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CDBG PUBLIC HEARING

November 10, 2014

6:00 P.M.

AGENDA

Call to Order / Pledge of Allegiance

1. Open Public Hearing for the 2015 Community Development Block Grant Applications
 - A. Welcome
 - B. Purpose and History of CDBG Program
 - C. Current and Past CDBG Projects
 - D. Question About the Program
 - E. Citizens Input
 - F. Adjourn CDBG Hearing

CITY COUNCIL MEETING

November 10, 2014

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

AGENDA

Call to Order/Pledge of Allegiance

1. Consent Agenda
 - A. Minutes – City Council Workshop and Regular Meeting 10/13/14
 - B. Minutes – Airport Commission Meeting 10/14/14
 - C. Minutes – Planning & Zoning Commission Meeting 10/20/14
 - a. Recommendation to Approve Special Use Permit Request for a Fertilizer Mixing Facility to be Located on Peru Mill Road (*To be present later in meeting-see item 10*)
 - D. Minutes – Library Board Meeting 10/28/14
 - a. Recommendation to cancel the December Board Meeting due to the holidays.
 - E. Out-of-State Travel Request to authorize Cpt. Robert Orosco to travel to Las Vegas, NV to attend the Legal and Liability Management for Tactical, S.W.A.T. and Emergency Response Operations Training on December 3-4, 2014.
 - F. Out-of-State Travel Request to authorize Officer Robert E. Chavez to travel to Perry, FL to attend the Less Lethal, Flash Sound Diversionary Device Course on December 8-12, 2014.

- G. Out-of-State Travel Request to authorize Lt. Enrique R. Granillo to travel to Perry, Fl. To attend the Less Lethal, Flash Sound Diversionary Device Course on December 8-12, 2014.
- 2. Public Forum
- 3. Approval of the City of Deming 2015 Holiday Schedule
- 4. Community Development Block Grant (CDBG) Project Selection
- 5. Approval of Memorandum of Agreement Regarding Deming Luna County Economic Development, Inc.
- 6. Approval/Denial of Resolution Authorizing the Execution of a Gas Supply Confirmation with Shell Energy North America (US) LP.
- 7. Approval/Denial of Resolution Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Between the New Mexico Finance Authority and the City of Deming
- 8. Bids:
 - a. Bid #15-06 City of Deming East Florida Street Multi-Use Path
 - b. Bid #15-04 Florida Street Drainage Phase II
- 9. Quasi-Judicial Public Hearing to Consider the Request for an Alternate Subdivision Dividing a 0.98 Acre Parcel of Land on Pear Street within the Limits of the City of Deming.
- 10. Quasi-Judicial Public Hearing to consider the Request for a Special Use Permit For a Fertilizer Mixing Plant at the Proposed Location In The Industrial Park, on Peru Mill Road.
- 11. Administrator's Report
- 12. Adjourn Meeting

The next regularly scheduled Council Meeting is on December 8, 2014 at 4:00 p.m. and 6:00 p.m.

COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC HEARING MINUTES

November 10, 2014

Staff Present

Benny L. Jasso, Mayor
Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Wesley Hooper, Community Services Director

Recording Secretary: Lila, Jasso, Administrative Secretary/Asst. Deputy Clerk

The Community Development Block Grant (CDBG) Public Hearing was called to order by Mayor Jasso at 6:00 p.m.

1. Welcome

Mayor Jasso welcomed everyone to the CDBG Hearing.

2. Purpose and History of Community Development Block Grant Program

Program Objectives

Mr. Massengill welcomed everyone, and stated that the important points about the CDBG Program would be highlighted.

Mr. Massengill stated that the Small Cities CDBG program was established under Title I of the Housing and Community Development Act of 1974, that benefits principally low and moderate income families; aids in the prevention or elimination of slums or blight;

Mr. Massengill informed that eligible applicants are all counties and municipalities, and that there are some exceptions for the bigger cities.

Mr. Massengill stated there are eligible and ineligible activities, and that applicants may apply for assistance under the following categories:

Community infrastructure: which includes utilities, streets and lighting.

Housing: (1) real property acquisition; (2) rehabilitation; some demolition

Public facility capital outlay: that includes real property acquisition; construction or improvement of community centers; senior citizen centers;

Economic development: The category is established to assist communities in the promotion

of economic development.

Emergency: for projects which address life threatening situations resulting from disasters or threats to health and safety.

Planning: You can apply for planning grants year round, though usually there are enough applications of merit arriving by early in the calendar year to award to entire set aside by April. Mr. Massengill stated the planning would include planning for utilities.

Colonias:

The Colonias category is established in the amount of 10% of the annual CDBG allocation for specific activities including water, sewer and housing improvements. Colonias must be designated by the municipality or county in which it is located. The designation must be on the basis of objective criteria, including:

- (a) lack of potable water supply; or
- (b) lack of adequate sewage systems; or
- (c) safe and sanitary housing; and
- (d) must have been in existence as a colonia prior to November, 1990.

Mr. Massengill stated there are ineligible activities: housing allowance payments, construction or rehabilitation of buildings that belong to the government, general operation and maintenance expenses

Mr. Massengill stated that program requirements includes the City of Deming must provide opportunities for public participation in the development of community development goals, objectives, and applications for funding assistance:

Each CDBG application must meet at least one of the three national objectives, low and moderate income benefit, prevention or elimination of slums or blight or urgent need

Mr. Massengill informed that a local government must meet the 51% Low to Moderate Income (LMI) requirement, and that there is a cash match, which is 10% for Deming because we are considered non rural.

Mr. Massengill stated that one of the important points for CDBG program is that the project that is selected must be fully functional on a stand-alone basis once awarded by CDBG, and that applications may not exceed \$500,000;

3. Current and Past CDBG Projects

Mr. Massengill informed that the current CDBG project is Water Treatment Plant Improvements that will be finished by the end of the year, which includes a new bar screen for the effluent water and some aerators at the ponds.

Mr. Massengill stated that past CDBG projects have been Pear Street Drainage

improvements in 2011, which was from Nickel to 8th St., and Pear Street Pond in 2010.

Mr. Massengill informed that to date, the City of Deming has conducted four (4) public hearings and this one being the fifth. Mr. Massengill stated there was minimal attendance and participation from the community, and that three (3) written requests for projects have been received:

1. Install public restroom for travelers to use.
2. Connect the south end of North Eight (8th) Street to West Railroad Avenue.
3. Infrastructure at Villa Nueva Estates for Low Income Housing.

4. Questions:

Mr. Massengill asked if there were any questions.

Councilor Cruz asked whether there were more specifics on the requests, such as where the restrooms would be. Mr. Massengill stated the person was not specific about the restrooms but just commented that other communities he had visited had public restrooms, and felt it would be good for the community. Councilor Cruz stated there have been questions about public restrooms at the parks, and was not sure if it was a similar request or something else. Mr. Massengill stated that the person was speaking more for those who travel through town.

There was discussion about where restrooms are located.

Councilor Cruz asked where the street connection was. Mr. Massengill stated it was North Eight (8th) Street to West Railroad Avenue. Mr. Massengill showed the location on the map, and stated you would have to go through two tracks, which would be difficult to try and get a new crossing. There was discussion previously about a new crossing at another location; staff was informed by the Railroad Division that you have to close two (2) crossings to open up one.

Mr. Massengill stated he was not familiar with the request for the infrastructure at Villanueva Estates. There was discussion that the location is out of City limits. Mayor Pro Tem Franklin stated the development is way out of compliance with structural requirements.

5. Citizen Input

Mr. Massengill stated it was time for citizen input. Mayor Jasso opened up the input section of the hearing.

Ms. Sarah Bottomley questioned what if the people who proposed these suggestions were coached to giving more details about their ideas so that when they were presented they would have something to make a decision about. Ms. Bottomley asked if there were names of the people submitting the suggestions, and stated that maybe an ad-hoc committee could be formed to review the requests.

With no further citizen input, Mayor Jasso closed the CDBG Hearing.

Councilor Cruz commented that he thought the bathrooms would be a good idea for the community. He stated that the last two programs were infrastructure related. Councilor Sanchez asked if restrooms would qualify under a program. Mr. Hooper stated it is stretching it. Councilor Sanchez commented that we need to find projects that will be funded. Mr. Hooper stated that you might get some money for it but if there is another project that would score higher the amount would have to be weighed of receiving \$50,000 for a smaller project versus \$500,000

for a larger one. Councilor Milo stated that staff should have a list of projects needed.

Mr. Sera stated that the needs will be addressed inside the regular City Council meeting.

Mayor Pro Tem Franklin commented that public restrooms were installed at the park on Spruce and 8th, which had to be fenced and closed because they were completely destroyed.

Mayor Pro Tem Franklin stated that needles were found in them, there were major problems, and had to be closed due to safety concerns, further commenting that if staff was going to look at a project like this in the future, it really needs some place like downtown, where there is a lot of traffic and where people could be around for safety issues. Councilor Milo stated that people can check out the key from the City to use the restrooms at the Spruce and 8th City Park, where they would sign out a key and be responsible for it. Mayor Pro Tem Franklin stated that the sinks were actually torn out of them.

Councilor Milo stated that since he can remember CDBG funds have been the means of getting infrastructure fixed and that staff should consider a project that will be fully funded. He stated that the Pear Street project solved a lot of issues in that area, and that if a stronger project is needed, rather than a bathroom, that's what should be considered.

5. Close CDBG Hearing: With no further comments the public hearing was adjourned by Mayor Jasso at 6:00 p.m.

CITY COUNCIL WORKSHOP MINUTES November 10, 2014

Council Present: Benny Jasso, Mayor

Linda Franklin, Mayor Pro Tem

Council Absent: Joe "Butter Milo, Councilor
Dr. Victor Cruz, Councilor

David L. Sanchez, Councilor

Staff Present: Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Wesley Hooper, Community Svcs. Dir.
Laura Holguin, Treasurer

Edgar Davalos, Fire Chief
Brandon Gigante, Police Chief
Raul Mercado, Asst. Fire Chief
Gina Gentile, Planner II

Recording Secretary: Lila Jasso, Administrative Secretary/Assistant Deputy Clerk

Mayor Jasso and staff members of the City of Deming, New Mexico held a workshop on November 10, 2014 at 4:00 p.m. to discuss items of the City Council Agenda in preparation for the regularly scheduled meeting, held at 6:00 p.m. the same day. The following items of the agenda were discussed:

CDBG Public Hearing: Mr. Sera explained that the CDBG Public Hearing would be first prior to the regular City Council Meeting. He noted that Mr. Massengill will conduct the public hearing and discuss all the items on the agenda for the public hearing. He noted that some of the priority items would be discussed, and later in the meeting an item would be suggested. He stated that this public hearing takes place annually in order to approve an item.

Consent Agenda: Mr. Sera went over the Consent Agenda. He noted that item C.(a)-Minutes—Planning & Zoning Commission Meeting 10/20/14, he stated that the recommendation to approve the special use permit request will be decided later in the meeting as a Quasi-Judicial Public Hearing. The only action in the consent agenda is approving the meeting minutes. Mr. Sera also noted item D.(a)—Minutes—Library Board Meeting 10/28/14. He stated that due to the holidays, the Board is recommending cancelling their December.

Mr. Sera also noted the Out-of-State Travel Requests in items E.-G. He noted that item E., which is requesting travel for Cpt. Robert Orosco to travel to Las Vegas, NV to attend training for S.W.A.T. and Emergency Response Operations. He stated that Cpt. Orosco is the main decision-maker in regards to S.W.A.T. team call out due to any critical incidents. Chief Gigante stated that he feels this training would be valuable for Cpt. Orosco to attend so that he can become more educated on the liability the decisions he may have to make and how they can impact the Police Department. Chief Gigante went on to explain the out-of-state travel requests for Officer Chavez and Lt. Granillo, the firearms instructors, to become certified in order for the police department maintain certification, yearly, to maintain, store

and order weapons for S.W.A.T. equipment. Mr. Sera also stated that both officers will attend in order for them to be backup for one another. Chief Gigante also stated that the company providing the training offers continuing education for certifications online, rather than the officers having to travel out of state.

Approval of the City of Deming 2015 Holiday Schedule: Mr. Sera will present this item. He stated that this is an item that is presented annually.

Community Development Block Grant (CDBG) Project Selection: Mr. Sera stated that Mr. Massengill will read from the progress report and identify some of the priority items in the progress report. Specifically, some of the needs in infrastructure upgrades, with the top two being the waterline replacement at Encanto Circle and drainage on Buckeye Street.

Memorandum of Agreement Regarding Deming, Luna County Economic Development, Inc.: Mr. Sera stated that he would be presenting this item to Council. He stated that the agreement basically states that the City, County, and Deming Public Schools (DPS) will work together and pledge their full support to Deming Luna County Economic Development, Inc. in order to achieve goals and work on strategies. He stated that the County and DPS will also be presenting this Memorandum of Agreement at their next meetings, for approval. Mayor Pro Tem Franklin asked if the City of Deming will remain as the sole employer of the Economic Development Coordinator. Mr. Sera stated that the City will remain as sole employer and that the agreement is not asking for monetary support, it merely asks that all parties will pledge their full support.

Approval/Denial of Resolution Authorizing the Execution of a Gas Supply Confirmation with Shell Energy North America (US) LP: Mr. Massengill will present this item to Council. Mr. Sera stated that Shell Energy North America is the current gas supplier and the current contract expires on December 31, 2015.

Mr. Massengill stated that this resolution is required in order to continue to buy gas from this supplier. Mr. Sera stated that the resolution has been negotiated and it needs to be reviewed by the City's gas attorney for approval. Therefore, the language in item 2, giving authority to negotiate the final confirmation has been included in the resolution.

Approval/Denial of Resolution Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Between the New Mexico Finance Authority (NMFA) and the City of Deming: Mr. Sera stated that this resolution will allow for the City to enter into agreement for the loan/grant with NMFA.

Mr. Massengill stated that this resolution will be one of the first step, effluent re-use project to water the City parks. Mr. Sera stated that in order to get the water down from the golf course area to Hooten Park, the City would need to install a booster to move that water west to the Hooten Park area.

MPT Franklin asked for clarification on the watering of the golf course. She asked if they meant watering the whole golf course or only the holes on City property. Mr. Sera clarified that they would be able to water the whole golf course.

Bids:

- a. **Bid #15-06 City of Deming East Florida Street Multi-Use Path.** Mr. Massengill will present this item to Mayor and Council.
- b. **Bid #15-04 Florida Street Drainage Phase II.** Mr. Sera stated that the engineering consultant, Greg Byres will be available to explain some of the issues regarding the resident preference concerns that have come up.

Quasi-Judicial Public Hearing to Consider the Request for an Alternate Subdivision Dividing a 0.98 acre parcel of land on Pear Street within the limits of the City of Deming. Ms. Gentile will present this item to Mayor and Council.

Quasi-Judicial Public Hearing to Consider the Request for a Special Use Permit for a Fertilizer Mixing Plant at the Proposed Location in the Industrial Park, on Peru Mill Road. Ms. Gentile will present this item to Mayor and Council.

Administrator's Report. Mr. Sera will give a report of the latest things happening involving the City of Deming.

Adjourn Meeting: With no further business to discuss, the meeting was adjourned at 4:20 p.m.



ATTEST:

Aaron Sera, Clerk

CITY OF DEMING, NEW MEXICO

Benny L. Jasso, Mayor

CITY COUNCIL MEETING MINUTES November 10, 2014

Council Present: Mayor Benny L. Jasso
Joe “Butter” Milo, Councilor
Linda Franklin, Mayor Pro Tem
David L. Sanchez, Councilor
Dr. Victor Cruz, Councilor

Council Absent: None

Staff Present: Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Wesley Hooper, Community Svcs. Dir.
Laura Holguin, Treasurer
Cassie Arias, Economic Dev. Coordinator
Edgar Davalos, Fire Chief
Raul Mercado, Asst. Fire Chief
Brandon Gigante, Police Chief
Jim Foy, City Attorney
Gina Gentile, Planner II

Recording Secretary: Lila Jasso, Administrative Secretary/Asst. Deputy Clerk

Mayor Jasso called the meeting to order at 6: p.m. and led the Pledge of Allegiance.

1. Consent Agenda

Mr. Sera presented the Consent Agenda to Mayor Jasso and Council. He called their attention item C.(a) Minutes—Planning & Zoning Commission Meeting; recommendation to approve a special use permit request for a fertilizer mixing facility that will be presented later on in the meeting as a Quasi-Judicial Public Hearing. He clarified that approval for this item in the consent agenda would be for minutes only. He went on to discuss item D. (a) Minutes—Library Board Meeting 10/28/14; and their recommendation to cancel the December Board meeting due to the holidays.

Mr. Sera asked Chief Gigante to discuss the three (3) out-of-state travel requests for Police Department staff. He stated that the first request is for Cpt. Orosco to travel attend the Legal and Liability Management Training for Tactical Teams. He explained that the Police Department has a fully staffed and fully trained tactical team in the need of a critical incident or major emergency. He went on to say that this training will help Cpt. Orosco to make sure the Department is up to date with the current case law in regards to when and how to use a team, and what decisions to make in certain situations. Chief Gigante stated that it is Cpt. Orosco responsibility in making a decision as to when the S.W.A.T. needs to be activated and therefore feels this training would be very beneficial to him. Councilor Sanchez asked where the training will be. Chief Gigante answered that it would be held in Las Vegas, Nevada. He stated that this is the only location at which this particular training is offered.

Chief Gigante went on to discuss the next two (2) out-of-state travel requests. He stated that Officer Chavez is the Department’s third in command of the S.W.A.T. Team, and Lt. Granillo is the firearms instructor for the entire Department. He stated that each of these gentlemen is responsible for the training of officers and personnel under their command.

Specifically Officer Chavez, who is the range master and takes care of the training for the S.W.A.T. Team, when it pertains to the less lethal devices such as bean bag rounds, TASER deployment, etc. He noted that due to the regulations by the Department of Defense, most of the equipment requires that someone be certified to order, store and train others to use this equipment. He stated that once certified, Officer Chavez would be able to fill the position to train the tactical team. He stated that this training is offered throughout the United States. However, due to time constraints, the training in Florida would better accommodate the officers and the Department. Chief Gigante stated that the reason for sending both officers is that in the event of an absence, the other would be able to step in as backup.

Mayor Pro Tem Franklin asked about recertification training. Chief Gigante stated that the recertification training can be done via webinar.

Mayor Jasso entertained a motion on accept the Consent Agenda.

Mayor Pro Tem Franklin moved that Council approve the Consent Agenda as presented. Councilor Milo seconded the motion; motion carried unanimously.

2. Public Forum

Mayor Jasso opened the public forum session for comment. None were presented.

3. Approval of the City of Deming 2015 Holiday Schedule

Mr. Sera presented the schedule to Mayor and Council. Councilor Sanchez asked if there are any changes to the schedule. Mr. Sera state that it is standard to what's been done in the past.

Mayor Jasso suggested that, with the New Year's Day Holiday being on Thursday, January 1, 2015, Council grant the next day, Friday, January 2, 2015, as a holiday. Mayor Pro Tem Franklin stated her concern in granting the day off, as long as it is within budget. Mr. Sera stated that the extra day off would be within budget and asked that Ms. Holguin confirm.

Councilor Cruz moved to amend the City of Deming 2015 Holiday Schedule to include Friday, January 2, 2015 as part of the holiday schedule. Councilor Sanchez seconded the motion; motion carried unanimously.

4. Community Development Block Grant (CDBG) Project Selection

Mr. Sera stated that Mr. Massengill will discuss the City's needs plus the input that has been received from the public in order to make a decision on the project selection.

Mr. Massengill gave a brief explanation of how CDBG funds can be utilized to assist New Mexico municipalities. He stated that the City of Deming has been utilizing this resource and has applied for, and received 27 CDBG grants. He stated that to date the City has

conducted five public hearings for the 2015 application and have received input from the community requesting the following:

- Install public restroom for travelers to use
- Connect the south end of North Eighth (8th) street to west Railroad Avenue
- Infrastructure at Villa Nueva Estates for low income housing.

He went on to say that staff has identified various areas that are in need of infrastructure upgrades. They are:

1. Drainage on Buckeye
2. Water line replacement at Encanto Circle
3. Top 5 projects listed on the ICIP
 - a. PD Building improvements
 - b. Water system line replacement/repair
 - c. Effluent reuse and irrigation improvements
 - d. Cedar Street expansion Phase IV
 - e. Deming Landfill Closure and improvements

Mr. Sera noted that some of the listed items would amount to more than the \$500,000 project allowance and that some of the projects are proposed in phases and some of the phases may qualify as stand-alone projects.

Councilor Cruz asked for discussion about the Deming Landfill closure project. A discussion was entertained between staff and Council regarding the listed projects, particularly the Deming Landfill Closure and improvements project.

Councilor Milo asked about the water line replacement project at Encanto Circle. Mr. Massengill explained the project and stated that the water lines are in the middle of the street, and no alternatives to move lines, there would be some asphalt patching due to this fact. A brief discussion was entertained between Mr. Massengill and Councilor Milo. Councilor Sanchez asked if the fire hydrants are sufficient in this area. Mr. Massengill stated that the hydrants are sufficient as they are. Chief Davalos concurred that they were sufficient.

Councilor Milo asked about the effluent reuse and irrigation improvements. Mr. Massengill stated that the project is at \$3.5 million, and the City is searching alternative funding to start this project.

Mayor Pro Tem Franklin asked for more discussion about the drainage on Buckeye. She stated that many constituents in her districts have expressed their concern for the KOTS Retirement Center, the Senior Center, the ball fields and the High School in this area. She stated that many people have contacted her regarding the ponding of water after the heavy rains, and the problem of the mosquitos due to this ponding. Mayor Pro Tem Franklin asked if some of the drainage remedies done in the past may be causing the prolonged ponding of this area. Mr. Massengill stated that there have been several things done on the north side of Buckeye, such as installation of culverts in the right-of-way, which may be contributing to

this problem. Councilor Sanchez asked if a drainage pond in the area would be a remedy to this problem. Mr. Hooper stated that he has communicated with the School administration and the engineer and this issue was discussed, due to the issues the rain causes at the west annex of the High School and the athletic fields.

Councilor Milo asked about the Police Department project. Mr. Sera stated that the foundation at the Police Department is not sound and is causing settling problems. He stated that instead of investing in the existing building, it would be more practical to seek an alternate location for the Department. Mr. Sera stated that currently the City is seeking the old National Guard Armory building on Pearl Street. Dr. Cruz asked if that building would qualify for CDBG funding. Mr. Massengill stated it would not fall within the eligibility criteria.

A brief discussion was entertained between staff and Council regarding the drainage project on Buckeye Street.

Councilor Sanchez asked Mr. Massengill about the urgency of the water line replacement project in Encanto Circle area. Mr. Massengill stated it was important; however it falls within the urgency to replace the other older lines throughout the City. Councilor Sanchez expressed his concern in not choosing this project, and then later is faced with the expense of an urgent situation to have to replace the lines.

Councilor Milo moved to select the next Community Development Block Grant project as the drainage on Buckeye Street. Mayor Pro Tem Franklin seconded the motion; motion carried by a 3-1 vote with Councilor Sanchez voting nay.

5. Approval of Memorandum of Agreement Regarding Deming Luna County Economic Development, Inc.

Mr. Sera presented this agreement to Mayor and Council. He started off by introducing Ms. Cassie Arias, Executive Director of the Deming Luna County Economic Development, Inc. He read the memorandum to Council. Mr. Sera noted that this agreement is scheduled to be presented at the County's next board meeting this coming Thursday, and also on the Deming Public School's agenda for their meeting the following Thursday. Mr. Sera expressed that this is not a monetary support agreement, merely an agreement to work together and provide support to Economic Development. A brief discussion was entertained between staff and Council regarding their support of this agreement.

Mayor Pro Tem Franklin moved to approve the Memorandum of Agreement regarding the Deming Luna County Economic Development, Inc. Councilor Sanchez seconded the motion.

Mayor Jasso asked if Council had any questions or anything they would like to discuss. Councilor Milo commented that he serves as the appointed member for the City on this Board and feels this Memorandum of Agreement is a step in the right direction to get the board moving forward. Ms. Arias agreed and commented that she will be conducting a board

meeting the next morning to move forward with the strategic plan, forming committees and/or reinstating the committees for the strategic planning, and defining new goals, if any. Mr. Sera reminded Council that this agreement is not asking for any monetary support.

Mayor Jasso asked for a vote on this item. The original motion made by Mayor Pro Tem Franklin and Seconded by Councilor Sanchez carried unanimously.

6. Approval/Denial of Resolution Authorizing the Execution of a Gas Supply Confirmation with Shell Energy North America (US) LP.

Mr. Massengill presented this resolution to Mayor and Council. He stated that this is a requirement to buy natural gas off the pipeline distribution system. He also stated that the company changed names and that this Confirmation will allow for the City to buy gas; and allow for Shell Energy North America to assist in monitoring the gas the City purchases. Mr. Massengill noted that there was not a resolution on file for any previous agreements; therefore, Shell Energy North America has required this resolution be approved in order to move forward. He read the resolution into record.

Mr. Massengill noted that the attached copy of the Confirmation is in draft form and that this resolution will also allow for final negotiation of the Confirmation by the Mayor, City Administrator, or Public Works Director.

Mr. Sera stated that the only significant change from the previous contract was that this Confirmation term would be for two (2) years rather than one (1) year.

Councilor Sanchez moved to approve the resolution authorizing the execution of a gas supply Confirmation with Shell Energy North America (US) LP for purchase of Natural Gas, as presented. Councilor Cruz seconded the motion; motion carried unanimously.

7. Approval/Denial of Resolution Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement by and Between the New Mexico Finance Authority and the City of Deming

Mr. Massengill presented this item to Mayor and Council. He stated that City has applied to the Water Trust Board for funds in the amount of \$800,356.00, to start the first phase to install booster pumps upgrades, SCADA system, and a new building for the effluent water reuse project. This project will provide for irrigation of the city parks. He summarized the resolution and read crucial areas into record. He noted that the grant portion is \$480,214.00, the loan portion is \$320,142.00, and the City's match is \$120,053.00.

A brief discussion was entertained regarding the City's match, the effluent water usage to water the cemetery and golf course simultaneously, and the conservation of potable water.

Councilor Cruz moved to approve the Resolution authorizing the execution and delivery of a water project fund loan/grant agreement by and between the New Mexico Finance Authority

and the City of Deming. Mayor Pro Tem Franklin seconded the motion; motion carried unanimously.

8. Bids:

a. Bid #15-06 City of Deming East Florida Street Multi-Use Path

Mr. Massengill presented this bid to Mayor and Council. He mentioned that the City received funding for this project from the NMDOT through the TAP-Transportation Alternative Project Funds. The project was designed in-house by the City Engineer, Jasper Maynes. He stated that the 6-foot wide asphalt path will run along the south side of Florida Street, from Pepper's Supermarket to the south side of Country Club Road. Mr. Massengill went on to say that five (5) bids were received for this bid and opened on October 28, 2014. He stated that Renegade Construction, LLC submitted the lowest initial bid amount of \$124,960.00 excluding NMGR. He noted that a bid package review was conducted by the City's engineering consultant and Renegade Construction, LLC is in compliance with the bid requirements and qualified to perform the required work. Mr. Massengill stated that a Notice of Award will not be issued until the NMDOT completes an independent review of the bid package, currently in progress. He recommended awarding the construction bid to Renegade Construction, LLC, pending the NMDOT concurrence; and upon concurrence, staff requests authorization for the Public Works Director and/or City Administrator to enter into an agreement with Renegade Construction, LLC and execute any documents related to this project.

Councilor Cruz moved to approve Bid No. 15-06 for the City of Deming east Florida Street Multi-Use Path to Renegade Construction, LLC in the amount of \$124,960.00 excluding NMGR. Mayor Pro Tem Franklin seconded the motion; motion carried unanimously.

A brief discussion was entertained between Councilor Cruz, Mr. Sera, and Mr. Massengill regarding the continuation of the path going south on Country Club Road.

b. Bid #15-04 Florida Street Drainage Improvements Phase II

Mr. Massengill presented this item to Mayor and Council. He briefly outlined the project and noted that this has been a beneficial project for the east end of Florida and feels Phase II will be the same.

He stated that nine (9) bids were received for this bid and opened on October 28, 2014. Deming Excavating, Inc. submitted the lowest initial bid amount of \$186,776.60 excluding NMGR. A complete bid package review was performed which includes applying the required Business and Veteran Preferences (for evaluation purposes only) as per State requirements, all of which are noted within the Contract Documents supplied to each contractor. He went on to say that everyone who requests the documents receives this information. He stated that each contractor is responsible for notifying the City if they have a Business or Veterans Preference. Then the engineering consultant examines that and applies the preference.

With the preferences applied, Diamond Construction Inc. was found to be the lowest responsive bidder in the amount of \$190,666.06 plus applicable NMGRT. He pointed out in the bid summary provided, the base bid for all nine (9) bidders. He went on to say that in the lower part of that page, in the Resident and Veterans Preference section, they are used for evaluation purposes only. He also stated that the representative for the consultants for this project, Greg Byres of Engineer's Inc., is present to help answer any questions. Mr. Massengill noted that in the Resident or Veterans Preference section, Deming Excavating, Inc. there were no preferences applicable under Resident or Veterans Preference. He pointed out that under Diamond Construction, Inc., a Veterans Preference was submitted which gave them a 10% discount on their bid. Mr. Massengill noted that under Article 26 of the next page it explains how the discount is applied. Mr. Massengill called Mr. Byres to further explain the Resident and Veterans preference procedure. Mr. Hooper asked if the Resident or Veterans Preference forms go out in all bid packages. Mr. Byres answered that if the bid is a State package they would be included, and are included under the special provisions of the package. He stated that Federal packages do not allow for any preferences.

Mr. Massengill went on to say that staff recommends awarding the construction bid to Diamond Construction Inc. and requests authorization for the Public Works Director and/or City Administrator to enter into an agreement with Diamond Construction Inc. and execute any documents related to this project.

Councilor Sanchez asked for the approximate costs of Phase I of this project. Mr. Massengill stated that it totaled approximately \$190,000.00 which covered five (5) intersections, in which Phase II will cover four (4) intersections. Mr. Byres noted that the last two (2) intersections will get done with the widening of the intersection of Florida Street and Highway 11. A brief discussion was entertained between staff and Council.

Mayor Pro Tem Franklin moved to approve Bid No. 15-04-Low Bid Recommendation for construction of Florida Street Drainage Improvements Phase II. Councilor Milo seconded the motion. Mayor Pro Tem Franklin made a friendly amendment to include staff recommendations in her motion. Councilor Milo seconded the friendly amendment; both motions carried unanimously.

9. Quasi-Judicial Public Hearing to Consider the Request for an Alternate Subdivision Dividing a 0.98 Acre Parcel of Land on Pear Street within the Limits of the City of Deming.

Mayor Jasso called the public hearing to consider the request for an alternate subdivision dividing a 0.98 acre parcel of land on Pear Street, to order. He confirmed with Council that there were no abstentions, ex-parte contacts, no conflicts of interest; that the legal notices were properly posted by the secretary; and swore in all parties who would be giving testimony.

Ms. Gentile, City Planner, presented this case to Mayor Jasso and Council. She stated that this case is for a lot split of a one-acre parcel of land located at 500 W. Pear Street. Ms. Gentile noted that the memo states each lot will be ½ acre each, but the lots will be 5/8 acre

and 3/8 acre. She went on to say that the applicant currently has a mobile home on the 5/8 acres lot and plans to place a mobile home on the 3/8 acre lot, if the request is approved. Ms. Gentile noted that both lots fully front on Pear Street and one of the lots also fronts on Nickel Street. She mentioned that the planning commission recommends approval of this case and that staff has no technical objections to this request.

Councilor Sanchez asked the size of the mobile home they are proposing to place on the 3/8 acre lot. The applicant Mr. Acevedo stated that it is a 16 x 72 feet. Ms. Gentile stated that the size of lot has adequate setbacks and that she had met with the building inspector to confirm that prior to placing this request on the Planning & Zoning agenda. Councilor Sanchez asked if the new mobile home would require separate utility connections. Ms. Gentile stated that they would.

Mayor Jasso asked if the applicant or agent would like to make a statement. Ms. Sarah Bottomley stated that Mr. Acevedo's daughter is disabled and he is providing housing for her.

Mayor Jasso asked if there were any questions of the applicant or agent by Council. There were none.

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

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

Mayor Jasso asked if any registered party like to cross-examine any party having already given testimony. There were none.

Mayor Jasso closed the public comments and brought it back to Council. He asked if Council was prepared to make a motion or if they would want to go into closed session under NMSA 1978 10-15-1-H 3.

Councilor Cruz moved that Council approve the request for an alternate subdivision dividing a parcel of land located at 500 W. Pear Street within the limits of the City of Deming. Councilor Milo seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Mayor Pro Tem Franklin	Aye
Councilor Sanchez	Aye
Councilor Milo	Aye
Councilor Cruz	Aye

Mayor Jasso announced that the authority will be effective after the written order is executed and filed with both the Municipal and County Clerks; and that any action of the City Council in approving or denying this application may be appealed to the District Court 15 calendar

days after the date of this action by the applicant, any aggrieved person, by any member of the City Council or by the City Administrator.

The applicant representative asked if they would have to wait 15 days before they could move the mobile home onto the property. Mr. Foy stated that if they did, it would be upon their own determination.

10. Quasi-Judicial Public Hearing to consider the Request for a Special Use Permit For a Fertilizer Mixing Plant at the Proposed Location In The Industrial Park, on Peru Mill Road.

Mayor Jasso called the public hearing to consider the request for a special use permit for a fertilizer mixing plant at the proposed location in the Industrial Park, on Peru Mill Road to order. He confirmed with Council that there were no abstentions, ex-parte contacts, no conflicts of interest; that the legal notices were properly posted by the secretary; and swore in all parties who would be giving testimony.

Ms. Gentile, City Planner, presented this case to Mayor and Council. She stated that this case was originally proposed to be located in the Industrial Park, on "D" Street, and that the applicant has chosen to purchase land on the north side of town in the Industrial Area, off Peru Mill Road. She went on to say that the zoning regulations for the Industrial zone requires that a use involving fertilizer manufacturing first obtain a special use permit and that the facts regarding the proposed facility are the same as previously presented. She recapped the facts and stated that the applicant has listed the chemicals he will be bringing to the site for the mixing and production of finished products. She explained that the New Mexico Fertilizer Act has regulations that regulate activities involving fertilizer materials, manufacture, mixing, storing, distributing and transporting and that the NM Department of Agriculture (NMDA) is responsible for administering this act. She stated that staff contacted the NMDA regarding this application and inquired as to the requirements and types of chemicals the applicant is proposing to use. Ms. Gentile stated that the NMDA explained that the chemicals listed on this application do not pose an explosive hazard, but that a spill could be hazardous. She stated that the NMDA stated that the plant in Mesquite produces similar materials, and that the odor from these materials was mild, and not detected by the inspector. She went on to say that the land surrounding this proposed location is mostly owned by the City of Deming and there is a cell tower on the adjacent lot, owned by Centel Cellular. Ms. Gentile added that all surrounding zoning is Industrial and that the case was recommended for approval by the Planning Commission. She mentioned that staff has no technical objections to the case.

Mayor Jasso asked if there are any questions of staff by any Council member. Councilor Sanchez asked if the list of chemicals had been provided to the fire department for review in case of a chemical spill. Chief Davalos stated that the list would be provided upon inspection of the location. Councilor Sanchez asked if Chief Davalos felt they had adequate training to be able to handle a chemical spill if one should occur. Chief Davalos stated that everyone is trained for awareness at operations level within the department and the fire department has

backup from Dona Ana County and the National Guard haz-mat response teams to handle that.

Mayor Jasso noted that the applicant is not available to make a statement and that no affected parties were available to make statements.

Mayor Jasso closed the public comments and brought it back to Council. He asked if Council was prepared to make a motion or if they would want to go into closed session under NMSA 1978 10-15-1-H 3.

Councilor Milo moved to approve the special use permit for a fertilizer mixing plant at the proposed location in the Industrial Park on Peru Mill Road. Councilor Sanchez seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Cruz	Aye
Councilor Milo	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Franklin	Aye

Mayor Jasso announced that the authority will be effective after the written order is executed and filed with both the Municipal and County Clerks; and that any action of the City Council in approving or denying this application may be appealed to the District Court 15 calendar days after the date of this action by the applicant, any aggrieved person, by any member of the City Council or by the City Administrator.

11. Administrator's Report

Mr. Sera presented his report to Mayor and Council. He mentioned that he has been working on several property purchase agreements, in particular the agreement with Geo Southwest, which anticipates closing on this property by the end of the year.

He mentioned that he has been working on an advertising scheme to increase the attendance of the public meetings.

Mr. Sera went on to mention that the railroad quiet zone has been identified and is now being adhered to by the railroad companies, with the exception of Amtrak and Burlington-Northern. He gave a brief history of the railroad quiet zone. He stated that the quiet zone was established in 2007. He briefly explained the process and stated that somewhere in the process the request for Deming had never been issued. He stated that after contacting the proper person at Union Pacific, the request has been acknowledged and adhered to. Mr. Hooper asked if the quiet zone applies to all crossings. Mr. Sera stated that it only pertains to the Union Pacific crossings which are on Ruby Street. The crossing at Belgium Road is in the County and Mr. Sera is working with them to help them apply for the quiet zone, as well.

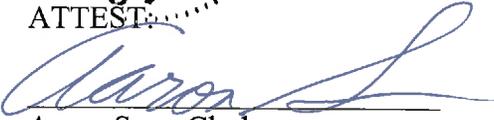
Chief Gigante asked if he could thank Dr. Cruz and other local doctors for helping the Police Department with the prescription drug take back receptacle that will now be placed inside the Police Department which will be available for 24 hours-a-day, seven days-a-week. He stated that when they conducted the annual prescription drug take back, the Department realized that there was an extreme need in the community when they took in over 100 pounds of prescription drugs. Chief Gigante reached out to Dr. Cruz, and he along with the other doctors who have been instrumental in helping the community, were able to purchase the receptacle.

12. Adjourn Meeting

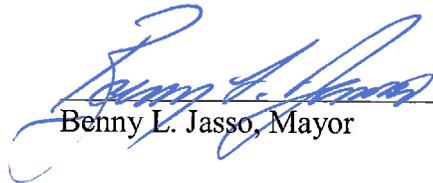
With no further business to discuss, Councilor Sanchez moved to adjourn the meeting. Councilor Cruz seconded the motion; motion carried unanimously. Meeting adjourned at 7:59 p.m.



ATTEST:


Aaron Sera, Clerk

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-30**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY”) THE (“LENDER/GRANTOR”) AND THE CITY OF DEMING (THE “BORROWER/GRANTEE”), IN THE TOTAL AMOUNT OF \$800,356, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF THE DESIGN AND CONSTRUCTION OF A BOOSTER SYSTEM REPLACING THE PRESENT BOOSTER BUMPS AND EXPANDING THE WASTEWATER REUSE SYSTEM, INCLUDING NEW PIPING, A POND INTAKE, A SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM (“SCADA SYSTEM”) AND A NEW BUILDING, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM THE NET SYSTEM REVENUES OF THE WATER AND WASTEWATER UTILITY SYSTEMS OF THE BORROWER/GRANTEE; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in this Resolution unless the context requires otherwise.

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing municipality under the general laws of the State and more specifically, the Municipal Code, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Loan/Grant Agreement, accept the Loan/Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the Administrator/Clerk this Resolution and the form of the Loan/Grant Agreement which is incorporated by reference and considered to be a part hereof; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Loan/Grant Amount for the purposes described, and according to the restrictions set

forth, in the Loan/Grant Agreement; (ii) the availability of other moneys necessary and sufficient, together with the Loan/Grant Amount, to complete the Project; and (iii) the authorization, execution and delivery of the Loan/Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

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

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

“Act” means the general laws of the State, particularly the Water Project Finance Act, NMSA 1978, §§ 72-4A-1 through 72-4A-10, as amended, and enactments of the Governing Body relating to the Loan/Grant Agreement, including this Resolution, all as amended and supplemented.

“Additional Funding Amount” means the amount to be provided by the Borrower/Grantee which includes the total value of the Soft Match or Hard Match (each as defined in Section 2.5 of the Policies), which, in combination with the Loan/Grant Amount and other amounts available to the Borrower/Grantee, is sufficient to complete the Project. The Additional Funding Amount is one hundred twenty thousand fifty-three dollars (\$120,053).

“Administrative Fee” means an amount equal to one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee pursuant to Section 5.1(a)(iii) of the Loan/Grant Agreement.

“Authorized Officers” means any one or more of the Mayor, Treasurer and Administrator/Clerk of the Borrower/Grantee.

“Board Rules” means Review and Eligibility of Proposed Water Projects, New Mexico Water Trust Board, 19.25.10 NMAC.

“Borrower/Grantee” means the City of Deming in Luna County, New Mexico.

“Closing Date” means the date of execution the Loan/Grant Agreement, by the Borrower/Grantee, the Water Trust Board and the Finance Authority.

“Colonias Infrastructure Act” means NMSA 1978, §§ 6-30-1 through 6-30-8, as amended.

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

“Conditions” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Legal Cost” has the meaning given to that term in the Loan/Grant Agreement.

“Eligible Fiscal Agent Fees” has the meaning given to that term in the Loan/Grant Agreement.

“Expense Account” means the account established by the Finance Authority in accordance with this Resolution and held by the Finance Authority to pay the Expenses incurred by the Lender/Grantor in connection with the Loan/Grant Agreement and the Loan/Grant.

“Expenses” means the costs of the Lender/Grantor of originating and administering the Loan/Grant, including Eligible Legal Costs and Eligible Fiscal Agent Fees to the extent allowed under the Act, the Board Rules and applicable policies of the Water Trust Board.

“Finance Authority” means the New Mexico Finance Authority.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Borrower/Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the Lender/Grantor establishing accounting principles applicable to the Borrower/Grantee.

“Governing Body” means the City Council of the Borrower/Grantee, or any future successor governing body of the Borrower/Grantee.

“Grant” or “Grant Amount” means the amount provided to the Borrower/Grantee as a grant pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and equals four hundred eighty thousand two hundred fourteen dollars (\$480,214).

“Gross Revenues” means all income and revenues directly or indirectly derived by the Borrower/Grantee from the operation and use of the System, or any part of the System, for any particular Fiscal Year period to which term is applicable, and includes, without limitation, all revenues received by the Borrower/Grantee, or any municipal corporation or agency succeeding to the rights of the Borrower/Grantee, from the System and from the sale and use of water and sanitary sewer services or facilities, or any other service, commodity or facility or any combination thereof furnished by the System.

Gross Revenues do not include:

(a) Any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) Gross receipts taxes, other taxes and/or fees collected by the Borrower/Grantee and remitted to other governmental agencies; and

(c) Condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

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

“Lender/Grantor” means the Finance Authority.

“Loan” or “Loan Amount” means the amount provided to the Borrower/Grantee as a loan pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and equals three hundred twenty thousand one hundred forty-two dollars (\$320,142).

“Loan/Grant” or “Loan/Grant Amount” means the combined amount partially provided to the Borrower/Grantee as the Grant Amount and partially borrowed by the Borrower/Grantee as the Loan Amount pursuant to the Loan/Grant Agreement for the purpose of funding the Project, and equals eight hundred thousand three hundred fifty-six dollars (\$800,356).

“Loan/Grant Agreement” means the Water Project Fund Loan/Grant Agreement entered into by and between the Borrower/Grantee, and the Finance Authority as authorized by this Resolution.

“Net System Revenues” means the Gross Revenues of the System minus Operation and Maintenance Expenses, indirect charges, amounts expended for capital replacement and repairs, required set asides for debt and replacement requirements, and any other payments from the gross revenues reasonably required for operation of the water and wastewater utility system.

“NMAC” means the New Mexico Administrative Code.

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

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) Legal and overhead expenses of the Borrower/Grantee directly related and reasonably allocable to the administration of the System;

(b) Insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen’s compensation insurance, whether or not self-funded;

(c) Premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay debt service requirements on System bonds) for credit facilities;

(d) Any expenses described in this definition other than expenses paid from the proceeds of System bonds;

(e) The costs of audits of the books and accounts of the System;

(f) Amounts required to be deposited in any rebate fund;

(g) Salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) Any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the Borrower/Grantee's general fund, liabilities incurred by the Borrower/Grantee as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Pledged Revenues" means the Net System Revenues of the Borrower/Grantee pledged to the payment of the Loan Amount and Administrative Fee pursuant to this Resolution and the Loan/Grant Agreement and described in the Term Sheet.

"Project" means the project described in the Term Sheet.

"Project Account" means the book account established by the Finance Authority in the name of the Borrower/Grantee for purposes of tracking expenditure of the Loan/Grant Amount by the Borrower/Grantee to pay for the costs of the Project, as shown in the Term Sheet, which account shall be kept separate and apart from all other accounts of the Finance Authority.

"Qualifying Water Project" means a water project for (i) storage, conveyance or delivery of water to end-users; (ii) implementation of the federal Endangered Species Act of 1973 collaborative programs; (iii) restoration and management of watersheds; (iv) flood prevention or (v) conservation, recycling, treatment or reuse of water as provided by law; and which has been approved by the state legislature pursuant to NMSA 1978, § 72-4A-9(B), as amended.

"Resolution" means this Resolution as it may be supplemented or amended from time to time.

"State" means the State of New Mexico.

"System" means the water and wastewater utility systems operated pursuant to the Deming City Code, including Article 9 of the Deming City Code, owned and operated by the Borrower/Grantee, and of which the Project, when completed, will form part.

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

“Useful Life” means the structural and material design life of the Project, including planning and design features, which shall not be less than twenty (20) years as required by the Act and the Board Rules.

“Water Project Fund” means the fund of the same name created pursuant to NMSA 1978, § 72-4A-9, as amended, and held and administered by the Finance Authority.

“Water Trust Board” or “WTB” means the water trust board created and established pursuant to the Act.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Borrower/Grantee and officers of the Borrower/Grantee directed toward the acquisition and completion of the Project, the pledge of the Pledged Revenues to payment of amounts due under the Loan/Grant Agreement, and the execution and delivery of the Loan/Grant Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Loan/Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Loan/Grant Agreement are hereby authorized and ordered. The Project is for the benefit and use of the Borrower/Grantee and the public it serves.

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

A. The Project is needed to meet the needs of the Borrower/Grantee and the public it serves.

B. Moneys available and on hand for the Project from all sources other than the Loan/Grant are not sufficient to defray the cost of acquiring and completing the Project but, together with the Loan/Grant Amount, are sufficient to complete the Project.

C. The Project and the execution and delivery of the Loan/Grant Agreement pursuant to the Act to provide funds for the financing of the Project are necessary and in the best interest of the public health, safety, and welfare of the public served by the Borrower/Grantee.

D. The Borrower/Grantee will acquire and complete the Project with the proceeds of the Loan/Grant, the Additional Funding Amount and other amounts available to the Borrower/Grantee, and except as otherwise expressly provided by the Loan/Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life, which is not less than twenty (20) years, as required by NMSA 1978, § 72-4A-7(A)(1), as amended.

E. Together with the Loan/Grant Amount, and other amounts available to the Borrower/Grantee, the Additional Funding Amount is now available to the Borrower/Grantee, and other amounts available to the Borrower/Grantee, will be sufficient to complete the Project

and pay Expenses. If the Borrower/Grantee is unable to provide the Additional Funding Amount within six (6) months after the Closing Date, the Loan/Grant Agreement shall at the option of the Finance Authority, terminate and be of no further force or effect.

F. The Borrower/Grantee has met the requirements of Executive Order 2013-006 and has represented that it has met or will meet prior to the first disbursement of any portion of the Loan/Grant Amount, the Conditions and the readiness to proceed requirements established for the Loan/Grant.

G. The Borrower/Grantee has or will acquire title to or easements or rights of way on the real property upon which the Project is being constructed or located prior to the disbursement of any portion of the Loan/Grant Amount for use for construction.

Section 5. Loan/Grant Agreement—Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Borrower/Grantee and acquiring and completing the Project, it is hereby declared necessary that the Borrower/Grantee execute and deliver the Loan/Grant Agreement evidencing the Borrower/Grantee's acceptance of the Grant Amount of four hundred eighty thousand two hundred fourteen dollars (\$480,214) and borrowing the Loan Amount of three hundred twenty thousand one hundred forty-two dollars (\$320,142) to be utilized solely for the purpose of completing the Project and paying Expenses, and solely in the manner and according to the restrictions set forth in the Loan/Grant Agreement, the execution and delivery of which is hereby authorized. The Borrower/Grantee shall use the Loan/Grant Amount to finance the acquisition and completion of the Project and to pay Expenses.

B. Detail. The Loan/Grant Agreement shall be in substantially the form of the Loan/Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of four hundred eighty thousand two hundred fourteen dollars (\$480,214) and the Loan shall be in the amount of three hundred twenty thousand one hundred forty-two dollars (\$320,142). Interest on the Loan Amount shall be zero percent (0%) per annum of the unpaid principal balance of the Loan Amount, and the Administrative Fee shall be one-quarter of one percent (0.25%) per annum of the unpaid principal balance of the Loan Amount, taking into account both payments made by the Borrower/Grantee and hardship waivers of payments granted to the Borrower/Grantee.

Section 6. Approval of Loan/Grant Agreement. The form of the Loan/Grant Agreement as presented at the meeting of the Governing Body at which this Resolution was adopted, is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan/Grant Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the Administrator/Clerk is hereby authorized to attest the Loan/Grant Agreement. The execution of the Loan/Grant Agreement shall be conclusive evidence of such approval.

Section 7. Security. The Loan Amount and Administrative Fee shall be solely secured by the pledge of the Pledged Revenues herein made and as set forth in the Loan/Grant Agreement.

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

A. Project Account and Expense Account. The Borrower/Grantee hereby consents to creation of the Project Account and the Expense Account by the Finance Authority and further approves of the deposit or crediting of a portion of the Loan/Grant Amount in the Expense Account. Until the Completion Date, the amount of the Loan/Grant credited to the Project Account shall be used and paid out solely for the purpose of acquiring the Project in compliance with applicable law and the provisions of the Loan/Grant Agreement or to pay Expenses.

B. Completion of the Project. The Borrower/Grantee shall proceed to complete the Project with all due diligence. Upon the Completion Date, the Borrower/Grantee shall execute a certificate stating that completion of and payment for the Project has been completed. Following the Completion Date or the earlier expiration of the time allowed for disbursement of Loan/Grant funds as provided in the Loan/Grant Agreement, any balance remaining in the Project Account shall be transferred and deposited into the Water Project Fund or otherwise distributed as provided in the Loan/Grant Agreement.

C. Finance Authority Not Responsible. Borrower/Grantee shall apply the funds derived from the Loan/Grant Agreement as provided therein, and in particular Article VII of the Loan/Grant Agreement. The Finance Authority shall not in any manner be responsible for the application or disposal by the Borrower/Grantee or by its officers of the funds derived from the Loan/Grant Agreement or of any other funds held by or made available to the Borrower/Grantee in connection with the Project. Lender/Grantor shall not be liable for the refusal or failure of any other agency of the State to transfer any portion of the Loan/Grant Amount in its possession, custody and control to the Finance Authority for disbursement to the Borrower/Grantee, or to honor any request for such transfer or disbursement of the Loan/Grant Amount.

Section 9. Payment of Loan Amount. Pursuant to the Loan/Grant Agreement, the Borrower/Grantee shall pay the Loan Amount and Administrative Fee directly from the Pledged Revenues to the Finance Authority as provided in the Loan/Grant Agreement in an amount sufficient to pay principal and other amounts due under the Loan/Grant Agreement and to cure any deficiencies in the payment of the Loan Amount or other amounts due under the Loan/Grant Agreement.

Section 10. Lien on Pledged Revenues. Pursuant to the Loan/Grant Agreement, the Loan/Grant Agreement constitutes an irrevocable lien (but not an exclusive lien) upon the Pledged Revenues to the extent of the Loan Amount and the Administrative Fee, which lien shall be subordinate to any lien on the Pledged Revenues existing on the Closing Date and, further, shall be subordinate to all other indebtedness secured or that may in the future be secured by the Pledged Revenues, except, however, that the lien shall be on parity with any other lien, present

or future, for the repayment of any other loan provided to the Borrower/Grantee by the Lender/Grantor pursuant to the Act or the Colonias Infrastructure Act.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan/Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Loan/Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan/Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan/Grant Agreement.

Section 12. Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Resolution Irrepealable. After the Loan/Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations due under the Loan/Grant Agreement shall be fully discharged, as herein provided.

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

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

Section 16. Closing Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Borrower/Grantee kept for that purpose, authenticated by the signatures of the Mayor and Administrator/Clerk of the Borrower/Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

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

[Remainder of page intentionally left blank.]

[Form of Notice of Adoption of Resolution for Publication]

**CITY OF DEMING, NEW MEXICO
NOTICE OF ADOPTION OF RESOLUTION**

Notice is hereby given of the title and of a general summary of the subject matter contained in Resolution No. 14-30, duly adopted and approved by the City Council of City of Deming on November 10, 2014. A complete copy of the Resolution is available for public inspection during normal and regular business hours in the office of the Administrator/Clerk located at 309 South Gold Avenue, Deming, New Mexico 88030.

The title of the Resolution is:

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 14-30**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (“FINANCE AUTHORITY”) THE (“LENDER/GRANTOR”) AND THE CITY OF DEMING (THE “BORROWER/GRANTEE”), IN THE TOTAL AMOUNT OF \$800,356, EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF THE DESIGN AND CONSTRUCTION OF A BOOSTER SYSTEM REPLACING THE PRESENT BOOSTER BUMPS AND EXPANDING THE WASTEWATER REUSE SYSTEM, INCLUDING NEW PIPING, A POND INTAKE, A SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM (“SCADA SYSTEM”) AND A NEW BUILDING, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT AND AN ADMINISTRATIVE FEE SOLELY FROM THE NET SYSTEM REVENUES OF THE WATER AND WASTEWATER UTILITY SYSTEMS OF THE BORROWER/GRANTEE; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

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

[End of Form of Notice of Adoption for Publication]

PASSED, APPROVED AND ADOPTED THIS 10TH DAY OF NOVEMBER, 2014.

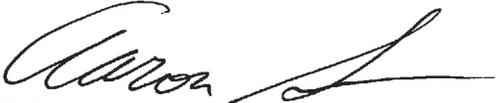


CITY OF DEMING, LUNA COUNTY,
NEW MEXICO

By 
Benny L. Jasso, Mayor



ATTEST:


Aaron Sera, Administrator/Clerk



[Remainder of page intentionally left blank.]

CITY OF DEMING, NEW MEXICO
RESOLUTION No. 14-31

A RESOLUTION OF THE CITY OF DEMING, NEW MEXICO, AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONFIRMATION WITH SHELL ENERGY NORTH AMERICA (US) LP FOR THE PURCHASE OF NATURAL GAS FROM SHELL ENERGY NORTH AMERICA (US) LP, WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND FOR OTHER PURPOSES

WHEREAS, the City of Deming owns and operates a municipal gas distribution utility and is authorized by the provisions of City Municipal Code to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, the acquisition of secure, reliable and economic supplies of natural gas is necessary for the prudent and businesslike operation of the utility owned by the City, the continued economic development of its community and the promotion of the public health, safety and welfare; and

WHEREAS, the City is a Public Agency and desires to execute the Confirmation.

NOW, THEREFORE, BE IT RESOLVED, by the City of Deming as follows:

1. The City hereby approves the execution and delivery of the Gas Supply Confirmation, in substantially the form previously submitted to the City and attached hereto as Exhibit A, pursuant to which the City will agree to purchase specified quantities of natural gas from Shell Energy North America, such deliveries to be made on the dates, at the volumes and for the prices set forth in such Gas Supply Confirmation.

2. The Mayor, City Administrator, or Public Works Director of the City of Deming or any other required person is hereby authorized to negotiate the final Confirmation and execute any such other closing documents or certificates which may be required or contemplated in connection with the execution and delivery of the Confirmation or carrying out the intent and purpose of this resolution.

PASSED, ADOPTED, AND APPROVED this 10th day of November, 2014.



CITY OF DEMING, NEW MEXICO

Benny L. Jasso, Mayor

ATTEST

Aaron Sera, Clerk