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

CITY COUNCIL MEETING
December 14, 2015
6:00 P.M.
AGENDA

Call to Order/Pledge of Allegiance

1. Consent Agenda
 - A. Minutes – City Council Regular Meeting 11/09/15
 - B. Minutes – Special City Council Meeting 12/01/15
 - C. Minutes – Parks Commission Meeting 11/10/15
 - D. Minutes – Planning & Zoning Commission Meeting 11/16/15
 - a. Recommendation of a Special Use Permit Application for Grado Speed Shop located at 1218 W. Elm Street with the condition that the piles of debris be removed within one (1) month and that all City regulation are met (*To be presented later in meeting as a Quasi-Judicial Public Hearing*)
 - E. Out-of-State Travel Request for Manuel Mesa to attend required Animal Control Officer Training in Phoenix, AZ on January 11-15, 2016
 - F. Resolution to approve for the City of Deming to Commit to the Development of an Asset Management Plan Based on Water Trust Board Water Project Management Policies
 - G. Resolution Authorizing Filing of an Application for Financial Assistance from the New Mexico Water Trust Board
 - H. Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Colonias Infrastructure Fund-Encanto Circle Water System Improvements
 - I. Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Colonias Infrastructure Fund-City of Deming Sewer System Improvements
 - J. Approval of Resolution for Participation in Capital Improvements Project Administered by the New Mexico Department of Finance and Administration
2. Public Forum
3. Ratification of the Third Member, Carlos Sapien, to the Labor Management Relations Board
4. Approval of Pay Range for Police Administrator/Training Officer
5. Bids:
 - a. Bid #16-06 Low Bid Recommendation for Alternate E Golf Course Booster Pump Station

6. Public Hearing to Consider Approval of an Ordinance Amending Title 9, Chapter 6, regarding City Deposit Fees; Utility Charges; Payment of Bills; Delinquent Accounts of the Municipal Code of the City of Deming, New Mexico
7. Quasi-Judicial Public Hearing to Consider a Special Use Permit Application for Grado Speed Shop located at 1218 W. Elm Street
8. Administrator's Report
9. Adjourn Meeting

The next regular City Council Meeting is scheduled for January 11, 2016 at 6:00 p.m.

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 15-38**

**A RESOLUTION BY THE CITY OF DEMING, NEW MEXICO, WHEREBY THE
CITY OF DEMING COMMITS TO THE DEVELOPMENT OF AN ASSET
MANAGEMENT PLAN BASED ON WATER TRUST BOARD WATER
PROJECT MANAGEMENT POLICIES**

WHEREAS, the governing body of the City of Deming, New Mexico acknowledges the need to establish control over its water system fixed assets for the primary purpose of safeguarding them and establishing accountability for their custody and use,

WHEREAS, the City of Deming will implement the Asset Management Plan within three years and will affirm the use of the EFC A.M. Kan Work manual as a guide for the asset management plan,

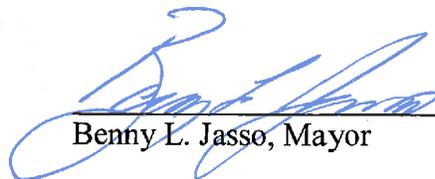
WHEREAS, the City of Deming is responsible for the management of owned assets and wishes to have a set of principles in place to generally guide its approach to asset management;

NOW THEREFORE BE IT RESOLVED the City of Deming hereby commits to the development of an *Asset Management Plan based on Water Trust Board Water Project Management Policies* for the City of Deming.

PASSED, APPROVED AND ADOPTED THIS 14th day of December, 2015.

CITY OF DEMING, NEW MEXICO




Benny L. Jasso, Mayor

ATTEST:


Aaron Sera, City Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 15-39**

**RESOLUTION AUTHORIZING FILING OF AN APPLICATION FOR
FINANCIAL ASSISTANCE FROM THE NEW MEXICO WATER TRUST BOARD**

WHEREAS, the City of Deming's primary plans are to develop an integrated approach for identifying projects that ensure future water supplies are available for the City's customers; and

WHEREAS, the City of Deming intends to apply for financial assistance from the New Mexico Water Trust Board to fund a Municipal Water System Preliminary Engineering Report; and

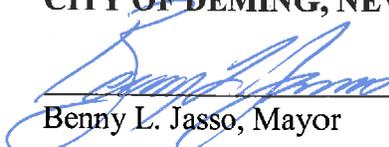
WHEREAS, the City of Deming is eligible to apply for funding from the New Mexico Water Trust Board.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DEMING, NEW MEXICO, that the filing of an application to the New Mexico Water Trust Board for funding in the 2016 Water Project Fund funding cycle is hereby authorized. The project type falls under Water Storage, Conveyance, and Delivery and proposes to develop a PER and Asset Management Plan. The financial assistance requested is in the amount of \$180,000.

BE IT FUTHER RESOLVED, that Jim Massengill, Public Works Director, is hereby designated as the City of Deming's representative to act on behalf of this application.

PASSED, APPROVED and ADOPTED by the Mayor and Council on this 14th day of December, 2015.

CITY OF DEMING, NEW MEXICO



Benny L. Jasso, Mayor



Aaron Sera, Administrator/Clerk



**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 15-40**

**AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR
FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE
AUTHORITY FOR THE COLONIAS INFRASTRUCTURE FUND**

WHEREAS, the City of Deming (“Governmental Unit”) is a qualified entity under the New Mexico Finance Authority Colonias Infrastructure Act, Sections 6-30-1 through 6-30-8, NMSA 1978 (“Act”), and the City of Deming (“Governing Body”) is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Governmental Unit; and

WHEREAS, the New Mexico Finance Authority (“Authority”) has instituted a program for financing of projects from the Colonias Infrastructure fund created under the Act and has developed an application procedure whereby the Governing Body may submit an application (“Application”) for financial assistance from the Authority for public projects; and

WHEREAS, the Governing Body intends to undertake design, construction and improvements of (“Project”) Encanto Circle Water System Improvements for the benefit of the Governmental unit and its citizens; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application.

NOW THEREFORE, BE IT RESOLVED by the governing body of the City of Deming,

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing body and the officers and employees thereof directed toward the Application and the Project, be and the same is hereby ratified, approved and confirmed.

Section 2. That the submission of the application requesting funding from the Colonias Infrastructure Fund, be and the same is hereby approved and confirmed.

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed Application to the Authority for its review, and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the Application and to further proceed with arrangements for financing the Project.

Section 4. That the Governing Body is fully committed to properly operate and maintain the proposed project being submitted for funding.

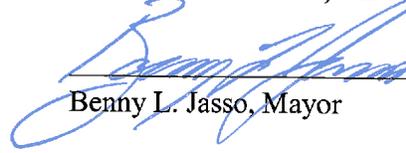
Section 5. All acts and resolutions in conflict with this resolution are hereby rescinded, annulled and replaced.

Section 6. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 14th day of December, 2015.



CITY OF DEMING, NEW MEXICO



Benny L. Jasso, Mayor



Aaron Sera, Administrator/Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 15-41**

**AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED
APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO
THE NEW MEXICO FINANCE AUTHORITY
FOR THE COLONIAS INFRASTRUCTURE FUND**

WHEREAS, the City of Deming (“Governmental Unit”) is a qualified entity under the New Mexico Finance Authority Colonias Infrastructure Act, Sections 6-30-1 through 6-30-8, NMSA 1978 (“Act”), and the City of Deming (“Governing Body”) is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Governmental Unit; and

WHEREAS, the New Mexico Finance Authority (“Authority”) has instituted a program for financing of projects from the Colonias Infrastructure fund created under the Act and has developed an application procedure whereby the Governing Body may submit an application (“Application”) for financial assistance from the Authority for public projects; and

WHEREAS, the Governing Body intends to undertake design, construction and improvements of (“Project”) City of Deming Sewer System Improvements for the benefit of the Governmental unit and its citizens; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application.

NOW THEREFORE, BE IT RESOLVED by the governing body of the City of Deming.

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing body and the officers and employees thereof directed toward the Application and the Project, be and the same is hereby ratified, approved and confirmed.

Section 2. That the submission of the application requesting funding from the Colonias Infrastructure Fund, be and the same is hereby approved and confirmed.

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed Application to the Authority for its review, and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the Application and to further proceed with arrangements for financing the Project.

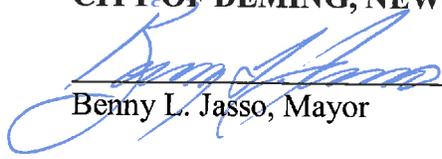
Section 4. That the Governing Body is fully committed to properly operate and maintain the proposed project being submitted for funding.

Section 5. All acts and resolutions in conflict with this resolution are hereby rescinded, annulled and replaced.

Section 6. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 14th day of December, 2015.

CITY OF DEMING, NEW MEXICO



Benny L. Jasso, Mayor



ATTEST:



Aaron Sera, Administrator/Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 15-42**

**PARTICIPATION IN CAPITAL APPROPRIATION PROJECT ADMINISTERED
BY THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION**

WHEREAS, the City of Deming, of Luna County, of the State of New Mexico, shall enter into a Grant Agreement with the State Department of Finance and Administration, Local Government Division, And

WHEREAS, the agreement is identified as FUND 89200 Capital Appropriation Project to plan, design and construct improvements to the police department building.

NOW THEREFORE, BE IT RESOLVED in official session that City of Deming determines, resolves, and orders as follows:

- That Aaron Sera, City Administrator, is authorized to sign the agreement for this project, and
- That Laura Holguin, Treasurer, and Bryan Reedy, Community Services Director, or his/her successors are OFFICIAL REPRESENTATIVES who are authorized to sign and request reimbursement requests. Bryan Reedy will act as a single point of contact concerning all matters related to the grant agreement.

PASSED, ADOPTED, AND APPROVED this 14th day of December, 2015.



ATTEST

Aaron Sera, Clerk

CITY OF DEMING, NEW MEXICO

Benny L. Jasso, Mayor

**CITY OF DEMING, NEW MEXICO
ORDINANCE NO. 1258**

**AN ORDINANCE AMENDING TITLE 9 CHAPTER 6
OF THE DEMING CITY CODE, NEW MEXICO**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DEMING, NEW MEXICO:**

1. Title 9 of the Deming City Code is hereby amended by adding thereto a new Chapter 6 as follows:

CHAPTER 6

**CITY DEPOSIT FEES; UTILITY CHARGES; PAYMENT OF BILLS;
DELINQUENT ACCOUNTS**

SECTION:

- 9-6-1: Deposit Required
- 9-6-2: Deposit Refund
- 9-6-3: Transfer of Delinquent Accounts
- 9-6-4: Disconnection and Reconnection Fees
- 9-6-5: Payment of Bill; Delinquent Accounts
- 9-6-6: Seasonal Accounts

9-6-1: DEPOSIT REQUIRED:

- A. Fee Imposed On Residential Users: The director of public works shall require any residential user of a City utility presently indebted or who may become indebted to the City, whether for services, water, gas, garbage disposal, sewer disposal, occupation tax, paving lien, or otherwise, to pay a deposit fee of one hundred dollars (\$100.00) to the designated fund to secure payment of any indebtedness due the City by the depositor.
- B. Fee Imposed On Commercial Users: The director of public works shall require any commercial user of a City utility presently indebted or who may become indebted to the City, whether for services, water, gas, garbage disposal, sewer disposal, occupation tax, paving lien, or otherwise, to pay minimum deposit fees as outlined below, to the designated fund to secure payment of any indebtedness due the City by the depositor.

Small Commercial - \$250.00
Large Commercial - \$500.00

The director of public works shall determine the difference between small and large commercial by previous utility usage or industry standards.

- C. Collection: The director of public works is hereby authorized to collect residential and commercial deposits from any and all persons who are now, or hereafter may become indebted to the City.
- D. Ensure Payment of Indebtedness: All such deposits shall be held by the director of public works to ensure payment of indebtedness owed by any such depositor to the City without interest.
- E. Deposit Applied Toward Delinquency: Should any customer fail to meet their scheduled payments for any one month and services are disconnected, the deposit shall be applied to the delinquent account prior to the time that gas, water, sewer or garbage service is recommenced to the customer. (Ord. 1185, 4-16-2009)

9-6-2: DEPOSIT REFUND: There shall be no refunds of any deposits for residential or commercial services until such services have been discontinued and all payments have been made. (Ord. 1185, 4-16-2009)

9-6-3: TRANSFER OF DELINQUENT ACCOUNTS: Should any customer owe any amount for any City utilities at the time utility services are discontinued and move to another location within the City where additional services are required by such customer, all such delinquent charges owed by the customer shall be paid in full prior to new utility services being placed in customer's name. In the event a closed account is found with an outstanding balance and the responsible customer is found to have an active account, the delinquent account's charges shall be transferred to the customer's active account. (Ord. 1185, 4-16-2009)

9-6-4: DISCONNECTION AND RECONNECTION FEES: The following schedule shall apply when service is turned off for non-payment of utility bills:

- A. Service Turned Off For Nonpayment: The service user shall pay the bill including all amounts owed, plus a reconnect fee of thirty five dollars (\$35.00) for utilities that were turned off. The thirty five dollar (\$35.00) reconnection fee is a lump sum fee that applies to a single or the combined utilities of gas, water, sewer or garbage collection.
 - 1. Service Turned Off For Nonpayment and Deposit or Portion of Deposit Applied to Account: The service user shall pay the bill plus the reconnection fee plus replace all or that portion of the original deposit that was applied to the account up to the original deposit amount of one hundred dollars (\$100.00) for residential users or the original amount determined for each commercial account.

9-6-5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS:

- A. Time of Payment: All accounts for utility services furnished shall become due and payable on the due date indicated on the bill.
- B. Delinquency; Discontinue Service: Should an account not be paid within five (5) days after coming due, a penalty of ten percent (10%) shall be added to the bill, and if the total amount then due is not paid within five (5) days after the adding of the penalty, the said account and penalty shall be deemed delinquent, and the public works director may cause the utility services to be shut off from the premises upon which the account is delinquent. The utility services shall not again be turned on until all arrears and a reconnection fee of thirty-five dollars (\$35.00), for metered services disconnected, is paid in full.

If the deposit on the account has been applied to the account, the original deposit of one hundred dollars (\$100.00) for residential users or the original amount determined for each commercial account must also be paid in full prior to services being reconnected.

- C. Reinstallation Fee: In the event that a meter is removed for such nonpayment, the same shall not be reinstalled and service shall not be reinstated until the owner or occupant pays to the City a sum of one hundred dollars (\$100.00) for such reinstallation along with all the arrears paid in full. (Ord. 1190, 7-13-2009)
- D. Lien For Nonpayment: With the exception of subsection F of this section, in addition to any other remedy provided herein for the enforcement and collection of any utility service rate, charge or account, all rates provided for in this chapter shall be charged against the property on which it is furnished, and against the owner thereof, and shall be a lien against the premises to which any utility service may be applied, and a charge against the owner thereof and the occupant thereof using the utility service. If for any cause, any sums owing therefore become delinquent, the utility service shall be shut off, and in no case shall it be turned on to the same property until all such delinquencies shall have been paid in full including accumulation of all late fees, penalties, and interest.
- E. Responsibility For Payment: The property owner and occupant shall be jointly and severally liable for debt and money due on open account to the City in an action waged by the City in any court of competent jurisdiction for the amount of all such rates as may be due and unpaid, together with all penalties provided herein and costs, except as delineated in subsection F of this section. No change of ownership or occupancy shall affect the application of this section.
- F. Property Owner Disclaimer: Property owners shall file an annual written disclaimer, in accordance with New Mexico Statutes Annotated 3-23-6 subsection C, to relieve themselves from the responsibility delineated in subsection D of this section of any utility charges that their renters may incur, the disclaimer must include the property owner's full name, location and number of rental properties that will be disclaimed. Proof of ownership, such as a warranty deed, of the location proposed for disclaimer shall be provided to the City in conjunction with the annual filing of the disclaimer. The

disclaimer does not relieve the property owner of any debt incurred prior to submitting the disclaimer to the City of Deming. Upon receipt of annual disclaimers, the City will date stamp and keep a copy for the records. It is the responsibility of the property owner to maintain proof of filing of each disclaimer on an annual basis, no later than January 10th of each year.

- G. Landlord Standby: Landlord standby status is a service available to property owners when an owner's rental property is vacant or between tenant occupancy. Landlord standby service will automatically transfer billed utility services to the property owner when a tenant disconnects utility services or the City disconnects utility services for non-payment. No additional deposit, disconnection or reconnection fees are applicable as long as the owner is in good standing and no outstanding amounts are due from a previous landlord standby status. Landlords shall annually provide written notice to the utility department for each individual property address to be listed under landlord standby.
- H. Shutoff Fees: In the event utility service is shut off pursuant to this section and a lock and/or restrictor plate is installed lawfully in or upon the disabled and/or shutoff utility meter by an authorized City of Deming employee, the City of Deming shall collect the following fees from the owner and/or occupant who is responsible for payment of said utility bill to the City of Deming. Once said fees are paid, the City of Deming shall remove said lock or restrictor plate. The fees are codified as follows:
1. If applicable, a fifty dollar (\$50.00) unauthorized removal or tampering fee if said lock or restrictor plate is removed by any person other than an authorized City of Deming employee; and
 2. A one hundred dollar (\$100.00) reinstallation fee per meter in order to reinstall each meter after it is removed.
- I. Tampering Or Theft Of A Utility Service: It shall be unlawful for any owner and/or occupant of any real property whose utility meter has been shut off by the application of a lock and/or restrictor plate based upon delinquency in the payment of utility services to remove or cause to have removed the lock and/or restrictor plate from the utility meter for the purpose of any of the following:
1. Stealing said lock and/or restrictor plate which belongs to the City of Deming and whose value is less than two hundred fifty dollars (\$250.00);
or
 2. Intentional misappropriation of said lock and/or restrictor plate after the utility meter has been locked and/or restricted and whose value of the misappropriated property is less than two hundred fifty dollars (\$250.00);
or
 3. Converting use of the meter after it has been locked or restricted by the City of Deming with the intent to deprive the City of Deming of water and/or natural gas from said utility meter having previously been

shut off by authorized representative of the City of Deming by placing a lock and/or restrictor plate upon or in the utility meter and said value of the conversion is less than two hundred fifty dollars (\$250.00); or

4. Obtaining or causing to be obtained the services of the utilities of water, wastewater and/or natural gas without paying for same and after a lock and/or restrictor plate has been placed upon or in the utility meter by an authorized representative of the City of Deming with the intent to cheat or defraud the City of Deming out of water and/or natural gas and the person obtaining the services is obtaining a value of less than two hundred fifty dollars (\$250.00); or
5. Improper removal of any lock and/or restrictor plate from a City of Deming utility meter consists of any person removing any lock and/or restrictor plate from a City of Deming utility meter after said utility meter has been shut off by an authorized representative of the City of Deming for nonpayment of said utility service.

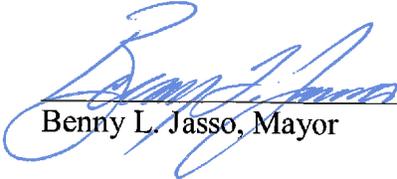
Any person who violates this section is guilty of a petty misdemeanor and shall be fined and/or imprisoned in accordance with Title 1, Chapter 4 of this code. For enforcement informational purposes only, in the event the value of the theft, misappropriation, conversion, obtaining of the service, and/or improper removal noted in sub-sections I1 through I5 of this section is greater than two hundred fifty dollars (\$250.00) but less than five hundred dollars (\$500.00) it may be referred to the sixth judicial district attorney for prosecution as a full misdemeanor under the laws of New Mexico. A value above five hundred dollars (\$500.00) up to two thousand five hundred dollars (\$2,500.00), it may be referred to the sixth judicial district attorney for prosecution as a third degree felony; and above twenty thousand dollars (\$20,000.00), it may be referred to the sixth judicial district attorney for prosecution as a second degree felony. (Ord. 1210, 4-22-2011)

- 9-6-6: SEASONAL ACCOUNTS:** Upon written request, services on an account may be temporarily turned off for a period not to exceed one year. This will allow seasonal residents to maintain an active account with the City without having to pay minimum service charges. There is a thirty-five dollar (\$35.00) convenience fee for this service. Both water and gas meters will be locked while temporarily off. Turning services off temporarily does not relieve the property owner from any usage that may occur during the time it is turned off. The account holder is responsible for ensuring all usage charges are paid when they become due. Seasonal accounts that have been turned off for longer than one year may be turned off and the deposit refunded to the account holder. (Ord. 1210, 4-22-2011)

PASSED, ADOPTED, AND APPROVED, this 14th day of December, 2015.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Aaron Sera, Administrator/Clerk