Parity Obligations. Nothing in this Bond Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Municipal Gross Receipts Tax Revenues and constituting a lien upon the Municipal Gross Receipts Tax Revenues on a parity with, but not prior or superior to, the lien of the Bonds, nor to prevent the issuance of bonds or other obligations refunding all or a part of the Bonds herein authorized, provided, however, that before any such additional Parity Obligations are issued including those parity lien refunding bonds and other parity lien refunding obligations which refund subordinate lien bonds and other subordinate lien obligations, but not including parity lien refunding bonds and other parity lien refunding obligations which refund outstanding Parity Obligations as permitted by Section 23:

(i) the City is then current in all of the accumulations required to be made in the Bond Fund and Reserve Fund, if any, pursuant to Section 19; and

(ii) the Municipal Gross Receipts Tax Revenues received by the City for the Fiscal Year immediately preceding the date of issuance of such additional Parity Obligations shall have been sufficient to pay an amount representing at least 150% of the combined maximum annual principal and interest coming due in any subsequent Fiscal Year on the then Outstanding Bonds, from Municipal Gross Receipts Tax Revenue on any outstanding bonds, all other than outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding any reserves therefor); provided that if such additional Parity Obligations are issued as variable rate obligations, the highest interest rate allowed by the instruments authorizing such additional Parity Obligations shall be used in making such calculation.

B. Certification or Opinion Regarding Municipal Gross Receipts Tax Revenues. A written certificate or opinion by the City Administrator, that the Municipal Gross Receipts Tax Revenues are sufficient to pay the required amounts under the test in paragraph (A) of this Section, shall conclusively determine the right of the City to issue additional Parity Obligations. The City Administrator may utilize the results of any annual audit to the extent it covers the applicable period.

C. Subordinate Obligations Permitted. Nothing contained in this Bond Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Municipal Gross Receipts Tax Revenues and constituting a lien upon the Municipal Gross Receipts Tax Revenues subordinate, inferior and junior to the lien on the Bonds.

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

Section 22. Municipal Gross Receipts Tax Refunding Bonds. The provisions of Section 22 are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after the Bonds, or any part thereof, shall have been issued and remain outstanding, the City shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Municipal

Gross Receipts Tax Revenues, such bonds or other obligations, or any part thereof, may be refunded (but only with the consent of the registered owner or owners thereof, unless the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Municipal Gross Receipts Tax Revenues is changed (except as provided in Sections 22(C) or 22(D)).

B. Limitations Upon Issuance of Parity Refunding Obligations. No refunding bonds or other refunding obligations payable from the Municipal Gross Receipts Tax Revenues shall be issued on a parity with the Bonds, unless:

(i) The lien on the Municipal Gross Receipts Tax Revenues of the outstanding obligations so refunded is on a parity with the lien thereon of the Bonds; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 22(A).

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

D. Limitations Upon Issuance of any Refunding Obligations. Any refunding bonds or other refunding obligations payable from the Municipal Gross Receipts Tax Revenues shall be issued with such details as the City may by ordinance provide, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, without limitation, the Bonds). If only a part of the outstanding Bonds and any other outstanding obligations of any issue or issues payable from the Municipal Gross Receipts Tax Revenues is refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

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

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 22(A); or

(iii) The lien on the Municipal Gross Receipts Tax Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

Section 23. Equality of Bonds. No Bond shall be entitled to any priority over another in the application of the Pledged Revenues, regardless of the time or times of their issuance, it

being the intention of the Council that there shall be no priority among the Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 24. Protective Covenants. The City covenants and agrees with each and every registered owner of the Bonds that, so long as any of the Bonds remains Outstanding:

A. Use of Bond Proceeds. The City, with the proceeds derived from the sale of the Bonds, shall proceed without delay to carry out the Project as herein provided.

B. Payment of Bonds. The City shall promptly pay the principal of and the interest of every Bond at the place, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof. Such principal and interest are payable solely from the Pledged Revenues; provided that nothing herein shall prevent the City, in its sole discretion, from paying such principal and interest from any other legally available funds.

C. Records. The City shall keep books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues.

D. Audits. The City will, within one hundred eighty (180) days following the close of each Fiscal Year, cause an audit of its books and accounts relating to the Pledged Revenues to be commenced by an Independent Accountant showing the receipts and disbursements in connection with such revenues. The City agrees to furnish forthwith a copy of each such audit to the Purchaser and the holder of any of the Bonds upon written request.

E. Extending Interest Payments. In order to prevent any accumulation of claims for interest after maturity the City shall not directly or indirectly, extend or assent to the extension of the time for payment of any claim for interest on any of the Bonds, and it shall not directly or indirectly be a party to or approve any arrangement for such extension or for the purpose of keeping alive any of said interest and in case the time for payment of any such interest shall be extended, such installment or installments of interest after such extension or arrangement shall not be entitled in case of default hereunder to the benefit or security of this Bond Ordinance except subject to the prior payment in full of the principal of all Bonds then outstanding, and of matured interest on such Bonds the payment of which not been extended.

F. Performing Duties. The City shall faithfully and punctually perform all duties with respect to the Bonds required by Constitution and laws of the State of New Mexico, and ordinances and resolutions of the City, including but not limited to the proper segregation of the Pledged Revenues and their application to the respective funds and accounts.

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

H. Duty with Respect to Pledged Revenues. If the statutes or any ordinance which materially affects the Pledged Revenues or any part of such ordinances shall ever be held to be invalid or unenforceable, the City shall immediately take any action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of this Bond Ordinance, except as is provided in Section 25(I).

I. Impairment of Contract. Any law or ordinance or resolution of the City in any manner affecting the Pledged Revenues or the Bonds, or otherwise appertaining thereto, shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Outstanding Bonds, unless the consent of the required percentage of the Owners of the then Outstanding Bonds is obtained pursuant to Section 34.

J. City's Existence. The City shall maintain its corporate identity and existence unless another political subdivision by operation of law succeeds to the duties, privileges, powers, liabilities, disabilities, immunities and rights of the City, and is obligated by law to receive and distribute the Pledged Revenues in place of the City, without affecting to any substantial degree the privileges and rights of any Owner.

Section 25. Defeasance. When all principal, any applicable prior redemption premium, and interest in connection with the Bonds have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be Outstanding within the meaning of this Bond Ordinance. There shall be deemed to be such due payment as to any Bond when the Council has placed in escrow and in trust with a commercial bank located within or without the State and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may initially be invested) to meet all requirements of principal, interest and any applicable prior redemption premium as the same become due to its maturity or designated redemption date as of which the City shall have exercised or obligated itself to exercise its option to call such Bond. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Council and such bank at the time of the creation of the escrow or the Federal Securities shall be subject to the redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. Federal Securities within the meaning of this Section shall include only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America and which are not callable prior to maturity by the issuer of such obligations.

Section 26. Delegated Powers. The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of the Bond Ordinance, including, without limiting the generality of the foregoing, the publication of the summary of publication set out in Section 37 of the Bond Ordinance (with such changes, additions and deletions as they may determine), the distribution of material relating to the Bonds, the printing of the Bonds, the printing, execution and distribution of a Preliminary and final Official Statement, and the execution and delivery of the Bond Purchase Agreement, the Continuing Disclosure Undertaking and of such certificates as may be required by the Purchaser, the Bond Purchase Agreement, or bond counsel. The use and distribution of the Preliminary Official Statement and the Official Statement in connection with the sale of the Bonds to the public is hereby ratified, authorized, approved and acknowledged.

The City Administrator, or his successor in interest, is hereby authorized and directed to make such changes or corrections to the procedures established in the Bond Ordinance relating to the times of day or the days on which actions are required to be taken, or the persons responsible for particular actions, the form of notice of the occurrence of events, the types and

forms of actions required and other similar administrative matters which, in his judgment, are necessary and appropriate to accomplish the purposes of the Bond Ordinance. The Administrator, or his successor in interest or title, shall give notice of any such changes or corrections to all persons affected thereby, to Bond Counsel for the City and shall file with the City Clerk a certificate of such changes and corrections.

Pursuant to the Supplemental Public Securities Act, Section 6-14-8 et seq., NMSA 1978, the Mayor and Administrator are each hereby delegated authority to execute the Bond Purchase Agreement, the Sale Certificate and to determine any or all of the final terms of the Bonds, subject to the parameters and conditions contained in this Bond Ordinance. The Mayor or Administrator shall present the Sale Certificate to the Council in a timely manner, before or after delivery of the Bonds, at a regularly scheduled public meeting of the Council.

Section 27. Events of Default. Each of the following events is an “Event of Default”:

A. Nonpayment of Principal. Any payment of the principal of any of the Bonds is not made when due and payable, either at maturity, by proceedings for prior redemption, or otherwise.

B. Nonpayment of Interest. Any payment of any installment of interest on the Bonds is not made when the same becomes due and payable or within 30 days thereafter.

C. Default of any Provision. Any failure by the City to observe or perform any covenant, condition or agreement on its part to be observed or performed (other than as referred to in Section 28(A) or Section 28(B)), which failure continues for a period of 60 days after written notice specifying the failure and requesting that it be remedied has been given to the City by the Owners of 25% in principal amount of the Bonds then Outstanding.

D. Bankruptcy or Insolvency of City. (1) The City shall (a) apply for or consent to the appointment of or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the City or of all or a substantial part of its property, (b) commence a voluntary case under the Federal Bankruptcy Code, or (c) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, or reorganization or (2) a proceeding or case shall be commenced, without application or consent of the City, in any court of competent jurisdiction seeking (a) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of the City, (b) appointment of a trustee, receiver, custodian, liquidator or the like of the City or of all or a substantial part of its assets, or (c) similar relief in respect of the City under any law relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts.

Section 28. Remedies Upon Default. Upon the occurrence and during the continuance of any Event of Default, the Owners of not less than 25% in principal amount of the Bonds then Outstanding, including but not limited to a trustee or trustees therefor, may proceed against the City, the Council, and its agents, officers and employees to protect and enforce the rights of any Owner under this Bond Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for specific performance of any covenant or agreement contained herein or in an award or execution of any power herein granted for the enforcement of any power, legal or equitable remedy as such Owners may deem most

effectual to protect and enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any registered owner, or to require the Council to act as if it were the trustee of an express trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds then Outstanding. The failure of any Owner to so proceed shall not relieve the City or any of its officers, agents or employees of any liability for failure to perform any duty. Each right or privilege or any Owner (or trustee thereof) is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 29. Duties Upon Default. Upon the occurrence and during the continuance of any Event of Default, the City shall do and perform all proper acts on behalf of and for the Owners to protect and preserve the security created for the payment of the principal of and interest on the Bonds promptly as the same become due. In the event the City fails or refuses to proceed as provided in this Section, the registered Owners of not less than 25% in principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and enforce the rights of the Owners as hereinabove provided.

Section 30. Federal Tax Matters. The City covenants that it shall use, and shall restrict the use and investment of, the proceeds of the Series 2022 Bonds in such manner and to such extent as may be necessary so that (a) the Series 2022 Bonds shall not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Code, or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon shall not be treated as a preference item under Section 57 of the Code. The City further covenants (a) that it shall take or cause to be taken such actions that may be required of it for the interest on the Series 2022 Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) that it shall not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) that it, or persons acting for it, shall, among other acts of compliance, (i) apply the proceeds of the Series 2022 Bonds to the governmental purposes of the borrowings, (ii) restrict the yield on investment property, (iii) make timely and adequate rebate payments or payments of alternative amounts in lieu of rebate to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

Authorized Officers are authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Series 2022 Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Series 2022 Bonds or interest thereon or assisting in the compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest

from gross income and the intended tax status of the Series 2022 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcripts of the proceedings for the Series 2022 Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2022 Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Series 2022 Bonds.

Section 31. Severability. If any section, paragraph, clause or provision shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 32. Repealer Clause. All ordinances or resolutions or parts of ordinances or resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution or part of any ordinance or resolution heretofore repealed.

Section 33. Amendment. This Bond Ordinance may be amended without the consent of the holder of any Bond to cure any ambiguity, or to cure, correct or supplement any defect or inconsistent provision contained herein, to add to the covenants and agreements in this Bond Ordinance for the protection or benefit of the Owners, to subject to this Bond Ordinance additional revenues, properties or collateral, or to comply with any rule or regulation of the Securities and Exchange Commission relating to the Bonds. Except as provided above, this Bond Ordinance may be amended or supplemented by ordinance adopted by the Council in accordance with the laws of the State, without receipt by the City of any additional consideration but with the written consent of the Owners of 75% of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental ordinance; provided, however, that no such ordinance (without the consent of the registered owners of all of the Bonds authorized by this Bond Ordinance and outstanding at the time of adoption of such amendatory or supplemental ordinance) shall have the effect of permitting:

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

Notwithstanding the foregoing, prior to the issuance of the Bonds, this Bond Ordinance may be amended by resolution of the City Council to cure, correct or supplement any defect or inconsistent provision contained herein.

Section 34. Payment Due on Other Than Business Days. In any case where the date of payment of principal, premium, if any, or interest on the Bonds or the date fixed for redemption of any Bonds, or the date for performing any act or exercising any right, shall be a day other than a business day, then payment of interest or principal and premium, if any, or the performance of such act or exercise of such right need not be made on such date but may be made on the next succeeding business day with the same force and effect as if it had been made on the date scheduled for such payment, performance, or exercise.

Section 35. Bond Ordinance Irrepealable. After any of the Bonds are issued, this Bond Ordinance shall be and remain irrepealable until the Bonds and interest thereon shall be fully paid, cancelled and discharged as therein provided, or have been deemed paid as provided in Section 26.

Section 36. Publication of Bond Ordinance. The following notice shall be published one time in the *Deming Headlight*, being a legal newspaper published and of general circulation in the City, as soon as is practicable following the adoption hereof:

(Form of Notice of Adoption)

CITY OF DEMING, NEW MEXICO
NOTICE OF ADOPTION OF ORDINANCE NO. 1314

Notice is given of the adoption by the City Council of the City of Deming, New Mexico of its Ordinance No. 1314 on October 18, 2022, relating to City of Deming, New Mexico Gross Receipts Tax Revenue Bonds, Series 2022. The title of the Ordinance is:

AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF DEMING, NEW MEXICO GROSS RECEIPTS TAX REVENUE BONDS, SERIES 2022 IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000 FOR THE PURPOSE TO (1) DEFRAYING THE COST OF PUBLIC PROJECTS RELATED TO ANY MUNICIPAL PURPOSE INCLUDING, BUT NOT LIMITED TO DESIGNING, DEVELOPING, ENGINEERING, CONSTRUCTING, RECONSTRUCTING, REHABILITATING, RENOVATING, MODERNIZING, ENHANCING AND OTHERWISE IMPROVING CERTAIN CAPITAL IMPROVEMENTS OF PUBLIC FACILITIES, PUBLIC PARKS AND RECREATIONAL FACILITIES, SOLAR PV SYSTEMS, WATER AND WASTEWATER SYSTEMS AND FACILITIES, (2) FUND A DEBT SERVICE RESERVE FUND, AND (3) PAY COSTS OF ISSUANCE OF THE BONDS; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM AND SECURED BY A PLEDGE OF A 0.25 PERCENT UNRESTRICTED MUNICIPAL GROSS RECEIPTS TAX DISTRIBUTED TO THE CITY PURSUANT TO SECTION 7-19D-9 NMSA 1978, AS AMENDED, AND CITY ORDINANCE NO. 1313; PROVIDING FOR THE DISPOSITION OF THE RECEIPTS DERIVED FROM

SAID TAX PROCEEDS; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE TERMS AND OTHER DETAILS CONCERNING THE BONDS; PROVIDING FOR CERTAIN DOCUMENTS PERTAINING TO THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE; AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUE AND SALE OF THE BONDS.

The title sets forth a general summary of the subject matter contained in the ordinance.

Complete copies of the ordinance are on file in the Office of the City Clerk and are available for inspection and/or purchase during regular office hours. This Notice constitutes compliance with Sections 6-14-4 through 6-14-7 NMSA 1978.

(End of Form of Notice of Adoption)

Section 37. Interested Parties. Nothing in this Bond Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Registrar, the Paying Agent, the Purchaser, the Bond Insurer and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Bond Ordinance or any covenant, condition or stipulation hereof.

Section 38. Limitation on City's Liability. NOTWITHSTANDING ANY PROVISION OF THIS BOND ORDINANCE TO THE CONTRARY, THE OBLIGATIONS OF THE CITY UNDER THIS BOND ORDINANCE ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM THE PLEDGED REVENUES AND CERTAIN PROCEEDS OF THE SALE OF THE BONDS. NEITHER THE FAITH AND CREDIT, NOR THE TAXING POWER OF THE STATE OF NEW MEXICO OR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE CITY, IS PLEDGED TO THE PAYMENT OR PERFORMANCE OF SUCH OBLIGATIONS. NO AGREEMENTS OR PROVISIONS CONTAINED IN THIS BOND ORDINANCE OR ANY OTHER DOCUMENT OR INSTRUMENT RELATED TO THE BONDS SHALL GIVE RISE TO ANY PECUNIARY LIABILITY OF THE CITY, ITS OFFICERS, ITS EMPLOYEES OR MEMBERS OF ITS GOVERNING BODY OR CONSTITUTE A CHARGE AGAINST THE CITY'S GENERAL CREDIT, OR OBLIGATE THE CITY FINANCIALLY IN ANY WAY, EXCEPT WITH RESPECT TO THE PLEDGED REVENUES, AND THEIR APPLICATION AS PROVIDED IN THIS BOND ORDINANCE. NO FAILURE OF THE CITY TO COMPLY WITH ANY TERMS, COVENANTS OR AGREEMENTS IN THIS BOND ORDINANCE OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATED TO THE BONDS SHALL SUBJECT THE CITY, ITS OFFICERS, ITS EMPLOYEES OR MEMBERS OF ITS GOVERNING BODY TO ANY PECUNIARY CHARGE OR LIABILITY EXCEPT TO THE EXTENT THAT THE SAME CAN BE PAID OR RECOVERED FROM THE PLEDGED REVENUES AND CERTAIN PROCEEDS OF THE SALE OF THE BONDS.

Section 39. Governing Law. All rights and obligations of the parties with respect to the Bonds and this Bond Ordinance shall be construed, enforced, and interpreted according to the laws of the State. Venue with regard to any action relating to the Bonds or this Bond Ordinance shall be in federal or state district court located in the State.

[Signature Page Follows]

PASSED AND ADOPTED THIS 18th DAY OF OCTOBER, 2022.




CITY OF DEMING, NEW MEXICO



Mayor

Attest:



City Clerk

Councilor Milo then moved that the ordinance as filed with the City Clerk at this meeting be passed and adopted. Mayor Pro Tem Topham seconded the motion.

The question being upon the passage and adoption of the ordinance, the motion was voted upon with the following result:

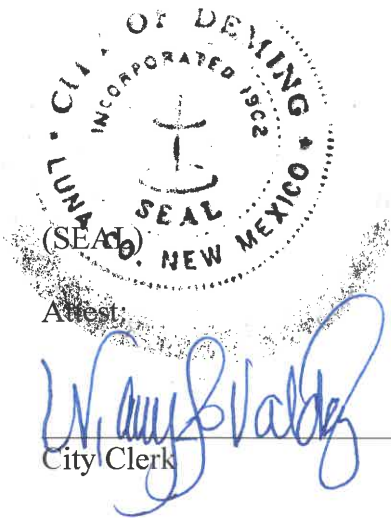
Those Voting Yea:	Councilor Valdespino Councilor Rodriguez Mayor Pro Tem Topham Councilor Milo
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Those Voting Nay:	N/A
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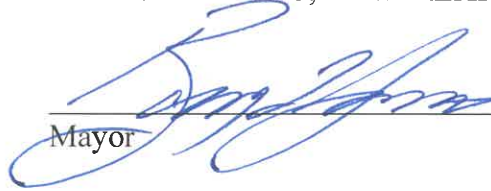
Those Absent:	N/A
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The Mayor thereupon declared that at least three-fourths of all the members of that Council having voted in favor thereof, the motion was carried and the ordinance duly passed and adopted.

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



CITY OF DEMING, NEW MEXICO



Mayor



City Clerk

3. Proclamations:

All proclamations were read into the record (attached)

a. Veteran's Day

Councilor Rodriguez motioned to approve the proclamation; motion second by Mayor Pro Tem Topham; motion carried by following roll call vote:

ROLL CALL VOTE

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

b. Domestic Violence Awareness

Councilor Valdespino motioned to approve the proclamation; motion second by Councilor Milo; motion carried by following roll call vote:

ROLL CALL VOTE

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

c. Lights On After School

Councilor Milo motioned to approve the proclamation; motion second by Councilor Rodriguez; motion carried by following roll call vote:

ROLL CALL VOTE

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

d. Head Start Awareness Month

Councilor Rodriguez motioned to approve the proclamation; motion second by Mayor Pro Tem Topham; motion carried by following roll call vote:

ROLL CALL VOTE

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

e. Friends of Community Candy Drop Day

Councilor Valdespino motioned to approve the proclamation; motion second by Councilor Rodriguez; motion carried by following roll call vote:

ROLL CALL VOTE

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

f. Lung Cancer Awareness Month

Councilor Rodriguez motioned to approve the proclamation; motion second by Mayor Pro Tem Topham; motion carried by following roll call vote:

ROLL CALL VOTE

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

Proclamation

VETERANS DAY

WHEREAS, since the 11th hour, 11th day of the 11th month of 1918 a World War I armistice was proclaimed, Veterans Day has been uniquely an American Day of remembrance on which we pay our respects and honor the American service members who have served the armed forces of our country, and

WHEREAS, in keeping with the traditions that have preceded us, many of us have friends and family members who have selflessly given of themselves to the future of this great nation and who we honor on this day, and

WHEREAS, the service members, from the Army, Air Force, Navy, Marine Corp and Coast Guard were someone's child, someone's spouse, someone's parent and it is important that we remember every day, in this great nation, that our freedom came at a price, and

WHEREAS, Veterans have bravely served in all parts of the world, not only fighting for our freedoms but for all mankind, and

WHEREAS, the City of Deming and Luna County joins with the cities and counties throughout the great state of New Mexico in honoring those who have given their lives and recognizing that their sacrifices were noble, their heroism unparalleled and their dedication to God and Country is unforgettable.

NOW THEREFORE, BE IT PROCLAIMED on November 11, 2022, be observed as
VETERANS DAY

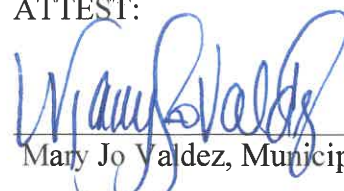
In the City of Deming, in remembrance and in honor of the Veterans who have given their lives in the service of our country.

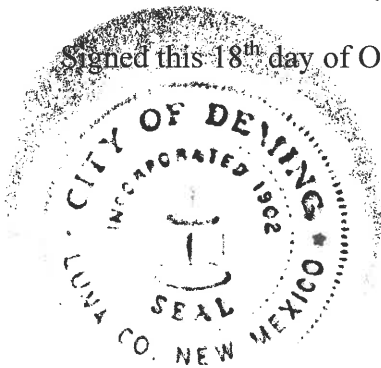
Signed this 18th day of October 2022 in the City of Deming, New Mexico.

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk



Proclamation

TO RECOGNIZE DOMESTIC VIOLENCE AWARENESS MONTH OCTOBER 2022



Whereas, anyone can be a victim of domestic violence regardless of age, sex, ability, ethnicity, sexual orientation, socioeconomic status, or religion;

Whereas, children that grow up in a violent home are believed to be abused and neglected at a rate higher than the national average;

Whereas, Domestic Violence Awareness Month provides an excellent opportunity for citizens to learn more about preventing domestic violence and to show support for the numerous organizations and individuals who provide critical advocacy, services and assistance to victims;

Therefore, be it proclaimed on behalf of all members of City of Deming Council, staff and residents, that the month of October be recognized as Domestic Violence Awareness Month in Deming and urge residents to work together to eliminate domestic violence from our community.

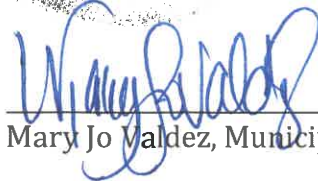
Done this 18th day of October 2022 in the City of Deming, New Mexico.

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor



ATTEST:


Mary Jo Valdez, Municipal Clerk

Proclamation

Keeping the Lights on Afterschool Day

WHEREAS, the citizens of Deming and Luna County, New Mexico, stand firmly committed to quality afterschool programs and opportunities because they:

- Provide safe, challenging, engaging and fun learning experiences to help children and youth develop their social, emotional, physical, cultural and academic skills.
- Support working families by ensuring their children are safe and productive after the regular school day ends.
- Build stronger communities by involving our students, parents, business leaders and adult volunteers in the lives of our young people, thereby promoting positive relationships among children, youth, families and adults.
- Engage families, schools and diverse community partners in advancing the welfare of our children; and

WHEREAS, The Afterschool Program has provided significant leadership in the area of community involvement in the education and well-being of our youth, grounded in the principle that quality afterschool programs are key to helping our children become successful adults; and

WHEREAS, *Lights on Afterschool*, a national celebration of afterschool programs on **October 22, 2022** promotes the critical importance of quality afterschool programs in the lives of children, their families and their communities; and

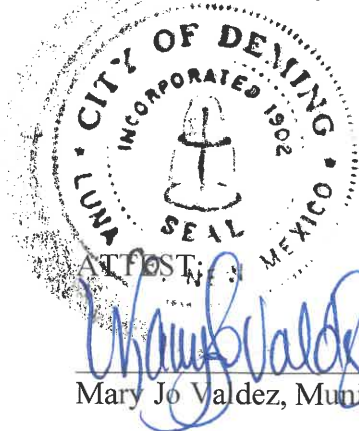
WHEREAS, more than 28 million children in the U.S. have parents who work outside the home, and 19.4 million children have no place to go after school; and

WHEREAS, many afterschool programs across the country are facing funding shortfalls so severe that they are being forced to close their doors and turn off their lights; and

NOW, THEREFORE BE IT RESOLVED that I, Benny L. Jasso, do hereby proclaim October 20, 2022 as ***"Lights on Afterschool Day,"***; and

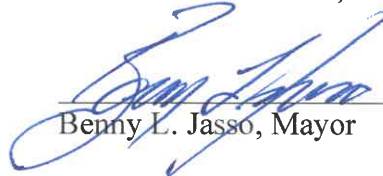
BE IT FURTHER RESOLVED that I, Benny L. Jasso, Mayor enthusiastically endorses ***Lights on Afterschool*** and commits our community to engage in innovative afterschool programs and activities that ensure the lights stay on and doors stay open for all children after school.

Signed this 18th day of October 2022 in Deming, New Mexico.



Mary Jo Valdez, Municipal Clerk

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

Proclamation

HEAD START AWARENESS MONTH

WHEREAS, established in 1965, Head Start is a national, federally funded early childhood school readiness program that serves children and families and whose purpose is to help children achieve their full potential; and

WHEREAS, Head Start continues to be the national commitment to give every vulnerable child an opportunity to succeed; and

WHEREAS, Head Start provides comprehensive health, nutritional, educational, social services, family and community development and meaningful parent engagement; and

WHEREAS, Head Start focuses on children's language development, early literacy, social skills, and giving their parents the skills in becoming their child's first and best teacher; and

WHEREAS, Head Start is committed to the development of each child and provides preventative and early intervention services to children and families regardless of their economic status; and

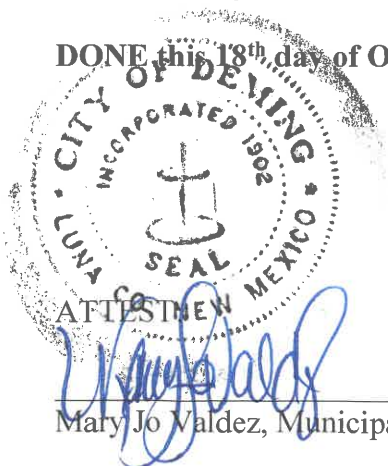
WHEREAS, The City Council and the Mayor recognizes that the needs of children and families in the City of Deming must become a top priority for future decision makers by investing financial resources and talent in early childhood which are the formative years of every child; and

NOW, THEREFORE, BE IT PROCLAIMED, that the City Council and the Mayor of Deming, New Mexico, hereby proclaim the month of October 2022 as:

"HEAD START AWARENESS MONTH"

BE IT FURTHER PROCLAIMED, The Mayor and City Council encourages all parents of early childhood children to participate in literacy activities, such as reading a book, going to the library, having conversations and sharing stories with your child during the month of October.

DONE this 18th day of October 2022, in the City of Deming, New Mexico.



Mary Jo Valdez, Municipal Clerk


Benny L. Jasso, Mayor

Proclamation

The Friends of the Community Candy Drop Day

WHEREAS, Richard Weaver, owner of Weaver's Welding wanted an event to bring young people and authority figures together in a friendly, non-threatening atmosphere, and

WHEREAS, he and many friends of the community sponsored the first Great Pumpkin Candy Drop in 2006.

WHEREAS, he formed Friends of the Community a (501)(c)(3) organization, and

WHEREAS, he solicited donations of cash and/or candy and invited kids, young and old, and,

WHEREAS, he also invited the Deming Police Department, Deming Fire Department, Luna County Sheriff's Posse, public officials, everyone who represents authority; and

WHEREAS, he has grown the Candy Drop to include music, events, and booths which are open to the public, and any vendors in attendance must provide their goods and services free of charge.

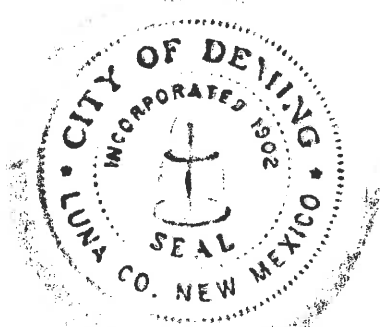
NOW THEREFORE, I, Benny L. Jasso, Mayor and City Council of the City of Deming, do hereby proclaim Sunday, October 23, 2022, as:

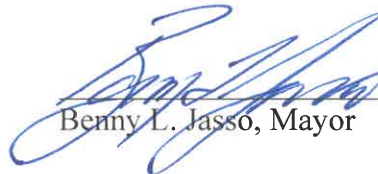
"THE FRIENDS OF THE COMMUNITY CANDY DROP DAY"

and encourage everyone to support Friends of the Community and help them provide a safe, fun event for young people.

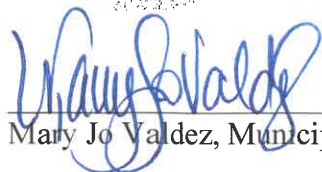
Done this 18th day of October 2022 in the City of Deming, New Mexico.

CITY OF DEMING, NEW MEXICO




Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal City Clerk

CITY OF DEMING PROCLAMATION
Declaring November as Lung Cancer Awareness Month

Whereas, lung cancer is the leading cause of cancer death amongst men and women in the United States and in New Mexico in 2022, accounting for more deaths than colon cancer, breast cancer, and prostate cancer combined; (1)(2)

Whereas, according to the Centers for Disease Control and Prevention, there were 114 new lung cancer cases and 25 deaths because of lung cancer between 2015 and 2019 in New Mexico; (2) Whereas, the 5-year survival rate for localized lung cancer is ~59%, yet only ~17% of lung cancers are diagnosed at this stage; (1)

Whereas, screening for lung cancer for high-risk individuals using low-dose computed tomography can lead to the earlier detection of lung cancer and save lives, reducing the mortality by 20% when compared to screening by chest x-ray in the National Lung Screening Trial (3) and reducing the risk of death at 10 years by 24% in men and 33% in women as demonstrated by another large randomized trial; (4)

Whereas, funding for lung cancer research trails far behind funding for research of many other cancers, and additional research is needed in early diagnosis, screening, and treatment for lung cancer as well as in lung cancer affecting women and lung cancer health disparities; Whereas lung cancer incidence is decreasing twice as fast in men as it is in women, each year more women die from lung cancer than breast cancer and by 2035, more women will die from lung cancer than men;(6,7)

Whereas African Americans have the highest lung cancer incidence and mortality of all races, and disparities in lung cancer screening, diagnosis, treatment, and mortality are well characterized among African Americans and other racial minorities. (8)

Whereas lung cancer in never smokers is the 7th leading cause of cancer-related death and accounts for 17,000-26,000 deaths in the US every year(7), 60-70% of never smokers diagnosed with lung cancer are women(9,10), and the proportion of lung cancers diagnosed in never smokers is increasing in the US;(10,11)

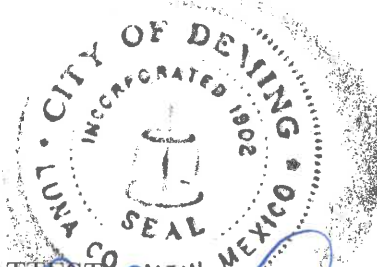

Whereas, organizations working in the Deming community, such as the American Lung Cancer Screening Initiative and Women's Lung Cancer Forum, are committed to educating about lung cancer and lung cancer screening and working to increase lung cancer screening rates in Deming.

Therefore, I, Mayor Benny Jasso and the Deming City Council do hereby proclaim November 2022 as Lung Cancer Awareness Month in Deming and recognize the need for research in lung cancer affecting women and lung cancer health disparities, and encourage all citizens, to learn about lung cancer and early detection through lung cancer screening.

DONE this 18th day of October 2022 in the City of Deming, New Mexico

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor


ATTEST

Mary Jo Valdez, Municipal Clerk

4. Approval of Organizational Chart Update

Mr. Sera explained that the update is an annual requirement for audit purposes. Ms. Holguin noted a correction to the chart.

Councilor Milo motioned to approve the proclamation; motion second by Councilor Rodriguez; motion carried by following roll call vote:

ROLL CALL VOTE

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

5. Approval of Job Descriptions for Code Enforcement Supervisor, Aquatic Manager, and Aquatic Assistant Manager

Mr. Sera stated that the positions were previously discussed to provide oversight and management of the aquatic center as well as the new inflatable water park; adding that the Code Enforcement Supervisor would be responsible to ensure reports are completed and administrative duties as necessary and will report to the Administrative Captain.

Councilor Valdespino motioned to approve the bid, as presented; Councilor Milo second the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

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

6. Presentation of Rate Analysis

Mr. Sera explained that a rate analysis was preformed for utility services; Mr. Sera went on the explain the shortfall in revenue. Based on the analysis, solid waste charges were shown to lack in revenues that would sustain services, especially due to inflation.

Mr. Sera stated that an ordinance would come before Council next month and that the increase in 5% effecting rates would be spread out over a 3-year period.

The item was for discussion purposes only, and no motions were made on the item.

Mayor Jasso asked that all parties interested in providing testimony for the cases listed in items 8 and 9 sign-in and be sworn-in by raising their right hand and stating "I do so affirm" once he read the oath. All parties swore-in.

7. Procurement:

a. Bid #22-10 Rehabilitation of Apron Mill and Overlay Phase I

Mr. Sera recommended to award the bid to Southwest Concrete and Paving, Inc. in the amount of \$1,393,857.09 including NMGR and asked that the Community Services Director and/or City Administrator be granted the authority to enter into an agreement with Southwest Paving and Concrete, Inc. and to execute any documents related to this project.

Councilor Rodriguez motioned to approve the proclamation; motion second by Mayor Pro Tem Topham; motion carried by following roll call vote:

ROLL CALL VOTE

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

8. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for the Operation of a Tire Shop by Eraclio Nevarez DBA The Brother's Tire Shop at 2701 E. Pine Street, within the City Limits

Mayor Jasso conducted a quasi-judicial public hearing to consider a special use permit for the operation of a tire shop to be located at 2701 E. Pine Street, located within the City limits.

Mayor Jasso asked if all hearing notices were posted properly. Ms. Valdez confirmed.

Mayor Jasso called the hearing to order and asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, presented the item to Council stating that the applicant, wishes to operate a tire shop that would offer oil changes and brake services in the near future. There were no zoning issues, and the applicant has obtained a business license which was referred to planning for a special use permit. Mr. Camfield added that the applicant has expressed the willingness to comply with City Code in installing a fence with visual blocking should they store vehicles which is not planned.

Mayor Jasso asked if staff or Council had any questions of staff. There were none.

Mayor Jasso asked if the applicant would like to make a statement. He did not.

Mayor Jasso asked if Council had any questions for the applicant; Councilor Milo asked if they'd be performing oil changes. The applicant stated that they would like to do so in the future after they have established themselves.

Mayor Jasso asked if there were any affected parties that would like to speak. There were none.

Mayor Jasso asked if there were any other parties that would like to speak. There were none.

Mayor Jasso closed the public hearing and asked for Council's decision and asked if Council wished to go into closed session pursuant to NMSA 1978 10-15-1 (H) 3 of the Open Meetings Act, to discuss the item.

Councilor Rodriguez motioned to approve the special use permit, as presented; motion second by Mayor Pro Tem Topham; motion was approved by the following roll call vote:

ROLL CALL VOTE

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

9. Quasi-Judicial Public Hearing: To Consider a Special Use Permit for the Construction of an Energy Facility by Pivot Energy at Peru Mill (NM394), and 2nd and 4th Streets, within the City Limits

Mayor Jasso conducted a quasi-judicial public hearing to consider a special use permit for the construction of an energy facility by Pivot Energy at Peru Mill (NM394), and 2nd and 4th Streets, located within the City limits.

Mayor Jasso asked if all hearing notices were posted properly. Ms. Valdez confirmed.

Mayor Jasso called the hearing to order and asked if Council had any conflicts of interest; they did not.

Mr. Camfield, City Planner, presented the item to Council stating that the applicant is requesting a special use permit to build a 1.9 MW solar facility on 17.5 acres of private land. Current Zoning is “D” Industrial, and staff has no objections.

Mayor Jasso asked if staff or Council had any questions of staff; there were none.

Mayor Jasso asked if the applicant would like to make a statement. Ms. Friedman addressed Council stating they are working towards participating in the New Mexico Community Solar Program stating the possible discount benefits which may be provided to low-income households; as well as a higher tax base for the City of Deming.

Mayor Jasso asked if Council had any questions for the applicant; they did not.

Mayor Jasso asked if there were any affected parties that would like to speak; there were none.

Mayor Jasso asked if there were any other parties that would like to speak; there were none.

Mayor Jasso closed the public hearing and asked for Council’s decision and asked if Council wished to go into closed session pursuant to NMSA 1978 10-15-1 (H) 3 of the Open Meetings Act, to discuss the item.

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

ROLL CALL VOTE

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

10. Administrator's Report

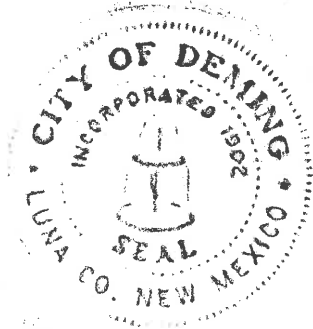
Mr. Sera addressed Council, reporting on the following items.

- Staff has been busy working on the solid waste rate analysis
- Economic Development revolving loan fund is amazing and will bring approximately 40 jobs to the community over the next 2-3 years by utilizing the fund.
- Maverick Truck Stop will be coming soon and will be built by Motel 6
- Employees are still hard to find
 - Police Department is loading up
 - Fire Department is now conducting open testing to build up potential candidates
- Employees are very appreciative of the minimum wage increase that took effect
- Cameras will be installed over the next weeks as there was vandalism to the Trees Lake area
- Excavation is underway for the inflatable water park
- Staff has attained some interns from Deming Cesar Chavez Charter High School

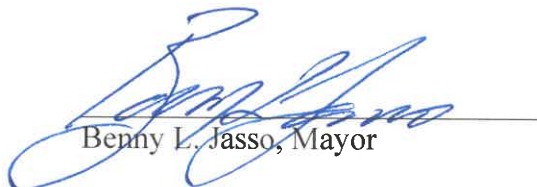
11. Adjourn Meeting

With no further business to discuss, Mayor Jasso entertained a motion to adjourn the meeting.

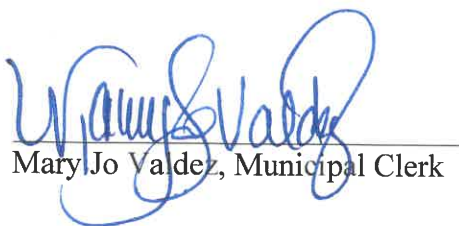
Councilor Milo motioned to adjourn the meeting; Councilor Rodriguez second the motion; motion carried unanimously. The meeting adjourned at 6:51 p.m.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Mary Jo Valdez, Municipal Clerk