



VILLAGE OF MAGDALENA
PO BOX 145, MAGDALENA, NM 87825
P. 575.854.2261 F. 575.854.2273
WWW.VILLAGEOFMAGDALENA.COM

AGENDA

**NOTICE OF REGULAR MEETING OF THE VILLAGE OF MAGDALENA BOARD OF TRUSTEES
MONDAY, JANUARY 22, 2024, AT 5:00 PM
VILLAGE HALL 108 N. MAIN STREET**

PLEASE SILENCE ALL ELECTRONIC DEVICES

MEMBERS OF THE PUBLIC WHO WISH TO ATTEND AND LISTEN TO THE MEETING VIA ZOOM MAY DO SO AT THE FOLLOWING LINK:
<https://us02web.zoom.us/j/2848694212?pwd=MVE4QjdhR2NQVFozQnZMbTlaRUtrQT09>

Meeting ID: 284 869 4212

Passcode: MAGDALENA

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1. CALL TO ORDER
 2. ROLL CALL
 3. PLEDGE OF ALLEGIANCE
 4. APPROVAL OF AGENDA
 5. APPROVAL OF MINUTES
 - a. REGULAR MEETING – JANUARY 8, 2024
 6. APPROVAL OF CASH BALANCE REPORTS
 7. APPROVAL OF BILLS
 8. MAYOR'S REPORT
 9. CLERK'S REPORT
 10. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF GRANT AGREEMENT BETWEEN THE VILLAGE OF MAGDALENA AND THE STATE OF NEW MEXICO DEPARTMENT OF AGING AND LONG-TERM SERVICES FUND 89200 CAPITAL APPROPRIATION PROJECT FOR \$33,300 FOR THE MAGDALENA SENIOR CENTER TO PURCHASE AND INSTALL METAL CARPORT
 11. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF LOAN AGREEMENT BETWEEN THE NEW MEXICO FINANCE AUTHORITY (NMFA) AND THE VILLAGE OF MAGDALENA FOR THE PURCHASE OF A POLICE VEHICLE, FOR THE LOAN AMOUNT OF \$58,488.00
 12. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF RESOLUTION #2024-01, AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN VILLAGE OF MAGDALENA, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$58,488 TOGETHER WITH INTEREST THEREON,

FOR THE PURPOSE OF PURCHASING A NEW POLICE VEHICLE AND THE RELATED EQUIPMENT FOR THE GOVERNMENTAL UNIT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE STATE LAW ENFORCEMENT PROTECTION FUND REVENUES DISTRIBUTED BY THE STATE TREASURER TO THE GOVERNMENTAL UNIT PURSUANT TO SECTION 29-13-6, NMSA 1978; PROVIDING FOR THE DISTRIBUTION OF STATE LAW ENFORCEMENT PROTECTION FUND REVENUES TO BE REDIRECTED BY THE STATE TREASURER TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT

13. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF RESOLUTION #2024-02, OPEN MEETINGS

14. DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF SOCORRO AND THE VILLAGE OF MAGDALENA FOR THE PURPOSE OF PROVIDING LIMITED ANIMAL CONTROL SERVICES - JURISDICTION OF THE VILLAGE OF MAGDALENA

15. PUBLIC INPUT – 1 TOPIC PER PERSON - 3 MINUTE LIMIT

PUBLIC COMMENT MAY BE MADE IN PERSON OR VIA EMAIL (IF LESS THAN 3 MINUTES). EMAIL COMMENTS MAY BE MADE BY EMAILING COMMENTS TO: clerk@villageofmagdalena.com and/or mayor@villageofmagdalena.com THE DEADLINE FOR WRITTEN PUBLIC COMMENTS TO BE RECEIVED IS MONDAY, JANUARY 22, 2024 AT 12:00 PM. EMAILED PUBLIC COMMENT MUST CONTAIN THE AUTHOR'S NAME AND PHYSICAL ADDRESS AND WILL BE ENTERED AND/OR READ INTO THE MEETING MINUTES.

16. ADJOURNMENT

NOTE: THIS AGENDA IS SUBJECT TO REVISION UP TO 72 HOURS PRIOR TO THE SCHEDULED MEETING DATE AND TIME (NMSA 10-15-1 F). A COPY OF THE AGENDA MAY BE PICKED UP AT THE VILLAGE OFFICE, 108 N. MAIN STREET, MAGDALENA, NM 87825. PUBLIC DOCUMENTS, INCLUDING THE AGENDA AND MINUTES, CAN BE PROVIDED IN VARIOUS ACCESSIBLE FORMATS. PLEASE CONTACT THE VILLAGE CLERK/TREASURER IF A SUMMARY OR OTHER TYPE OF ACCESSIBLE FORMAT IS NEEDED. IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER OR ANY OTHER FORM OF AUXILIARY AID OR SERVICE TO ATTEND OR PARTICIPATE IN THE MEETING, PLEASE CONTACT THE VILLAGE CLERK AT 575-854-2261 AT LEAST ONE WEEK PRIOR TO THE MEETING OR AS SOON AS POSSIBLE.

DRAFT

**MINUTES OF REGULAR MEETING OF THE VILLAGE OF MAGDALENA BOARD OF TRUSTEES
MONDAY, JANUARY 8, 2024, AT 5:00 PM
VILLAGE HALL 108 N. MAIN STREET**

**MEMBERS OF THE PUBLIC WHO WISH TO ATTEND AND LISTEN TO THE MEETING VIA ZOOM MAY DO SO AT
THE FOLLOWING LINK:**

<https://us02web.zoom.us/j/2848694212?pwd=MVE4QjdhR2NQVFozQnZMbTlaRUtrQT09>

Meeting ID: 284 869 4212

Passcode: MAGDALENA

CALL TO ORDER: Mayor Rumpf called the Regular Meeting to order at 5:01 p.m.

PRESENT: Mayor Richard Rumpf, Trustee Harvan Conrad, Trustee James Nelson, Trustee Clark Brown, Carleen Gomez–Deputy Clerk, Juanita Puente- Clerk/Treasurer

PARTICIPATING VIA ZOOM VIDEO CONFERENCE: Attorney - Cori Strife, Tamara Lombardi, Jon Kulas, Trustee Donna Dawson and Adrienne

ABSENT: Michael Steininger-Finance Officer

GUESTS: Marshal- Michael Zamora, Captain Brian Waterman, Catherine DeMaria, Carol Brackman, Denise Johnson, Michael Thompson, Cricket Courtney, Aimee Thompson, John Keller & Osiris Navarro

Captain Brian Waterman led the gallery in reciting the Pledge of Allegiance.

APPROVAL OF AGENDA: Harvan Conrad moved to approve the agenda, and Clark Brown seconded the motion. The motion carried unanimously.

APPROVAL OF MINUTES

- a. **REGULAR MEETING – DECEMBER 11, 2023:** Donna Dawson moved to approve the minutes as presented, and Harvan Conrad seconded the motion. The motion carried unanimously.

APPROVAL OF CASH BALANCE REPORT: Donna Dawson moved to approve the Cash Balance Report, and Harvan Conrad seconded the motion. The motion carried unanimously.

APPROVAL OF BILLS: Harvan Conrad moved to approve the Bill List and the additional bills, and Clark Brown seconded the motion. The motion carried unanimously.

BILL LIST

411 Equipment LLC		\$15,205.73
A-1 Quality Redi-Mix		\$928.73
Admin Office of the Courts		\$306.00
All Around Auto Police Dept		\$67.34
Bohannan-Huston, Inc.		\$26,063.20
City of Socorro		\$1,560.30
Consultant Pharmacist of NM		\$430.50

Electric Motor Co., Inc.		\$2,085.58
Grizzly Electric		\$810.09
Konica Minolta		\$373.56
Labatt Foods		\$2,191.51
Lowe's		\$1,543.79
Magdalena Schools		\$75.00
NM Environmental Department		\$200.00
NM Local Government Law, LLC		\$258.30
New Mexico Meters LLC		\$3,698.00
Route 60 Trading Post		\$100.00
Socorro Electric Coop		\$4,973.35
Steer Stop		\$130.00
Valley Sanitation		\$694.27
Verizon Wireless		\$938.44
Vexus Fiber		\$62.36
Winston's		\$246.40
WNM Communications		\$897.41
TOTAL		\$64,737.27

MAYOR'S REPORT: Mayor Rumpf addressed the dog issue and has been trying to work with the Socorro County Manager, Michael Hawkes to see about getting a County Animal Control Officer to come to Magdalena. Mayor Rumpf stated that he, Marshal Michael Zamora and Michael Hawkes will be meeting within the week to work on a Memorandum Of Understanding.

Mayor Rumpf also announced a "Free Tree Program" coming soon, where people can adopt and promise to water their adopted tree(s) for 3 years. He stated that the Village would like to plant 50 to 100 trees around the Village.

CLERK'S REPORT: Clerk/Treasurer Juanita Puente reported that she is continuing to learn more and is still working on Grants.

DEPARTMENT REPORTS

- a. **EMS-** EMS Coordinator James Nelson stated that there were 6 EMS calls in the month of December 2023.
- b. **FIRE-** James Nelson reported there were 2 fires in Alamo in December 2023.
- c. **MARSHAL-** The Marshal's Department submitted the monthly and year-end report and they were reviewed by the Mayor and Board of Trustees.
- d. **JUDGE-** No report was submitted.
- e. **PUBLIC WORKS-** A report was submitted by Joint Utility Worker, Ezekiel Gomez and reviewed by the Mayor and Board of Trustees.
- f. **LIBRARY-** A report was submitted by the Librarian, Yvonne Magener and was reviewed by the Mayor and Board of Trustees.

DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL TO USE FUNDS GIVEN FOR HIRING OF NEW DEPUTIES, MARSHALS, PROVIDING FOR RECRUITMENT & RETENTION STIPENDS AND REFERRAL FEES IN THE AMOUNT OF \$50,000 TO BE DIVIDED BETWEEN MARSHAL MICHAEL ZAMORA & CAPTAIN BRIAN WATERMAN AT #25,000 EACH

Mayor Rumpf reported that the funds are there and the DFA wants the money spent. Trustee Jim Nelson asked by what date the funds would need to be spent. Marshal Michael Zamora indicated by June 2024. Marshal Michael Zamora would like to give funds to the two new officers but doesn't want the issue of them being expected to pay it back. Captain Brian Waterman stated that the funds were for Retention and Recruitment of new officers. Marshal Michael Zamora stated that the funds were for Recruitment and salaries of newly hired officers. Captain Brian Waterman stated that Marshal Michael Zamora applied for time and service and that anyone can get a recruitment stipend once they're hired on. Also, that State Police Chiefs can direct how these funds should be spent accordingly. Marshal Michael Zamora also indicated that he would like to give some of the funds to these (2) two officers but doesn't want the issue of them being expected to pay it all back.

Harvan Conrad moved to approve the motion and Clark Brown seconded the motion.

Mayor Rumpf requested a Roll Call Vote:

Clark Brown : Aye

Donna Dawson: Aye

Harvan Conrad: Aye

Jim Nelson: Aye

The motion carried unanimously.

DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL TO USE AMERICAN RESCUE PLAN ACT FUNDS (ARPA) AND UTILITY FUNDS TO PURCHASE NEW UTILITY VEHICLE TO REPLACE CURRENT LEASED VEHICLE

Mayor Rumpf reported that the Auditors would like the Village to let go of the vehicle lease. We have \$25,000 ARPA, and Water funds to purchase the vehicle. We will have (4) four utility trucks in the department and this newer truck purchase is a heavy-duty truck that can pull the sewer jetter, trailers and other heavy items.

Harvan Conrad moved to approve the motion and Clark Brown seconded the motion.

Mayor Rumpf requested a Roll Call Vote:

James Nelson: Aye

Harvan Conrad: Aye

Donna Dawson: Aye

Clark Brown: Aye

The motion carried unanimously.

DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL OF CLOSING TWO (2) WELLS FARGO CREDIT CARDS, WHICH WILL NO LONGER BE USED AS OF JANUARY 20, 2024

Mayor Rumpf reported that these cards will be replaced with (3) three First State Bank credit cards with a \$5,000 limit each to himself, Juanita Puente and Carleen Gomez.

Harvan Conrad moved to approve the request and Jim Nelson seconded the motion.

Mayor Rumpf requested a Roll Call Vote:

James Nelson: Aye

Harvan Conrad: Aye

Donna Dawson: Aye

Clark Brown: Aye

The motion carried unanimously.

EXECUTIVE SESSION – THE FOLLOWING MATTERS WILL BE DISCUSSED IN CLOSED SESSION: MOTION & ROLL CALL VOTE TO GO INTO EXECUTIVE SESSION AND THAT, PURSUANT TO NEW MEXICO STATE STATUTES SECTION 10-15-1, ONLY THE FOLLOWING MATTER WILL BE DISCUSSED IN CLOSED SESSION: Donna Dawson moved to go into Executive Session at 5:31 pm, and Clark Brown seconded the motion.

Mayor Rumpf requested a Roll Call Vote:

James Nelson: Aye

Harvan Conrad: Aye

Donna Dawson: Aye

Clark Brown: Aye

The motion carried unanimously.

a. NMSA 10-15-1(H)(2) LIMITED PERSONNEL MATTERS

i. SENIOR CENTER

- **MOTION & ROLL CALL VOTE TO RETURN TO REGULAR SESSION**
- **MOTION & ROLL CALL VOTE THAT MATTERS DISCUSSED IN CLOSED SESSION WERE LIMITED TO THOSE SPECIFIED IN MOTION FOR CLOSURE, AND THAT NO FINAL ACTION WAS TAKEN, AS PER NEW MEXICO STATUTES SECTION 10-15-1:** Donna Dawson moved to return to Regular Session at 5:37 pm and certified that only the items on the agenda were discussed and no decisions were made, and Clark Brown seconded the motion.

Mayor Rumpf requested a Roll Call Vote:

Clark Brown: Aye

Donna Dawson: Aye

Harvan Conrad: Aye

Jim Nelson: Aye

The motion carried unanimously.

DISCUSSION & POSSIBLE DECISION REGARDING APPROVAL AND CERTIFY OF PAY RATE INCREASES FOR MAGDALENA SENIOR CENTER EMPLOYEES

Donna Dawson moved to approve pay increases and Harvan Conrad seconded the motion.

Mayor Rumpf requested a Roll Call Vote:

Jim Nelson: Aye

Harvan Conrad: Aye

Donna Dawson: Aye

Clark Brown: Aye

The motion carried unanimously.

PUBLIC INPUT – 1 TOPIC PER PERSON - 3 MINUTE LIMIT

PUBLIC COMMENT MAY BE MADE IN PERSON OR VIA EMAIL (IF LESS THAN 3 MINUTES). EMAIL COMMENTS MAY BE MADE BY EMAILING COMMENTS TO: clerk@villageofmagdalena.com and/or mayor@villageofmagdalena.com THE DEADLINE FOR WRITTEN PUBLIC COMMENTS TO BE RECEIVED IS MONDAY, JANUARY 22, 2024, AT 12:00 PM. EMAILED PUBLIC COMMENT MUST CONTAIN THE AUTHOR'S NAME AND PHYSICAL ADDRESS AND WILL BE ENTERED AND/OR READ INTO THE MEETING MINUTES

Cricket Courtney requested that a copy of the Animal Ordinance be emailed to her; Clerk/Treasurer Juanita Puente agreed to email a copy to her.

Donna Dawson thanked Attorney Cori Strife for attending the meeting via Zoom while Attorney Randy VanVleck was on vacation.

ADJOURNMENT: Donna Dawson moved to adjourn the meeting at 5:40 pm, and Clark Brown seconded the motion. The motion carried unanimously.

Respectfully Submitted,

Juanita Puente
Clerk/Treasurer

Richard Rumpf
Mayor

**STATE OF NEW MEXICO
DEPARTMENT OF AGING AND LONG-TERM SERVICES
FUND 89200 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 202__, by and between the Department of Aging & Long-Term Services, hereinafter called the “Department” or abbreviation such as “ALTSD”, and City of Deming, hereinafter called the “Grantee”. This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2023, Chapter 199, Section 04, Paragraph 60, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, State Agency on Aging (28-4-1 to 28-4-9 NMSA 1978: successor agency, Aging and Long-Term Services Department (9-23-1 to 9-23-12 NMSA 1978) may enter into grants and contracts as appropriated by law.

AGREEMENT

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

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

A23H2063 \$33,300

APPROPRIATION REVERSION DATE: 30-JUN-2027

Laws of 2023, Chapter 199, Section 04, Paragraph 60, thirty-three thousand three hundred dollars \$33,300, to plan, design, construct, equip and furnish the Magdalena senior center in Socorro county;

The Grantee’s total reimbursements shall not exceed **thirty-three thousand three hundred dollars \$33,300** (the “Appropriation Amount”) minus the allocation for Art in Public Places (“\$0”)¹, if applicable, zero dollars, which equals thirty-three thousand three hundred dollars (the “Adjusted Appropriation Amount”).

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." [OPTIONAL LANGUAGE: "Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict.] The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

² "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: Village of Magdalena
Name: Richard Rumpf
Title: Mayor (Project Manager)
Address: P.O. Box 145 Magdalena, NM 87825
Email: mayor@villageofmagdalena.com
Telephone: (505) 280-5393

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: Village of Magdalena
Name: Juanita Puente
Title: Clerk/Treasurer
Address: 108 N Main Street, Magdalena, NM 87825
Email: clerk@villageofmagdalena.com
Telephone: 505-854-2261

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: NM Aging & Long-Term Services Capital Outlay Bureau
Name: Roxanne Lucero / Elizabeth Chavez
Title: Projects Coordinator / Bureau Chief
Address: 2550 Cerrillos Rd. Santa Fe, NM 87505
Email: Roxanne.Lucero@altsd.nm.gov / Elizabeth.Chavez@altsd.nm.gov
Telephone: (505) 487-3730 / (505) 365-3804

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on [June 30, 2026] the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
 - (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.
- Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.
- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.

- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any

or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Deming may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Deming’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Deming or the Aging and Long-Term Services Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Deming or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a Aging and Long-Term Services Department Grant Agreement. Should the Aging and Long-Term Services Department early terminate the grant agreement, the City of Deming may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Deming only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. [OPTIONAL IF THE APPROPRIATION IS FUNDED BY SEVERANCE TAX BONDS OR GENERAL OBLIGATION BONDS] SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee’s sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department’s failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department’s obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution
by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

Aging and Long-Term Services Department

By: _____

Its: Cabinet Secretary or Designee

Date

**STATE OF NEW MEXICO
 CAPITAL GRANT PROJECT
 Request for Payment Form
 Exhibit 1**

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
 B. Address: _____
 (Complete Mailing, including Suite, if applicable)

 City State Zip
 C. Phone No: _____
 D. Grant No: _____
 E. Project Title: _____
 F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____
 B. Grant Amount: _____
 C. AIPP Amount (If Applicable): _____
 D. Funds Requested to Date: _____
 E. Amount Requested this Payment: _____
 F. Reversion Amount (If Applicable): _____
 G. Grant Balance: _____
 H. GF GOB STB (attach wire if first draw)
 I. Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my know ledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. Compliance Certification: Under penalty of law , I hereby certify to the best of my know ledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution know n as the "anti donation" clause.

Grantee Fiscal Officer
 or **Fiscal Agent (if applicable)**

Grantee Representative

 Printed Name

 Printed Name

Date: _____

Date: _____

(State Agency Use Only)

Vendor Code: _____ **Fund No.:** _____ **Loc No.:** _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

 Division Fiscal Officer Date

 Division Project Manager Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # 1

DATE: _____

TO: Department Representative: _____

FROM: Grantee: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: _____

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

**OPTIONAL ATTACHMENT A
SPECIAL CONDITIONS**

The capital outlay oversight requires grantees' accounting methods and procedures, including their internal control framework, to be scrutinized, so as to safeguard State capital outlay appropriations and assets acquired with such appropriations.

The Village of Magdalena has no special conditions imposed on the release of the grant. Therefore, the criteria to enter into this agreement have been met.

PROJECT DESCRIPTION FORM

SCOPE OF WORK (SOW)

(Please email this completed form to ALTSD in MS Word format)

- 1. **Name of Grantee/ Fiscal Agent:** VILLAGE OF MAGDALENA
- 2. **Project Title:** SENIOR CENTER
- 3. **Grant Agreement Number:** A23H-2063
- 4. **Background Narrative:** Purchase and install a metal carport with sides on a grade.
- 5. **Work Plan:** Site preparation, including clearing, leveling, and laying the foundation. Next entails the construction and installation of the metal carport structure and the pouring of the concrete slab. Throughout the project, regular inspections and progress assessments will be conducted to ensure adherence to the timeline and quality standards.

6. Budget Detail:

Project Cost Activities <i>(These are only examples. Insert activities specific to the proposed project.)</i>	Other Funds	State Funds
Architect/Engineer		
Construction <i>(Materials and Labor)</i>		\$33,300.00
Renovation		
Improvements for Code Compliance		
Equipment *NOTE: Capital Outlay Reform, effective July 1, 2014, mandates equipment purchased with capital appropriations must be valued at \$5,000 or more.		
Meals Equipment *NOTE: Capital Outlay Reform, effective July 1, 2014, mandates equipment purchased with capital appropriations must be valued at \$5,000 or more.		
Vehicle Purchase		
Other Costs (specify)		
AIPP (if applicable)		
Totals		\$33,300.00

7. Performance Measures: Project Completion Time, Budget Adherence, Quality of Construction, Maintenance Requirements, Effectiveness in Vehicle Protection

8. Results Expected: Enhanced Vehicle Protection: By providing a robust metal shelter, the carport will protect these vehicles from environmental elements such as rain, snow, hail, and direct sunlight, which can cause deterioration over time. Additional results are: improved aesthetics and functionality, safety and accessibility, and cost-effective maintenance.

9.

Time Frame/ Milestones: Upon full execution of the Grant Agreement the following tasks will commence to meet the time frame/milestones. (These are only examples. Insert milestones specific to the proposed project.)	
RFP/Quotes Secured	January 2024
Bid Closing	February 2024
Bid Award to Contractor/Vendor	March 2024
<i>Choose the appropriate project-type from below:</i>	<i>Type the number of months appropriate to the project-type:</i>
Meals Equipment – Purchase and Install	/NA
Equipment - Purchase and Install	/NA
Construction	March- June 2024
Renovation	/NA
Code Compliance projects	/NA
Vehicles – Purchase and Equip	/NA
Project Completion & Review	June 2024
Submit Exhibit 1 – Monthly / Final Report Form & Request for Payment according to contractual requirements as set forth in Articles VIII & IX of the Grant Agreement	July 2024

10. Responsible Staff (include Project Manager and Fiscal Contact):

Name: Richard Rumpf
 Title: Mayor
 Address: P.O. Box 145, Magdalena, NM 87825
 Email: mayor@villageofmagdalena.com
 Phone: (505) 280-5393

Name: Juanita Puente
 Title: Clerk/Treasurer
 Address: 108 N Main Street, Magdalena, NM 87825
 Email: clerk@villageofmagdalena.com
 Phone: (505) 854-2261

NOTICE: The Grant Application, if approved for funding by the Aging and Long Term Services Department (ALTSD) and any attachments to the Grant Application are incorporated by reference into the scope of work. In the event of a conflict between any of the documents that are part of the Agreement, the ALTSD Cabinet Secretary, at the sole discretion of ALTSD, shall resolve that conflict.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Richard Rumpf
Signature of Official with Authority to Bind Grantee

Village of Magdalena
Entity Name

By: Richard Rumpf
(Type or Print Name)

Its: Mayor
(Type or Print Title)

1-18-2024
Date

Aging and Long-Term Services Department

By:

Its: Cabinet Secretary or Designee

Date

\$58,488

LOAN AGREEMENT

dated

March 8, 2024

by and between the

NEW MEXICO FINANCE AUTHORITY

and the

VILLAGE OF MAGDALENA, NEW MEXICO

Certain interests of the New Mexico Finance Authority under this Loan Agreement may be assigned to BOKF, NA as trustee under the Indenture, as defined in Article I of this Loan Agreement.

LOAN AGREEMENT

THIS LOAN AGREEMENT dated March 8, 2024, is entered into by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), and the VILLAGE OF MAGDALENA, NEW MEXICO (the "Governmental Unit"), a political subdivision duly organized and existing under the laws of the State of New Mexico (the "State").

WITNESSETH:

WHEREAS, the Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly Section 6-21-1 et seq., NMSA 1978, as amended (the "Finance Authority Act"); and

WHEREAS, one of the purposes of the Finance Authority Act is to implement a program to permit qualified entities, such as the Governmental Unit, to enter into agreements with the Finance Authority to facilitate financing of public projects; and

WHEREAS, the Governmental Unit is a political subdivision duly organized and existing under and pursuant to the laws of the State and is a qualified entity under the Finance Authority Act; and

WHEREAS, the Governing Body of the Governmental Unit, has determined that it is in the best interests of the Governmental Unit and its residents that the Governmental Unit enter into this Loan Agreement with the Finance Authority and accept a loan from the Finance Authority to finance the costs of the purchase of a new police vehicle and the related equipment, as more fully described on the Term Sheet attached hereto as Exhibit "A"; and

WHEREAS, the Act authorizes the Governmental Unit to use the Pledged Revenues to finance the Project and to enter into this Loan Agreement; and

WHEREAS, the Finance Authority has determined that the Project is important to the overall capital needs of the residents of the State and that the Project will directly enhance the health and safety of the residents of the Governmental Unit; and

WHEREAS, the Governmental Unit is a disadvantaged qualified entity within the meaning of Section 8(B)(4)(b) of the Finance Authority's Amended and Restated Rules and Regulations Governing the Public Project Revolving Fund Program.

WHEREAS, the Governmental Unit has entered into the Intercept Agreement by and between the Finance Authority and the Governmental Unit whereby the Pledged Revenues due to the Governmental Unit from the Distributing State Agency are intercepted by the Finance Authority, or the Trustee, as its assignee, to make payments due under this Loan Agreement; and

WHEREAS, the Finance Authority may assign and transfer this Loan Agreement to the Trustee pursuant to the Indenture; and

WHEREAS, except as described on the Term Sheet, the Pledged Revenues have not been pledged or hypothecated in any manner or for any purpose at the time of the execution and delivery of this Loan Agreement, and the Governmental Unit desires to pledge the Pledged Revenues toward the payment of this Loan Agreement; and

WHEREAS, the obligation of the Governmental Unit hereunder shall constitute a special, limited obligation of the Governmental Unit, limited to the Pledged Revenues, and shall not constitute a general obligation or other indebtedness of the Governmental Unit or a charge against the general credit or ad valorem taxing power of the Governmental Unit or the State; and

WHEREAS, the execution, performance and delivery of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Governing Body pursuant to the Resolution; and

WHEREAS, the execution and performance of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Finance Authority.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the parties hereto agree:

ARTICLE I DEFINITIONS

Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Loan Agreement, unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Loan Agreement, including the foregoing recitals, unless the context clearly requires otherwise.

“Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12 and Sections 29-13-1 through 29-13-9, NMSA 1978, as amended, and enactments of the Governing Body relating to this Loan Agreement and the Intercept Agreement, including the Resolution.

“Additional Payment Obligations” means payments in addition to Loan Agreement Payments required by this Loan Agreement, including, without limitation, payments required pursuant to the provisions of Article IX and Article X hereof.

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

“Authorized Officers” means, in the case of the Governmental Unit, Mayor, Mayor Pro Tem, and Clerk/Treasurer, and in the case of the Finance Authority, the Chair, Vice-Chair and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

“Blended Interest Rate” means the rate of interest on this Loan Agreement as shown on the Term Sheet.

“Bond Counsel” means nationally recognized bond counsel experienced in matters of municipal law satisfactory to the Trustee and listed in the list of municipal bond attorneys, as published semi-annually by The Bond Buyer’s Municipal Marketplace, or any successor publication, acting as Loan Counsel to the Finance Authority.

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

“Closing Date” means the date of execution, delivery and funding of this Loan Agreement as shown on the Term Sheet.

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

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

“Event of Default” means one or more events of default as defined in Section 10.1 of this Loan Agreement.

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

“Finance Authority Debt Service Account” means the debt service account established in the name of the Governmental Unit within the Debt Service Fund, as defined in the Indenture, held and administered by the Finance Authority to pay principal and interest, if any, on this Loan Agreement as the same become due.

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

“Governing Body” means the duly organized Board of Trustees of the Governmental Unit and any successor governing body of the Governmental Unit.

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

“Independent Accountant” means: (i) an accountant employed by the State and under the supervision of the State Auditor; or (ii) any certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Governmental Unit who (a) is, in fact, independent and not under the domination of the Governmental Unit; (b) does not have any substantial interest, direct or indirect, with the

Governmental Unit; and (c) is not connected with the Governmental Unit as an officer or employee of the Governmental Unit, but who may be regularly retained to make annual or similar audits of the books or records of the Governmental Unit.

“Intercept Agreement” means the Intercept Agreement, dated March 8, 2024, between the Governmental Unit and the Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of the Pledged Revenues in amounts sufficient to pay Loan Agreement Payments, and any amendments or supplements to the Intercept Agreement.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest on this Loan Agreement as shown on Exhibit “B” hereto.

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

“Loan Agreement” means this loan agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

“Loan Agreement Balance” means, as of any date of calculation, the Loan Agreement Principal Amount less the aggregate principal amount paid or prepaid pursuant to the provisions of this Loan Agreement.

“Loan Agreement Payment” means, collectively, the Principal Component and the Interest Component, if any, to be paid by the Governmental Unit as payment of this Loan Agreement as shown on Exhibit “B” hereto.

“Loan Agreement Payment Date” means each date a payment is due on this Loan Agreement as shown on Exhibit “B” hereto.

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

“Loan Agreement Term” means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

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

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

“Permitted Investments” means securities which are at the time legal investments of the Governmental Unit for the money to be invested, as applicable, including but not limited to the following, if permitted by law: (i) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States, the federal home loan mortgage association, the federal national mortgage association, the federal

farm credit bank, federal home loan banks or the student loan marketing association or that are backed by the full faith and credit of the United States government; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody's Investors Service, Inc., or S&P Global Ratings; and (iv) the State Treasurer's short-term investment fund created pursuant to Section 6-10-10.1, NMSA 1978, and operated, maintained and invested by the office of the State Treasurer.

"Pledged Revenues" means revenues distributed to the Governmental Unit pledged to payment of the Loan Agreement Payments pursuant to the Resolution and described on the Term Sheet.

"Principal Component" means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement as shown on Exhibit "B" hereto.

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

"Project" means the project(s) described on the Term Sheet.

"Resolution" means the Governmental Unit Resolution No. 2024-01 adopted by the Governing Body on January 22, 2024, approving this Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet.

"Term Sheet" means Exhibit "A" attached hereto.

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

"Unassigned Rights" means the rights of the Finance Authority to receive payment of administrative expenses, reports and indemnity against claims pursuant to the provisions of this Loan Agreement which are withheld in the granting clauses of the Indenture from the pledge, assignment and transfer of this Loan Agreement to the Trustee.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the Governmental Unit. The Governmental Unit represents, covenants and warrants:

(a) Binding Nature of Covenants. All covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be

transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Resolution shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

(b) Personal Liability. No covenant, stipulation, obligation or agreement contained in this Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Governmental Unit or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer, agent or employee of the Governmental Unit executing this Loan Agreement shall be liable personally on this Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

(c) Authorization of Loan Agreement and Intercept Agreement. The Governmental Unit is a political subdivision of the State and is duly organized and existing under the statutes and laws of the State. Pursuant to the Act, as amended and supplemented from time to time, the Governmental Unit is authorized to enter into the transactions contemplated by this Loan Agreement and the Intercept Agreement and to carry out its obligations hereunder and thereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement, the Intercept Agreement, and the other documents related to the transaction.

(d) Use of Loan Agreement Proceeds. The Governmental Unit shall proceed without delay in applying the proceeds of this Loan Agreement to the acquisition of the Project.

(e) Payment of Loan Agreement. The Governmental Unit shall promptly pay Loan Agreement Payments, as specified in Exhibit "B" hereto, according to the true intent and meaning of this Loan Agreement. Loan Agreement Payments are payable solely from (i) the Pledged Revenues, (ii) special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues), or (iii) the proceeds of refunding bonds or other refunding obligations which the Governmental Unit may hereafter issue in its sole discretion and which are payable from the Pledged Revenues; and nothing in this Loan Agreement shall be construed as obligating the Governmental Unit to pay Loan Agreement Payments from any general or other fund of the Governmental Unit other than such special funds. Nothing contained in this Loan Agreement, however, shall be construed as prohibiting the Governmental Unit in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.

(f) Acquisition and Completion of Project. The Project will consist of acquiring and completing the purchase of a new police vehicle and the related equipment. The Project will be acquired and completed so as to comply with all applicable ordinances, resolutions and regulations, if any, and any and all applicable laws relating to the acquisition and completion of the Project and to the use of the Pledged Revenues. The Project complies with Section 29-13-7, NMSA 1978, as amended.

(g) Necessity of Project. The acquisition of the Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of the governmental purposes of the Governmental Unit and is in the best interest of the Governmental Unit and its residents.

(h) Legal, Valid and Binding Special Obligation. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement and the Intercept Agreement, and this Loan Agreement and the Intercept Agreement constitute legal, valid and binding special obligations of the Governmental Unit enforceable in accordance with their terms.

(i) Loan Agreement Term. The weighted average maturity of 3.6472 years of the Loan Agreement does not exceed 120% of the reasonably expected life of the Project which is four (4) years.

(j) Use of Project. During the Loan Agreement Term, the Project will at all times be used for the purpose of benefiting the Governmental Unit as a whole.

(k) No Private Activity. The Governmental Unit is a “governmental unit” within the meaning of Sections 103 and 141(b)(6) of the Code. In addition, no amounts disbursed from the Program Account and used to finance the Project shall be used in the trade or business of a person who is not a “governmental unit” within the meaning of Sections 103 and 141(b)(6) of the Code.

(l) No Excess Loan Agreement Proceeds. The amount loaned to the Governmental Unit under this Loan Agreement as set forth on the Term Sheet does not exceed the sum of: (i) the cost of the Project; (ii) an amount necessary to pay the costs related to issuance of the Bonds, if any.

(m) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement and the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement and the Intercept Agreement, nor the consummation of the transactions contemplated herein and therein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the Governmental Unit is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.

(n) Irrevocable Enactments. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement, including the Resolution shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.

(o) Outstanding Debt. Except for the Parity Obligations, if any, described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a parity lien on the Pledged Revenues. No additional indebtedness, bonds or notes of the Governmental Unit payable on a priority ahead of the indebtedness herein authorized out of the Pledged Revenues shall be created or incurred while this Loan Agreement remains outstanding. No additional indebtedness, bonds or notes of the Governmental Unit payable on a priority ahead of the indebtedness herein authorized out of the Pledged Revenues shall be created or incurred while this Loan Agreement remains outstanding. Prior to entering into additional indebtedness to be secured by a parity lien on the Pledged Revenues, the Governmental Unit shall comply with the terms of Section 5.5 hereof and shall seek the written consent of the Finance Authority, such consent shall not be unreasonably withheld. During the term of this Loan Agreement, prior to entering into any indebtedness secured by a subordinate lien on the Pledged Revenues or a lien on any revenues of the Governmental Unit other than the Pledged Revenues, the Governmental Unit shall notify the Finance Authority in writing of such indebtedness.

(p) No Litigation. To the knowledge of the Governmental Unit, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Governmental Unit, nor compliance by the Governmental Unit with the obligations under such agreements, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(q) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement and the Intercept Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement or the Intercept Agreement.

(r) Pledged Revenues Not Budgeted. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, is not needed or budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.

(s) Expected Coverage Ratio. The Pledged Revenues (giving credit for any increase in the Pledged Revenues which has received final approval of the Governing Body and become effective) from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed, one hundred twenty-five (125%) of the maximum Aggregate Annual Debt Service Requirement.

(t) No Extension of Interest Payments. The Governmental Unit will not extend or be a party to the extension of the time for paying any interest on this Loan Agreement.

(u) Governmental Unit's Existence. The Governmental Unit will maintain its corporate identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision by operation of law succeeds to the liabilities and rights of the Governmental Unit

without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.

(v) Continuing Disclosure. The Governmental Unit covenants that it shall provide continuing disclosure to the Finance Authority, as the Finance Authority may require, that shall include, but not be limited to, annual audits, operational data required to update information in any disclosure documents used to assign or securitize the Loan Agreement Payments by issuance of Bonds by the Finance Authority pursuant to the Indenture, and notification of any event deemed material by the Finance Authority.

(w) Tax Covenants. The Governmental Unit covenants that it shall restrict the use of the proceeds of this Loan Agreement in such manner and to such extent, if any, as may be necessary so that this Loan Agreement will not constitute an arbitrage bond under Section 148 of the Code and that it shall pay any applicable rebate to the Internal Revenue Service. Authorized Officers of the Governmental Unit are hereby authorized and directed to execute an Arbitrage and Tax Certificate as may be required by the Finance Authority and such additional certificates as shall be necessary to establish that this Loan Agreement is not an “arbitrage bond” within the meaning of Section 148 of the Code and the Treasury Regulations promulgated or proposed with respect thereto, including Treasury Regulation Sections 1.148-1 through 1.148-11, 1.149 and 1.150 as the same currently exist, or may from time to time hereafter be amended, supplemented or revised. The Governmental Unit covenants to comply with the provisions of any such Arbitrage and Tax Certificate and the provisions thereof will be incorporated herein by reference to the same extent as if set forth herein. The Governmental Unit covenants that no use will be made of the proceeds of this Loan Agreement, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148-1(b)) of this Loan Agreement, which use, if it had been reasonably expected on the Closing Date, would have caused this Loan Agreement to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Pursuant to this covenant, the Governmental Unit obligates itself to comply throughout the Loan Agreement Term with the requirements of Sections 103 and 141 through 150 of the Code and the regulations proposed or promulgated with respect thereto. The Governmental Unit further represents and covenants that no bonds or other evidence of indebtedness of the Governmental Unit payable from substantially the same source as this Loan Agreement have been or will be issued, sold or delivered within fifteen (15) days prior to or subsequent to the Closing Date. The Governmental Unit hereby further represents and covenants to comply with Section 7.6 hereof, which designates this Loan Agreement as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code.

(x) Use of Law Enforcement Protection Fund Revenues. The Governmental Unit will take no action with respect to the Project that would constitute a violation of the terms of Sections 29-13-7 and 29-13-9, NMSA 1978, as the same may be amended or recompiled from time to time.

Section 2.2 Representations, Covenants and Warranties of the Finance Authority. The Finance Authority represents, covenants and warrants for the benefit of the Governmental Unit as follows:

(a) Authorization of Loan Agreement and Intercept Agreement. The Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized, existing and in good standing under the laws of the State, has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and the Intercept Agreement and, by proper action, has duly authorized the execution and delivery of this Loan Agreement and the Intercept Agreement based upon the Finance Authority's findings that:

(i) The Governmental Unit is a disadvantaged qualified entity in that its median household income is \$26,081, which is less than eighty percent (80%) of the State median household income of \$54,020.

(ii) The Project is important to the overall capital needs of the State and directly enhances the health and safety of the residents of the Governmental Unit].

(b) Assignment of Rights. The Finance Authority may not pledge or assign the Pledged Revenues, the Loan Agreement Payments or any of its other rights under this Loan Agreement and the Intercept Agreement except to the Trustee pursuant to the Indenture.

(c) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement or the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement or the Intercept Agreement, nor the consummation of the transactions contemplated in this Loan Agreement or the Intercept Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Finance Authority is a party or by which the Finance Authority is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or resolution of any court, government or governmental authority having jurisdiction over the Finance Authority or its property and which conflict or violation will have a material adverse effect on the Finance Authority or the financing of the Project.

(d) No Litigation. To the knowledge of the Finance Authority, there is no litigation or proceeding pending or threatened against the Finance Authority or any other person affecting the right of the Finance Authority to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Finance Authority, nor compliance by the Finance Authority with its obligations under this Loan Agreement and the Intercept Agreement requires the approval of any regulatory body, or any other entity, which approval has not been obtained.

(e) Legal, Valid and Binding Obligations. This Loan Agreement and the Intercept Agreement constitute the legal, valid and binding obligations of the Finance Authority enforceable in accordance with their terms.

(f) Tax-Exempt Reimbursement of Amount Loaned. The Finance Authority intends to reimburse the public project revolving fund (as defined in the Finance Authority Act)

for the amount of the Loan from the proceeds of tax-exempt bonds which the Finance Authority expects to issue within eighteen (18) months of the Closing Date.

**ARTICLE III
LOAN AGREEMENT TERM**

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until this Loan Agreement has been paid in full or provision for the payment of this Loan Agreement has been made pursuant to Article VIII hereof.

**ARTICLE IV
LOAN; APPLICATION OF MONEYS**

On the Closing Date, the Finance Authority shall transfer the Loan Agreement Principal Amount as follows:

(a) To the Trustee, the amount shown on the Term Sheet as the Program Account Deposit shall be deposited in the Governmental Unit's Program Account to be maintained by the Trustee pursuant to the Indenture and disbursed pursuant to Section 6.2 hereof at the direction of the Governmental Unit as needed by the Governmental Unit for the Project; and

(b) To the Finance Authority, the amount shown on the Term Sheet as the Finance Authority Debt Service Account deposit shall be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 hereof; and

**ARTICLE V
LOAN TO THE GOVERNMENTAL UNIT;
PAYMENTS BY THE GOVERNMENTAL UNIT**

Section 5.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the Finance Authority an amount equal to the Loan Agreement Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein or special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues), the Loan Agreement Payments as herein provided. The Governmental Unit does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to: (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on parity with the Parity Obligations; (ii) the Finance Authority Debt Service Account, such account being held by the Finance Authority; (iii) the Program Account, such account being held by the Trustee; and (iv) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Agreement Payments and Additional Payment Obligations; provided, however, that if the Governmental Unit, its successors or assigns, shall well and truly pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, according to the true intent and meaning hereof, or shall provide, as permitted by Article VIII of

this Loan Agreement for the payment thereof and shall pay all other amounts due or to become due under this Loan Agreement in accordance with its terms and provisions, then, upon such final payment or provision for payment by the Governmental Unit, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Principal Component and Interest Component when due, the payment schedule of which is attached hereto as Exhibit "B."

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the Finance Authority acknowledge and agree that the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that this Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit hereunder, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law.

Section 5.2 Payment Obligations of Governmental Unit. As provided in the Intercept Agreement, the Distributing State Agency shall cause to be transferred from the Pledged Revenues or special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues), the amounts provided in subsections (a)(i) and (ii) of this Section 5.2 for deposit into the Finance Authority Debt Service Account. The Finance Authority Debt Service Account shall be established and held by the Finance Authority on behalf of the Governmental Unit. All Pledged Revenues received by the Finance Authority pursuant to the Intercept Agreement shall be accounted for and maintained on an ongoing basis by the Finance Authority in the Finance Authority Debt Service Account or used for repayment of Loan Agreement Payments paid by the special reserve funds of the Finance Authority, and all Loan Agreement Payments shall be remitted to the Trustee. The amounts on deposit in the Finance Authority Debt Service Account shall be expended and used by the Finance Authority or the Trustee, as the case may be, only in the manner and order of priority specified below.

(a) As a first charge and lien, but not an exclusive first charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Parity Obligations), the Governmental Unit shall remit to the Finance Authority and the Finance Authority shall transfer and deposit into the Finance Authority Debt Service Account the following from the Pledged Revenues received pursuant to the Intercept Agreement from the Governmental Unit, which the Finance Authority shall transfer to the Trustee in accordance with the Indenture:

(i) Interest Components. Amounts necessary to pay the Interest Components coming due on this Loan Agreement on May 1 and November 1 of each Fiscal Year beginning with the Fiscal Year ending June 30, 2025, as described in Exhibit "B;"

(ii) Principal Payments. Amounts necessary to pay the Principal Components coming due on this Loan Agreement on May 1 of each Fiscal Year beginning with the Fiscal Year ending June 30, 2025, as described in Exhibit "B."

(b) Each Loan Agreement Payment shall be transferred by the Finance Authority from the Finance Authority Debt Service Account to the Trustee.

(c) Subject to the foregoing deposits, the Finance Authority or the Trustee shall annually use the balance of the Pledged Revenues received, if any, at the request of the Governmental Unit: (i) to credit against upcoming Loan Agreement Payments; or (ii) to distribute to the Governmental Unit's account in the Law Enforcement Protection Fund maintained by the State Treasurer for any purpose permitted by law.

Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 herein, for remittance to the Trustee. The obligation of the Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the Finance Authority, the Trustee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

Section 5.4 Disposition of Payments by the Trustee. The Trustee shall deposit all moneys received by the Finance Authority under this Loan Agreement in accordance with the Indenture.

Section 5.5 Additional Parity Obligations. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from the Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Section 5.6 hereof), the Governmental Unit shall obtain the written consent of the Finance Authority and it must be determined that:

(a) The Governmental Unit is then current in all of the accumulations required to be made into the Finance Authority Debt Service Account as provided herein.

(b) No default shall exist in connection with any of the covenants or requirements of the Resolution or this Loan Agreement.

(c) The Pledged Revenues received by or credited to the Governmental Unit for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months

preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing one hundred twenty-five (125%) of the combined maximum Aggregate Annual Debt Service Requirement coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding the accumulation of any reserves therefor).

(d) A written certification or opinion by the Governmental Unit's Treasurer or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the Parity Obligations proposed to be issued.

(e) With prior written notice to the Finance Authority, no provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of this Loan Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Loan Agreement as permitted by Section 5.6 hereof.

(f) The Governmental Unit shall not issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior and superior to this Loan Agreement.

Section 5.6 Refunding Obligations. The provisions of Section 5.5 hereof are subject to the following exceptions:

(a) If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Loan Agreement or bonds to be refunded may not be compelled to surrender this Loan Agreement or their bonds, unless this Loan Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Governmental Unit's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph (e) of Section 5.5 hereof and in subparagraphs (b) and (c) of this Section.

(b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with this Loan Agreement unless:

(i) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof.

(c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Loan Agreement or any bonds or

other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Loan Agreement or the bonds or other obligations of the same issue refunded thereby. If only a part of this Loan Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

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

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof; or

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

(d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the Governmental Unit may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Loan Agreement).

Section 5.7 Investment of Governmental Unit Funds. Money on deposit in the Finance Authority Debt Service Account established by the Finance Authority for the Governmental Unit may be invested by the Finance Authority in Permitted Investments at the discretion of the Finance Authority. Money on deposit in the Program Account held by the Trustee and created hereunder may be invested by the Trustee in Permitted Investments at the written direction of the Finance Authority or at the discretion of the Trustee. Any earnings on any of said accounts shall be held and administered in the account and utilized in the same manner as the other moneys on deposit therein.

Section 5.8 Governmental Unit May Budget for Payments. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally available funds to defray any insufficiency of the Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

ARTICLE VI THE PROJECT

Section 6.1 Agreement To Acquire and Complete the Project. The Governmental Unit hereby agrees that to effectuate the purposes of this Loan Agreement and to effectuate the

acquisition of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general, do all things which may be requisite or proper to complete the Project. The Governmental Unit agrees to acquire the Project through the application of moneys to be disbursed from the Program Account pursuant to Section 6.2 of this Loan Agreement.

Section 6.2 Disbursements From the Program Account. So long as no Event of Default shall occur, the Trustee shall disburse moneys from the Program Account in accordance with Section 6.2 of the Indenture upon receipt by the Trustee of a requisition substantially in the form of Exhibit "C" attached hereto signed by an Authorized Officer of the Governmental Unit.

No disbursement shall be made from the Program Account without the approval of Bond Counsel: (i) to reimburse the Governmental Unit's own funds for expenditures made prior to the Closing Date; (ii) to refund or advance refund any tax-exempt obligations issued by or on behalf of the Governmental Unit; (iii) to be used, directly or indirectly, to finance a project used or to be used in the trade or business of a person who is not a "governmental unit," within the meaning of Section 141(b)(6) of the Code; or (iv) to expend funds after the date that is three (3) years after the execution and delivery of this Loan Agreement.

Section 6.3 Completion of Acquisition of the Project. Upon completion of the acquisition of the Project, an Authorized Officer of the Governmental Unit shall deliver a certificate to the Finance Authority and the Trustee substantially in the form of Exhibit "D" attached hereto stating that, to the best of his or her knowledge, the Project has been completed and accepted by the Governmental Unit, and all costs have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 Application of Loan Agreement Proceeds Subsequent to Completion of the Project. Upon completion of the Project as signified by delivery of the completion certificate contemplated in Section 6.3 hereof, or in the event that the Finance Authority and the Trustee shall not have received a certificate of completion as required by Section 6.3 hereof by the date three (3) years from the Closing Date (or such later date as is approved in writing by Bond Counsel), the Trustee shall transfer the amounts remaining in the Program Account (except amounts necessary for payment of amounts not then due and payable) to the Finance Authority Debt Service Account and such amounts shall be used for the payment of Loan Agreement Payments.

ARTICLE VII COMPLIANCE WITH LAWS AND RULES; OTHER COVENANTS

Section 7.1 Further Assurances and Corrective Instruments. The Finance Authority and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof.

Section 7.2 Finance Authority and Governmental Unit Representatives. Whenever under the provisions hereof the approval of the Finance Authority or the Governmental Unit is required, or the Governmental Unit or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or for the Governmental Unit by an Authorized Officer of the Finance Authority or the Governmental Unit, as the case may be, and any party hereto shall be authorized to act on any such approval or request.

Section 7.3 Requirements of Law. During the Loan Agreement Term, the Governmental Unit and the Finance Authority shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, the Project or the Pledged Revenues.

Section 7.4 First Lien; Equality of Liens. The Loan Agreement Payments constitute an irrevocable first lien (but not necessarily an exclusive first lien) upon the Pledged Revenues. The Governmental Unit covenants that the Loan Agreement Payments and any Parity Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a first lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Parity Obligations regardless of the fact that they may be actually issued and delivered at different times.

Section 7.5 Expeditious Completion. The Governmental Unit shall complete the Project with all practical dispatch.

Section 7.6 Bank Designation of Loan Agreement. For purposes of and in accordance with Section 265 of the Code, the Governmental Unit hereby designates this Loan Agreement as an issue qualifying for the exception for certain qualified tax-exempt obligations to the rule denying banks and other financial institutions 100% of the deduction for interest expenses which is allocable to tax-exempt interest. The Governmental Unit reasonably anticipates that the total amount of tax exempt obligations (other than obligations described in Section 265(b)(3)(C)(ii) of the Code) which will be issued by the Governmental Unit and by any aggregated issuer during the current calendar year will not exceed \$10,000,000. For purposes of this Section 7.6, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that: (a) it has not created and does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code; and (b) the total amount of obligations so designated by the Governmental Unit, and all aggregated issuers for the current calendar year does not exceed \$10,000,000.

Section 7.7 Arbitrage Rebate Exemption. The Governmental Unit hereby certifies and warrants, for the purpose of qualifying for the exception contained in Section 148(f)(4)(D) of the Code, to the requirement to rebate arbitrage earnings from investments of the proceeds of the Loan Agreement (the "Rebate Exemption"), that: (i) this Loan Agreement is issued by the Governmental

Unit which has general taxing powers; (ii) neither this Loan Agreement nor any portion thereof is a private activity bond as defined in Section 141 of the Code ("Private Activity Bond"); (iii) all of the net proceeds of this Loan Agreement are to be used for local government activities of the Governmental Unit (or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Governmental Unit); and (iv) neither the Governmental Unit nor any aggregated issuer has issued or is reasonably expected to issue any tax-exempt bonds other than (A) Private Activity Bonds (as those terms are used in Section 148(f)(4)(D) of the Code) and (B) refunding bonds issued to refund (other than to advance refund (as used in the Code)) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, during the current calendar year, which would in the aggregate amount exceed \$5,000,000. For purposes of this paragraph, "aggregated issuer" means any entity which: (a) issues obligations on behalf of the Governmental Unit; (b) derives its issuing authority from the Governmental Unit; or (c) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 148(f)(4)(D) of the Code.

Accordingly, with respect to the Loan Agreement, the Governmental Unit will qualify for the rebate exemption granted under Section 148(f)(4)(D) of the Code and the Governmental Unit shall be treated as meeting the requirements of paragraphs (2) and (3) of Section 148(f) of the Code relating to the required rebate of arbitrage earnings to the United States.

The Governmental Unit hereby further represents and covenants that if it is determined that rebatable arbitrage, as that term is defined under Section 148 of the Code and related regulations, is required to be paid to the United States, that it will pay such rebatable arbitrage.

ARTICLE VIII PREPAYMENT OF LOAN AGREEMENT PAYMENTS

Section 8.1 Prepayment. The Governmental Unit is hereby granted the option to prepay any of the Principal Components of this Loan Agreement in whole or in part on any day on or after one (1) year following the Closing Date without penalty or prepayment premium. The Governmental Unit may designate the due dates of any Principal Components being prepaid in the event of a partial prepayment. Notice of intent to make such prepayment shall be provided to the Finance Authority and the Trustee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The Trustee shall recalculate the Loan Agreement Payments due under this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

Section 8.2 Defeasance. Should the Governmental Unit pay or make provision for payment of the Loan such that all amounts due pursuant to this Loan Agreement shall be deemed to have been paid and defeased, then the Loan Agreement Payments hereunder shall also be deemed to have been paid, the Governmental Unit's payment obligations hereunder shall be terminated, this Loan Agreement and all obligations contained herein shall be discharged and the pledge hereof released. Such payment shall be deemed made when the Governmental Unit has deposited with an escrow agent, in trust, (i) moneys sufficient to make such payment, and/or (ii) noncallable Governmental Obligations maturing as to principal and interest in such amount and at

such times as will ensure the availability of sufficient moneys to make such payment and when all necessary and proper expenses of the Finance Authority have been paid or provided for. In the event the Governmental Unit makes provisions for defeasance of this Loan Agreement, the Governmental Unit shall cause to be delivered (1) a report of an independent nationally recognized certified public accountant verifying the sufficiency of the escrow established to pay this Loan Agreement in full when due or upon an irrevocably designated prepayment date, and (2) an opinion of Bond Counsel to the effect that this Loan Agreement is no longer outstanding, each of which shall be addressed and delivered to the Finance Authority. Governmental Obligations within the meaning of this Section 8.2, unless otherwise approved by the Finance Authority, shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – “SLGs”), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

ARTICLE IX INDEMNIFICATION

From and to the extent of the Pledged Revenues, and to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the Finance Authority and the Trustee harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition or operation of the Project during the Loan Agreement Term, from: (i) any act of negligence or other misconduct of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan Agreement proceeds and interest on the investment thereof. The Governmental Unit shall indemnify and save the Finance Authority and the Trustee harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Trustee, shall defend the Finance Authority or the Trustee, as applicable, in any such action or proceeding.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. Any one of the following shall be an Event of Default under this Loan Agreement:

(a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable;

(b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Governmental Unit by the Finance Authority or the Trustee unless the Finance Authority and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority or the Trustee but cannot be cured within the applicable thirty (30) day period, the

Finance Authority and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default);

(c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect;

(d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;

(e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

Section 10.2 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the Finance Authority or the Trustee may take any or all of the following actions as may appear necessary or desirable to collect the payments then due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement or the Intercept Agreement:

(a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the Finance Authority and the Trustee under this Loan Agreement and the Intercept Agreement against the Governmental Unit, and compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) By suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Finance Authority or the Trustee; or

(c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or

(d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues; or

(e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or to enforce any other of its rights thereunder; or

(f) Apply any amounts in the Program Account toward satisfaction of any of the obligations of the Governmental Unit under this Loan Agreement.

Section 10.3 Limitations on Remedies. A judgment requiring a payment of money entered against the Governmental Unit may reach only the available Pledged Revenues.

Section 10.4 No Remedy Exclusive. Subject to Section 10.3 hereof, no remedy herein conferred upon or reserved to the Finance Authority or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority or the Trustee to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.

Section 10.5 Waivers of Events of Default. The Finance Authority or the Trustee may in its discretion waive by written waiver any Event of Default hereunder and the consequences of such an Event of Default provided, however, that there shall not be waived: (i) any Event of Default in the payment of the principal of this Loan Agreement at the date when due as specified herein; or (ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver or rescission, all arrears of interest, with interest at the rate borne by this Loan Agreement on all arrears of payments of principal and all expenses of the Finance Authority or the Trustee, in connection with such Event of Default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Finance Authority or the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case, the Finance Authority and the Trustee shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Governmental Unit shall default under any of the provisions hereof and the Finance Authority or the Trustee shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit herein contained, the Governmental Unit agrees that it shall on demand therefor pay to the Finance Authority or the Trustee, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

**ARTICLE XI
MISCELLANEOUS**

Section 11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows: if to the Governmental Unit, 108 N. Main Street, Magdalena, New Mexico 87825, Attention: Clerk/Treasurer; if to the Finance Authority, New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and if to the Trustee, BOKF, NA, 100 Sun Avenue NE, Suite 500, Albuquerque, New Mexico 87109, Attention: Trust Division. The Governmental Unit, the Finance Authority, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Governmental Unit and their respective successors and assigns, if any.

Section 11.3 Amendments. The Governmental Unit agrees that this Loan Agreement will not be amended without the prior written consent of the Finance Authority, and, if the Loan has been pledged under the Indenture (as defined herein), without the prior written consent of the Trustee (as defined herein), the Finance Authority and the Governmental Unit, pursuant to the Indenture.

Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the Finance Authority, either directly or through the Finance Authority, or against any officer, employee, director, trustee or member of the Governing Body, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute, constitution or otherwise, of any such officer, employee, director, trustee or member of the Governing Body or of the Finance Authority is hereby expressly waived and released by the Governmental Unit and by the Finance Authority as a condition of and in consideration for the execution of this Loan Agreement.

Section 11.5 Severability. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or

unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6 Execution in Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Assignment by the Finance Authority. Pursuant to the Indenture, this Loan Agreement and the Intercept Agreement may be assigned and transferred by the Finance Authority to the Trustee, which assignment and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 Compliance with Governing Law. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

[Signature pages follow]

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and as approved by the Board of Directors of the Finance Authority on December 14, 2023, has executed this Loan Agreement in its corporate name by its duly authorized officer; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed and attested by its duly authorized officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
Marquita D. Russel, Chief Executive Officer

PREPARED FOR EXECUTION BY OFFICERS OF
THE NEW MEXICO FINANCE AUTHORITY:
Sutin, Thayer & Browne A Professional Corporation
As Loan Counsel

By _____
Suzanne Wood Bruckner

APPROVED FOR EXECUTION BY OFFICERS OF
THE NEW MEXICO FINANCE AUTHORITY:

By _____
Daniel C. Opperman, Chief Legal Officer

VILLAGE OF MAGDALENA, NEW MEXICO

By _____
Richard Rumpf, Mayor

[SEAL]

ATTEST:

By _____
Juanita Puente, Clerk/Treasurer

6885985

EXHIBIT "A"

TERM SHEET

New Mexico Finance Authority Loan No. PPRF-6354

Governmental Unit:	Village of Magdalena, New Mexico
Project Description:	To purchase a new police vehicle and the related equipment
Loan Agreement Principal Amount:	\$58,488
Disadvantaged Funding Amount:	\$58,488
Pledged Revenues:	The State Law Enforcement Protection Fund revenues enacted pursuant to Sections 29-13-1 through 29-13-9, NMSA 1978, as amended, distributed periodically to the Governmental Unit by the State Treasurer pursuant to Section 29-13-6, NMSA 1978, as amended.
Coverage Ratio:	125%
Distributing State Agency:	State Treasurer
Currently Outstanding Parity Obligations:	PPRF-5623 maturing 2028 PPRF-5863 maturing 2029 PPRF-6196 maturing 2028
Additional Parity Bonds Test:	125%
Authorizing Legislation:	Resolution No. 2024-01 adopted on January 22, 2024.
Closing Date:	March 8, 2024
Blended Interest Rate:	0.00%
Program Account Deposit:	\$58,488
Finance Authority Debt Service Account Deposit:	\$0.00
First Interest Payment Date:	May 1, 2025
First Principal Payment Date:	May 1, 2025
Final Payment Date:	May 1, 2030

PROGRAM ACCOUNT DEPOSITS MUST BE USED WITHIN THREE YEARS UNLESS A
THE FINANCE AUTHORITY APPROVES A LONGER PERIOD IN WRITING

EXHIBIT "B"

DEBT SERVICE SCHEDULE FOR LOAN REPAYMENT

[SEE ATTACHED]

EXHIBIT "C"

FORM OF REQUISITION

RE: \$58,488 Loan Agreement by and between the Village of Magdalena, New Mexico, and the New Mexico Finance Authority (the "Loan Agreement").

TO: BOKF, NA
c/o New Mexico Finance Authority
PPRF@nmfa.net

You are hereby authorized to disburse from the Program Account – Village of Magdalena, New Mexico (2024 Police Vehicle Loan), with regard to the above-referenced Loan Agreement the following:

LOAN NO. PPRF-6354

CLOSING DATE: March 8, 2024

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

AMOUNT OF PAYMENT: \$ _____

PURPOSE OF PAYMENT: _____

Each obligation, item of cost or expense mentioned herein is for costs of the Project, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Program Account – Village of Magdalena, New Mexico (2024 Police Vehicle Loan).

All representations contained in the Loan Agreement and the related closing documents remain true and correct and the Village of Magdalena, New Mexico, is not in breach of any of the covenants contained therein.

If this is the final requisition, payment of costs of the Project is complete or, if not complete, the Village of Magdalena shall and understands its obligation to complete the acquisition of the Project from other legally available funds.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED: _____

By _____
Authorized Officer

Title _____
(Print Name and Title)

EXHIBIT "D"

CERTIFICATE OF COMPLETION

RE: \$58,488 Loan Agreement by and between the Village of Magdalena, New Mexico, and the New Mexico Finance Authority (the "Loan Agreement").

TO: New Mexico Finance Authority
PPRF@nmfa.net

Susan Ellis
Assistant Vice President, Corporate Trust
BOKF, NA
100 Sun Avenue NE, Suite 500
Albuquerque, New Mexico 87109

LOAN NO.: PPRF-6354

CLOSING DATE: March 8, 2024

In accordance with Section 6.3 of the Loan Agreement, the undersigned states, to the best of his or her knowledge, that the acquisition of the Project has been completed and accepted by the Governmental Unit, and all costs have been paid as of the date of this Certificate. Notwithstanding the foregoing, this certification is given without prejudice to any rights against third parties which exist at the date of this Certificate or which may subsequently come into being.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED: _____

By _____
Authorized Officer of Governmental Unit

Title _____
Richard Rumpf / Mayor

\$58,488
VILLAGE OF MAGDALENA, NEW MEXICO
NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO)	
) ss.	ARBITRAGE AND TAX
COUNTY OF SOCORRO)	CERTIFICATE

On behalf of the Village of Magdalena, New Mexico (the “Governmental Unit”), and in connection with the Loan Agreement dated March 8, 2024 (the “Loan Agreement”), relating to the financing the cost of purchasing a police vehicle and the related equipment for use by the Governmental Unit (the “Project”) as described in the Loan Agreement, and evidencing the Governmental Unit’s obligation in the aggregate principal amount of \$58,488, the Governmental Unit hereby certifies as follows:

Capitalized terms used in this Certificate have the same meanings as defined in Resolution No. 2024-01 adopted on January 22, 2024, unless otherwise defined in this Certificate or the context requires otherwise.

1. **The Project.** The Governmental Unit is entering into the Loan Agreement simultaneously with delivery of this Certificate. The Loan Agreement evidences the loan (the “Loan”) made by the New Mexico Finance Authority (the “Finance Authority”) to provide funds to pay the costs of acquiring the Project described in Exhibit “A” attached to the Loan Agreement and to pay certain costs incurred in connection with the execution and delivery of the Loan Agreement.

2. **Security for the Loan Agreement.** Debt service on the Loan Agreement will be secured by the pledged revenues described in Exhibit “A” attached to the Loan Agreement (the “Pledged Revenues”) sufficient to pay debt service due in connection with the Loan, which Pledged Revenues have been pledged to the Finance Authority pursuant to the Loan Agreement.

3. **Finance Authority Public Project Revolving Fund Program.** The Governmental Unit acknowledges that the Finance Authority may assign and transfer the Loan Agreement to the BOKF, NA, as successor trustee (the “Trustee”) pursuant to the Indenture, as defined in the Loan Agreement, and all Supplemental Indentures thereto, between the Finance Authority and the Trustee (collectively, the “Indenture”). Pursuant to the Indenture, the Loan Agreement may be pledged as an Additional Pledged Loan to the Trustee as additional security for the payment of amounts due on the Finance Authority’s Public Project Revolving Fund Revenue Bonds outstanding at the time of such pledge.

4. **Sources and Uses of Loan Funds.** The Governmental Unit has received Loan proceeds from the public project revolving fund, as defined in the New Mexico Finance Authority Act, Sections 6-21-1, *et seq.*, NMSA 1978, as amended and supplemented, in the amount of \$58,488 from the Finance Authority (the “Proceeds”). The Proceeds do not exceed the amount reasonably necessary for the purposes for which the Loan Agreement was entered into.

5. Expenditure Expectations. The Governmental Unit expects to incur a substantial binding obligation within six (6) months of the date hereof with regard to the Project, which obligation involves the expenditure of no less than five percent (5%) of the Proceeds. The Governmental Unit reasonably expects that the \$58,488 of Proceeds deposited into the Governmental Unit's Program Account in the Program Fund together with other legally available funds and anticipated earnings from the investment of such Proceeds until they are spent, are expected to be expended within three (3) years of the date hereof.

The estimated total costs of the Project will not be less than \$58,488 plus investment earnings thereon during the acquisition period.

Proceeds in the amount of \$0.00 will be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 of the Loan Agreement.

6. Investment of Proceeds. Except for the investment of the Proceeds (i) in the Program Account established under the Indenture with respect to the Loan Agreement pending the payment of the costs of the Project, and (ii) in the Finance Authority Debt Service Account established and administered by the Finance Authority pending the payment of debt service on the Loan Agreement, there will be no investment of the Proceeds.

7. Bona Fide Debt Service Fund. Debt service payments on the Loan Agreement will be paid from the Pledged Revenues of the Governmental Unit deposited to the Finance Authority Debt Service Account created with respect to the Loan Agreement. Because the Pledged Revenues of the Governmental Unit for any year will exceed debt service on the Loan Agreement, it is assumed that current debt service paid by the Governmental Unit for deposit in the Finance Authority Debt Service Account will be derived entirely from the current Pledged Revenues. The Finance Authority Debt Service Account will be depleted at least once a year except for an amount not to exceed the greater of the earnings on the Finance Authority Debt Service Account for the immediately preceding bond year or one-twelfth (1/12th) of debt service on the Loan for the immediately preceding bond year. The Governmental Unit has not created or established, nor does it expect to create or establish, any debt service fund, redemption fund, replacement fund, sinking fund or other similar fund which is reasonably expected to be used to pay principal or interest on the Loan Agreement or pledged therefor, except for the Finance Authority Debt Service Account.

8. No Disposition of Project. The undersigned reasonably expect that no part of the Project acquired with the Proceeds will be sold or otherwise disposed of, in whole or in part, during the term of the Loan Agreement.

9. General Tax Covenant. The Governmental Unit has covenanted in the Loan Agreement that no use will be made of the Proceeds, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148(b)) of the Loan Agreement, which use, if it had been reasonably expected on the date hereof, would have caused the Loan Agreement to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. The Governmental Unit has further obligated itself in the Loan Agreement to comply throughout the term of the Loan

Agreement with the requirements of Sections 103 and 141 through 150 of the Code and regulations proposed or promulgated with respect thereto.

10. Private Business Use Limitations. None of the Proceeds will be used by a private business or any entity other than a governmental unit or secured by payments from or property of a private business or any entity other than a governmental unit except pursuant to a management contract which conforms with Revenue Procedure 2017-13 of the United States Treasury. For purposes of the preceding sentence a governmental unit does not include the United States Government or any agency or instrumentality thereof.

11. No Common Plan of Financing. There are no other obligations which are being issued or sold at substantially the same time as the Loan Agreement pursuant to a common plan of financing with the Loan Agreement and that will be paid out of the Pledged Revenues or will have substantially the same claim to be paid out of the Pledged Revenues as the Loan Agreement.

12. No Federal Guarantees. The Loan is not federally guaranteed within the meaning of Section 149(b) of the Code.

13. Information Filing. Loan Counsel for the Finance Authority, on behalf of the Governmental Unit, will timely file the Form 8038-G with respect to the Loan Agreement attached hereto as Exhibit "A" with the Internal Revenue Service. The Finance Authority has verified certain information necessary to complete the Form 8038-G as shown on the Finance Authority Certificate attached hereto as Exhibit "B".

14. Hedge Bonds. The Loan is not a hedge bond as defined in Section 149 of the Code.

15. No Reimbursement. None of the Proceeds will be used to reimburse the Governmental Unit for costs paid for the Project more than sixty (60) days prior to the date hereof.

16. No Refunding. Proceeds of the Loan are not being used to refund any other obligation of the Governmental Unit.

17. Economic Life of Project. The weighted average maturity of 3.6472 years of the Loan Agreement does not exceed 120% of the reasonably expected economic life of the Project, which is four (4) years.

18. Qualified Tax-Exempt Obligations. The Loan Agreement is a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Governmental Unit represents that the reasonably anticipated amount of qualified tax-exempt obligations which will be issued by the Governmental Unit during the current calendar year does not exceed \$10,000,000 and the Governmental Unit will not designate more than \$10,000,000 of "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. For purposes of this Section, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is

controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e).

19. Rebate Exception. The Governmental Unit is a governmental unit with general taxing powers, no part of the Loan Agreement is a private activity bond, ninety-five percent (95%) or more of the proceeds are to be used for local governmental activities of the Governmental Unit and, the aggregate face amount of all tax-exempt obligations issued by the Governmental Unit during the current calendar year is not reasonably expected to exceed \$5,000,000. There are no subordinate entities of the Governmental Unit which are authorized to issue tax-exempt obligations. If the Governmental Unit fails to satisfy all of the provisions of this paragraph 19 for any reason, as provided in the Loan Agreement and consistent with the covenants of the Governmental Unit contained therein, any rebate owed to the United States Treasury will be paid in the amounts and at the times provided in Section 148 of the Code.

20. Record Retention. The Governmental Unit will manage and retain records related to the Loan as follows:

A. Records will be retained for the life of the Loan, including any refunding loans related thereto, plus three (3) years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to the Loan and compliance functions;

B. Basic records relating to the Loan transaction, including transcript documents executed in connection with the issuance of the Loan (i.e., the authorizing documents, Form 8038-G, the tax certificate, and any elections made with respect to the Loan, if applicable), any amendments, and copies of rebate calculations and records of payments, including Forms 8038-T;

C. Records pertaining to the use of Loan-financed facilities by public and private sources including copies of management agreements and research agreements;

D. Records pertaining to expenditures of Loan proceeds including requisitions, appraisal and property purchase contracts, account statements, invoices, payment vouchers, and the final allocation of proceeds to expenditures;

E. Records pertaining to all sources of payment or security for the Loan; and

F. Records pertaining to investments including guaranteed investment contract documents under the Treasury Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

[Signature page follows]

This certificate is being executed and delivered to establish the reasonable expectations of the Governmental Unit for purposes of Sections 103 and 141 through 148 of the Code, and the undersigned officers of the Governmental Unit are the officers of the Governmental Unit charged with the responsibility of entering into the Loan Agreement. The foregoing is based upon the reasonable expectations of the undersigned on the date hereof, and to the best of our knowledge, information and belief, the above expectations are reasonable.

Dated: March 8, 2024

VILLAGE OF MAGDALENA, NEW MEXICO

[SEAL]

By _____
Richard Rumpf, Mayor

By _____
Juanita Puente, Clerk/Treasurer

6885976

DETAILED BOND DEBT SERVICE

**Village of Magdalena
2024 Law Enforcement Loan**

Loan Component (LOAN)

<i>Period Ending</i>	<i>Principal</i>	<i>Interest</i>	<i>Debt Service</i>
05/01/2024			
05/01/2025	9,748		9,748
05/01/2026	9,748		9,748
05/01/2027	9,748		9,748
05/01/2028	9,748		9,748
05/01/2029	9,748		9,748
05/01/2030	9,748		9,748
	58,488	0	58,488

Note: The Village's MHI of \$26,081 constitutes 48.28% of the State's MHI

\$58,488
VILLAGE OF MAGDALENA, NEW MEXICO
NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO)
SOCORRO COUNTY) ss. GENERAL AND NO LITIGATION
VILLAGE OF MAGDALENA) CERTIFICATE

IT IS HEREBY CERTIFIED by the undersigned, the duly elected and chosen, Mayor, Clerk/Treasurer and Attorney for Village of Magdalena, New Mexico (the “Governmental Unit”) in Socorro County, and the State of New Mexico (the “State”) (provided, that the Attorney for the Governmental Unit is certifying only as to Paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 20, 21, 22, 24 and 25 hereof):

Capitalized terms used in this Certificate have the same meaning as defined in Governmental Unit Resolution No. 2024-01 adopted on January 22, 2024 (the “Resolution”) unless otherwise defined in this Certificate or the context requires otherwise.

1. The Governmental Unit is a political subdivision of the State and is duly organized and validly existing under and pursuant to the laws of the State, its full name being “Village of Magdalena.”

2. The Governmental Unit was incorporated in the year 1918.

3. From at least November 3, 2023 (except as otherwise noted), to and including the date of this Certificate, the following were and now are the duly chosen, qualified and acting officers of the Governmental Unit:

Mayor:	Richard Rumpf
Mayor Pro Tem:	James C. Nelson
Trustees:	Harvan Conrad Donna Dawson Clark Brown
Attorney:	New Mexico Local Government Law, LLC
Clerk/Treasurer:	Juanita Puente

4. The population of the Governmental Unit’s jurisdictional and service area is not less than seventy-five percent (75%) English speaking and is less than twenty-five percent (25%) Spanish speaking.

5. There is no reason within our knowledge, after due inquiry with respect thereto, why the Governmental Unit may not enter into the Loan Agreement and the Intercept Agreement with the New Mexico Finance Authority (the "Finance Authority"), as authorized by the Resolution.

6. The Governmental Unit has duly authorized the execution, delivery and performance of its obligations under the Loan Agreement and the Intercept Agreement. The Loan Agreement and the Intercept Agreement have been duly authorized, executed and delivered by the Governmental Unit.

7. The Resolution has been duly signed and adopted in accordance with all applicable laws and has not been repealed, rescinded, revoked, modified, amended or supplemented in any manner except as set forth in the Resolution. The Resolution constitutes valid and sufficient legal authority for the Governmental Unit to carry out and enforce the provisions of the Loan Agreement and Intercept Agreement. No referendum petition has been filed with respect to the Resolution under the provisions of the laws, bylaws or regulations of the Governmental Unit or the State.

8. No event will result from the execution and delivery of the Loan Agreement or the Intercept Agreement that constitutes a default or an event of default under either the Loan Agreement, the Intercept Agreement or the Resolution, and no event of default and no default under the Loan Agreement, the Intercept Agreement or the Resolution has occurred and is continuing on the date of this Certificate.

9. The Governmental Unit has duly authorized and approved the consummation by it of all transactions and has complied with all requirements and satisfied all conditions, which are required by the Loan Agreement and the Intercept Agreement to have been authorized, approved, performed or consummated by the Governmental Unit at or prior to the date of this Certificate. The Governmental Unit has full legal right, power and authority to carry out and consummate the transactions contemplated by the Resolution, the Loan Agreement and the Intercept Agreement.

10. A. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the enforceability of the Loan Agreement or the Intercept Agreement or to any of the actions required to be taken by the Resolution, the Loan Agreement or the Intercept Agreement on or prior to the date of this Certificate have been obtained and are in full force and effect; and

B. All approvals, consents and orders of any governmental authority having jurisdiction in the matter which would constitute a condition precedent to the financing of the Project have been obtained and are in full force and effect.

11. None of the following does or will conflict with, or constitute a breach by the Governmental Unit of, or default by the Governmental Unit under any law, court decree or order, governmental regulation, rule or order, resolution, agreement, indenture, mortgage or other instrument to which the Governmental Unit is subject or by which it is bound:

A. The Governmental Unit's adoption of the Resolution; or

B. Any action contemplated by or pursuant to the Resolution, the Loan Agreement, or the Intercept Agreement.

12. No material adverse change has occurred, nor has any development occurred involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects, or properties of the Governmental Unit or the Pledged Revenues since the date of the Resolution.

13. To the best of our knowledge and belief, after due inquiry with respect thereto, none of the events of default referred to in Article X of the Loan Agreement has occurred.

14. Subsequent to the adoption of the Resolution, the Governmental Unit has not pledged or otherwise encumbered the Pledged Revenues. On the date of this Certificate there are no other outstanding obligations with a lien or encumbrance against the Pledged Revenues senior to or on a parity with the lien of the Loan Agreement except as set forth in the Term Sheet attached as Exhibit "A" to the Loan Agreement.

15. The Loan Agreement prohibits the Governmental Unit from issuing any bonds or other obligations with a lien on Pledged Revenues senior to the lien thereon of the Loan Agreement on the Pledged Revenues. The Loan Agreement permits the Governmental Unit to issue additional bonds or other obligations with a lien on the Pledged Revenues on a parity with or subordinate to the lien of the Loan Agreement on the Pledged Revenues upon satisfaction of the conditions set forth in the Loan Agreement.

16. There is no threatened action, suit, proceeding, inquiry or investigation against the Governmental Unit, at law or in equity, by or before any court, public board or body, nor to the Governmental Unit's knowledge is there any basis therefor, affecting the existence of the Governmental Unit or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the pledge of revenues or assets of the Governmental Unit pledged or to be pledged to pay the principal, premium, if any, and interest on the Loan Agreement, or in any way materially adversely affecting or questioning: (a) the territorial jurisdiction of the Governmental Unit; (b) the use of the proceeds of the Loan Agreement for the Project and to pay certain costs of the Finance Authority associated with the administration of its public projects revolving fund loan program; (c) the validity or enforceability of the Loan Agreement, the Intercept Agreement or any proceedings of the Governmental Unit taken with respect to the Loan Agreement, the Intercept Agreement or the Resolution; (d) the execution and delivery of the Loan Agreement or the Intercept Agreement; or (e) the power of the Governmental Unit to carry out the transactions contemplated by the Loan Agreement, the Intercept Agreement or the Resolution.

17. The Governmental Unit has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Governmental Unit contained in the Loan Agreement and in the Resolution are true and correct as of the date hereof.

18. The Governmental Unit is not in default, and has not been in default within the ten (10) years immediately preceding the date of this Certificate, in the payment of principal of, premium, if any, or interest on any bonds, notes or other obligations which it has issued, assumed

or guaranteed as to payment of principal, premium, if any, or interest except that no representation is made with respect to industrial revenue bonds or conduit bonds payable solely from installment sale or lease payments, loan repayments or other amounts received by the Governmental Unit from private entities.

19. To the best of our knowledge and belief, neither the Mayor, Deputy Clerk, any member of the Governing Body, nor any other officer, employee or other agent of the Governmental Unit is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.

20. Regular meetings of the Governing Body have been held at 108 N. Main Street, Magdalena, New Mexico 87825, the principal meeting place of the Governing Body.

21. The Governing Body has no rules of procedure which would invalidate or make ineffective the Resolution or other action taken by the Governing Body in connection with the Loan Agreement. Open Meetings Act Resolution No. _____, as adopted and approved by the Governing Body on _____, 2024, establishes notice standards as required by Sections 10-15-1 through 10-15-4, NMSA 1978. Open Meetings Act Resolution No. _____ has not been amended or repealed. All action of the Governing Body with respect to the Loan Agreement, the Intercept Agreement and the Resolution was taken at meetings held in compliance with Open Meetings Act Resolution No. _____.

22. The *El Defensor Chieftain* is a legal newspaper which maintains an office and is of general circulation in the Governmental Unit's jurisdictional and service area.

23. The Pledged Revenues from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded, and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed the coverage requirement of 125% of the maximum Aggregate Annual Debt Service Requirement.

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

25. The Mayor, Deputy Clerk, on the date of the signing of the Loan Agreement and the Intercept Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Governmental Unit authorized to execute such agreements.

26. The Governmental Unit understands that Sutin, Thayer & Browne A Professional Corporation represents the Finance Authority in this Loan and the Governmental Unit has had the opportunity to consult other counsel in connection with the Loan.

27. This Certificate is for the benefit of the Finance Authority.

28. This Certificate may be executed in counterparts.

[Signature page follows]

WITNESS our hands and the seal of the Governmental Unit this 8th day of March, 2024.

VILLAGE OF MAGDALENA, NEW MEXICO

By _____
Richard Rumpf, Mayor

By _____
Juanita Puente, Clerk/Treasurer

[SEAL]

APPROVED:

Paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 20, 21, 22, 24 and 25 are approved and confirmed.

New Mexico Government Law, LLC

Randall D. Van Vleck, Esq., Attorney for the
Village of Magdalena, New Mexico

6885974

EXHIBIT "B"

NEW MEXICO FINANCE AUTHORITY TAX REPRESENTATIONS CERTIFICATE

The undersigned hereby certifies as follows with respect to the \$58,488 Loan Agreement dated March 8, 2024 (the "Loan") from the New Mexico Finance Authority (the "Finance Authority") to the Village of Magdalena, New Mexico (the "Governmental Unit");

1. The Finance Authority is making the Loan for its own account (and not on behalf of another) in the principal amount of \$58,488, without accrued interest. The Finance Authority is not acting as an Underwriter with respect to the Loan. The Finance Authority has no present intention to sell, reoffer, or otherwise dispose of the Loan (or any portion of the Loan or any interest in the Loan). The Finance Authority has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Loan and the Finance Authority has not agreed with the Governmental Unit pursuant to a written agreement to sell the Loan to persons other than the Finance Authority, therefore the "issue price" of the Loan is \$58,488.

2. The Arbitrage Yield on the Loan, calculated in accordance with the applicable U.S. Treasury Regulations from interest to be paid on the Loan, is 0.00%.

3. The Weighted Average Maturity of the Loan, calculated in accordance with the applicable U.S. Treasury Regulations, is 3.6472 years.

4. The undersigned understands that the statements made herein will be relied upon by the Governmental Unit in its effort to complete the Information Return for Tax-Exempt Governmental Obligations (Form 8038-G), required to be filed for the Loan pursuant to the Internal Revenue Code of 1986, as amended, and with regard to establishing facts and circumstances relied on by the Governmental Unit and bond counsel in connection with the execution and delivery of the Loan and the exclusion of interest on the Loan from gross income for federal income tax purposes. Such reliance is hereby authorized and approved.

Dated this 8th day of March, 2024.

NEW MEXICO FINANCE AUTHORITY

By: _____
Marquita D. Russel, Chief Executive Officer

6885947

March 8, 2024

New Mexico Finance Authority
207 Shelby St.
Santa Fe, NM 87501

Village of Magdalena
108 N. Main Street
Magdalena, NM 87825

\$58,488 New Mexico Finance Authority Loan to the
Village of Magdalena, New Mexico (PPRF-6354)

Ladies and Gentlemen:

We have acted as Loan Counsel to the New Mexico Finance Authority (the "Finance Authority") in connection with the \$58,488 Loan Agreement (the "Loan Agreement") between the Village of Magdalena, New Mexico (the "Governmental Unit") and the Finance Authority. The Loan Agreement is executed and delivered by the Governmental Unit pursuant to Sections 3-31-1 through 3-31-12 and Sections 29-13-1 through 29-13-9, NMSA 1978, as amended, and the Governmental Unit's Resolution No. 2024-01, adopted on January 22, 2024 (the "Resolution"). The Loan Agreement has been executed and delivered to provide funds to purchase a new police vehicle and the related equipment, as described in the Loan Agreement.

We have examined the Loan Agreement, Resolution and such other law and certified proceedings and other documents as we deem necessary to deliver this opinion. As to all questions of fact material to the opinions set forth herein, we have relied upon representations of the Governmental Unit contained in the Resolution and certified proceedings and other documents furnished to us, without undertaking to verify the same by independent investigation. In addition, we have relied upon statements of law made by the Governmental Unit's legal counsel in the certified proceedings.

Based on our examination, we are of the opinion that, under existing laws, regulations, rulings and judicial decisions as of the date hereof, subject to the provisions of federal bankruptcy law and other laws affecting creditors' rights and further subject to the exercise of judicial discretion in accordance with general principles of equity and the assumptions, qualifications and limitations contained in this opinion:

1. The Resolution creates a valid and binding special limited obligation of the Governmental Unit enforceable in accordance with its terms and creates the pledge of the Law Enforcement Protection Fund Revenues (the "Pledged Revenues") which it purports to create.
2. The Loan Agreement is a valid and binding special limited obligation of the Governmental Unit, enforceable in accordance with its terms and provisions and the terms and provisions of the Resolution.
3. The Loan Agreement is a valid and binding special limited obligation of the Finance Authority, enforceable against the Finance Authority in accordance with its terms and provisions.

March 8, 2024
Page 2

4. The Loan Agreement is payable solely from and such payment is secured by a valid and binding lien on the Pledged Revenues as set forth in the Loan Agreement. The Finance Authority has no right to have taxes levied by the Governmental Unit for the payment of principal of or interest on the Loan Agreement and the Loan Agreement does not represent or constitute a debt or a pledge of, or a charge against, the general credit of the Governmental Unit.

5. Assuming continuing compliance by the Finance Authority and the Governmental Unit with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), with the covenants of the Governmental Unit regarding the use, expenditure and investment of Loan Agreement proceeds and assuming the accuracy of certain representations of the Finance Authority and the Governmental Unit, interest on the Loan Agreement is excludable from gross income of the owners of the Loan Agreement for purposes of federal income taxation. Failure of the Governmental Unit to comply with its covenants and with the requirements of the Code may cause interest on the Loan Agreement to become includable in gross income for federal income tax purposes retroactive to the date of the Loan Agreement.

6. Interest on the Loan Agreement is excluded from net income of the owners thereof for State of New Mexico income tax purposes.

7. The Loan Agreement may be pledged as an "Additional Pledged Loan" or as a "Loan" under the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and BOKF, NA, as successor trustee (the "Trustee"), or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as determined by the Finance Authority pursuant to a pledge notification or supplemental indenture.

We express no opinion with respect to the provisions of the Loan Agreement and the Resolution with respect to indemnification, provisions requiring that amendments be in writing or payment of attorneys' fees. Other than as described in this opinion, we have not addressed nor are we opining on the tax consequences to any person of the investment in, or the receipt of interest on, the Loan Agreement.

This opinion letter is limited to matters expressly stated in this opinion letter and no opinion is inferred or may be implied beyond the matters expressly stated in this opinion letter.

We express no opinion as to, or the effect or applicability of, any laws other than the laws of the State of New Mexico and the federal laws of the United States of America. The opinions expressed herein are based only on the laws in effect as of the date hereof, and in all respects are subject to and may be limited by future legislation, as well as developing case law. We undertake no obligation to update or modify this opinion for any future events or occurrences, including, but not limited to, determining or confirming continuing compliance by the Finance Authority and the Governmental Unit with the requirements of the Code.

The foregoing opinions represent our legal judgment based upon a review of existing legal authorities that we deem relevant to render such opinions and are not a guarantee of results.

March 8, 2024
Page 3

We understand that this opinion is being relied upon by the addressees hereof, and we consent to such reliance, but this opinion may not be delivered to or relied upon by any other person or entity without our written consent.

Very truly yours,

SUTIN, THAYER & BROWNE
A Professional Corporation

6885994

\$58,488
VILLAGE OF MAGDALENA, NEW MEXICO
NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO)
) ss. DELIVERY, DEPOSIT AND
COUNTY OF SOCORRO) CROSS-RECEIPT CERTIFICATE

IT IS HEREBY CERTIFIED by the undersigned, the duly chosen, qualified and acting Mayor and Deputy Clerk of the Village of Magdalena, New Mexico (the “Governmental Unit”):

1. On the date of this Certificate, the Governmental Unit executed and delivered, or caused to be executed and delivered, a Loan Agreement between the Governmental Unit and the New Mexico Finance Authority (the “Finance Authority”), in the aggregate principal amount of \$58,488, to the Finance Authority (the “Loan Agreement”), as authorized by Governmental Unit Resolution No. 2024-01 (the “Resolution”) adopted on January 22, 2024, relating to the execution and delivery of the Loan Agreement and the Intercept Agreement. The undersigned have received \$58,488 as proceeds from the Loan Agreement, being the full purchase price therefore.

2. The proceeds of the Loan Agreement will be placed in the funds and accounts created for the deposit of such moneys under the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, each by and between the Finance Authority and BOKF, NA, as Trustee and its successors and assigns, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture, as follows:

Governmental Unit’s Account in the Program Fund:	<u>\$58,488.00</u>
Deposit to Finance Authority Debt Service Account:	<u>\$0.00</u>
Total:	<u>\$58,488.00</u>

3. The proceeds of the Loan Agreement will be available to the Governmental Unit upon submittal of a Requisition Form to the Finance Authority in the form attached to the Loan Agreement as Exhibit “C” and will be used as set forth in the Resolution and the Loan Agreement.

WITNESS our hands this 8th day of March, 2024.

VILLAGE OF MAGDALENA, NEW MEXICO

[SEAL]

By _____
Richard Rumpf, Mayor

By _____
Juanita Puente, Clerk/Treasurer

6885977

It is hereby certified by the undersigned, a duly qualified and acting official of the New Mexico Finance Authority, that, the undersigned has, on the date of this Certificate, received from the Village of Magdalena the Loan Agreement and the Intercept Agreement.

NEW MEXICO FINANCE AUTHORITY

By: _____
Marquita D. Russel, Chief Executive Officer

6885977

INTERCEPT AGREEMENT

This INTERCEPT AGREEMENT is made and entered into March 8, 2024, by and between the NEW MEXICO FINANCE AUTHORITY (the "Finance Authority"), a public body politic and corporate constituting a governmental instrumentality separate and apart from the State of New Mexico (the "State") under the laws of the State and the VILLAGE OF MAGDALENA, NEW MEXICO, a political subdivision duly organized and existing under the laws of the State (the "Governmental Unit").

WITNESSETH:

WHEREAS, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, authorized the creation of the Finance Authority within the State to assist in financing the cost of public projects of participating qualified entities, including the Governmental Unit, such as the acquisition of a new police vehicle and the related equipment for use by the Governmental Unit; and

WHEREAS, pursuant to Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, and Sections 3-31-1 through 3-31-12, NMSA 1978, as amended (collectively, the "Act"), the Finance Authority and the Governmental Unit are authorized to enter into agreements to facilitate the financing of the Project as described in the Loan Agreement by and between the Finance Authority and the Governmental Unit of even date herewith (the "Loan Agreement"); and

WHEREAS, the Governmental Unit desires to acquire the Project and such acquisition is permitted under the Act; and

WHEREAS, the Finance Authority has established its Loan Program (the "Program") funded by its public project revolving fund (as defined in the Act) for the financing of infrastructure and equipment projects upon the execution of the Loan Agreement and the assignment of loan agreements to a trustee (the "Trustee"); and

WHEREAS, the Governmental Unit desires to borrow \$58,488 from the Program for the purpose of financing the acquisition of the Project, which Loan is to be governed by this Intercept Agreement and by the Loan Agreement; and

WHEREAS, the Act confers upon the Finance Authority the authority to loan funds to the Governmental Unit to finance the Project, and Section 29-13-6, NMSA 1978, as amended, authorizes the Governmental Unit to direct that its distribution of Law Enforcement Protection Fund Revenues (the "Pledged Revenues") from the State Treasurer (the "Distributing State Agency") be paid to the Finance Authority or its assignee, to secure payments under the Loan Agreement.

NOW THEREFORE, the parties hereto agree:

Unless otherwise defined in this Intercept Agreement and except where the context by clear implication otherwise requires, capitalized terms used in this Intercept Agreement shall have for all purposes of this Intercept Agreement the meanings assigned thereto in the Loan Agreement and the Indenture, as defined in the Loan Agreement.

Section 1. Authorization to the Finance Authority. The Governmental Unit hereby recognizes that the Finance Authority has made a Loan to the Governmental Unit in the amount of \$58,488 to finance the acquisition of the Project. Pursuant to the Loan Agreement and this Intercept Agreement, the Loan and all Loan Agreement Payments on the Loan made by or on behalf of the Governmental Unit shall be collected by the Finance Authority and remitted to the Trustee. All payments due on the Loan from the Pledged Revenues shall be paid by the Distributing State Agency to the Finance Authority or its designee, on behalf of the Governmental Unit, from scheduled distributions of the Pledged Revenues in accordance with the Intercept Schedule attached hereto as Exhibit "A" (the "Intercept Schedule"), or shall be made from special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues).

This Intercept Agreement shall be deemed a written certification, authorization and request by the Governmental Unit to the Distributing State Agency to pay to the Finance Authority, on behalf of the Governmental Unit, sums shown on the Intercept Schedule from periodic distributions of the Pledged Revenues pursuant to Section 29-13-6, NMSA 1978, as amended, or from special reserve funds of the Finance Authority (as determined by the Finance Authority, and subject to repayment from the Pledged Revenues) to insure compliance with the Loan Agreement and repayment of the Loan. Upon written notice to the Distributing State Agency from the Finance Authority, the amount of the Pledged Revenues to be paid to the Finance Authority shall be increased from the amounts shown on Exhibit "A" to defray any delinquencies in the Finance Authority Debt Service Account or Loan Agreement Reserve Account, if any, established for the Governmental Unit. Any accumulation of the Pledged Revenues in an amount in excess of the next Loan Agreement Payment and the Loan Agreement Reserve Requirement, if any, shall be redirected by the Finance Authority to the benefit of the Governmental Unit on a timely basis as provided in Section 5.2 of the Loan Agreement.

To the extent applicable and to the extent that the Pledged Revenues are insufficient to meet the debt service requirements due on the Loan and other Parity Obligations (as defined in the Loan Agreement) now or hereafter issued or incurred, the amounts intercepted under this Intercept Agreement shall be applied to allow partial payment on a pro-rata basis of the debt service due and owing on the Loan Agreement and other Parity Obligations.

Section 2. Term; Amendments. This Intercept Agreement will remain in full force and effect from its effective date as herein provided until such time as the Loan made pursuant to the Loan Agreement and this Intercept Agreement have been paid in full. Nothing herein shall be deemed in any way to limit or restrict the Governmental Unit from issuing its own obligations, providing its own program or participating in any other program for the financing of public projects which the Governmental Unit may choose to finance. This Intercept Agreement may be amended only by written instrument signed by the parties hereto.

Section 3. Authorization. The execution and performance of the terms of this Intercept Agreement have been authorized and approved by Resolution No. 2024-01, passed and adopted on January 22, 2024, by the Governing Body of the Governmental Unit, which Resolution is in full force and effect on the date hereof.

Section 4. Severability of Invalid Provisions. If any one or more of the provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separable from the remaining provisions and shall in no way affect the validity of any of the other provisions hereof.

Section 5. Counterparts. This Intercept Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6. Further Authorization. The Governmental Unit agrees that the Finance Authority shall do all things necessary or convenient to the implementation of the Program to facilitate the Loan to the Governmental Unit.

Section 7. Effective Date. This Intercept Agreement shall take effect on the Closing Date of the Loan.

Section 8. Initial Intercept Date. As indicated on the Intercept Schedule, the periodic distribution of the Pledged Revenues that is to be intercepted by the Distributing State Agency under the terms of this Intercept Agreement consist of Pledged Revenues due to the Governmental Unit distributed in the Fiscal Year ending June 30, 2025.

Section 9. Final Intercept Date. Once the Loan has been fully paid off and satisfied, Finance Authority shall provide written notice to the Distributing State Agency to discontinue the interception of the Governmental Unit's Pledged Revenues.

[Remainder of page left intentionally blank]

[Signature page follows]

IN WITNESS WHEREOF, the parties to this Intercept Agreement have caused their names to be affixed hereto by the proper officers thereof as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By: _____
Marquita D. Russel, Chief Executive Officer

VILLAGE OF MAGDALENA, NEW MEXICO

By: _____
Richard Rumpf, Mayor

[SEAL]

ATTEST:

By: _____
Juanita Puente, Clerk/Treasurer

Acknowledged:

By: _____
Local Government Division
New Mexico Department of Finance
and Administration

Date: _____

EXHIBIT "A"

**INTERCEPT SCHEDULE
VILLAGE OF MAGDALENA, NEW MEXICO**

Fiscal Year Ending June 30 Payment Dates	Pledged Revenues	Annual Amount
2025 - 2030	The distribution of Law Enforcement Protection Fund Revenues to the Village of Magdalena, New Mexico pursuant to Section 29-13-6, NMSA 1978, which distributions are made periodically by the State Treasurer.	\$9,748

6885989

\$58,488
VILLAGE OF MAGDALENA, NEW MEXICO
NEW MEXICO FINANCE AUTHORITY LOAN

STATE OF NEW MEXICO)
) ss. PLEDGED REVENUE CERTIFICATE
COUNTY OF SOCORRO)

WHEREAS, the Village of Magdalena, New Mexico (the “Governmental Unit”) pursuant to Resolution No. 2021-13 adopted on September 27, 2021 (the “2021 Resolution”), executed and delivered a Loan Agreement (the “2021 Loan Agreement”) between the Governmental Unit and the New Mexico Finance Authority (the “Finance Authority”), in the aggregate principal amount of \$66,416. The 2021 Loan Agreement is payable from a lien on the distribution of Law Enforcement Protection Funds distributed annually by the New Mexico State Treasurer (the “Pledged Revenues”).

WHEREAS, the Governmental Unit pursuant to Resolution No. 2022-14 adopted on August 8, 2022 (the “2022 Resolution”), executed and delivered a Loan Agreement (the “2022 Loan Agreement”) between the Governmental Unit and the Finance Authority, in the aggregate principal amount of \$68,129.39. The 2022 Loan Agreement is payable from a lien on the distributions of the Pledged Revenues.

WHEREAS, the Governmental Unit, pursuant to Resolution No. 2023-18 adopted on August 14, 2023 (the “2023 Resolution”), executed and delivered a Loan Agreement (the “2023 Loan Agreement”) between the Governmental Unit and the Finance Authority, in the aggregate principal amount of \$54,358.85. The 2023 Loan Agreement is payable from a lien on the distributions of the Pledged Revenues.

WHEREAS, the Governmental Unit, pursuant to Resolution No. 2024-01 adopted on January 22, 2024 (the “2024 Resolution”), intends to execute and deliver on the date hereof its Finance Authority Loan Agreement in the aggregate principal amount of \$58,488 for the purpose of purchasing a new police vehicle and the related equipment (the “2024 Loan Agreement”) payable from the Pledged Revenues, as set forth in the 2024 Loan Agreement.

WHEREAS, Section 5.5, the “Additional Parity Obligations” of the 2021 Loan Agreement provides as follows:

“Section 5.5 Additional Parity Obligations. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from the Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Section 5.6 hereof), it must be determined that:

(a) The Governmental Unit is then current in all of the accumulations required to be made into the Finance Authority Debt Service Account as provided herein.

(b) No default shall exist in connection with any of the covenants or requirements of the Resolution or this Loan Agreement.

(c) The Pledged Revenues received by or credited to the Governmental Unit for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing one hundred twenty-five percent (125%) of the combined maximum Aggregate Annual Debt Service Requirements coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding the accumulation of any reserves therefor).

(d) A written certification or opinion by the Governmental Unit's Treasurer or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the Parity Obligations proposed to be issued.

(e) No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of this Loan Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Loan Agreement as permitted by Section 5.6 hereof.

(f) The Governmental Unit shall not issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior and superior to this Loan Agreement."

WHEREAS, the principal and interest on the outstanding 2021 Loan Agreement, 2022 Loan Agreement, 2023 Loan Agreement and the proposed 2024 Loan Agreement coming due to their last principal payment date are shown on Exhibit A attached hereto.

NOW THEREFORE, the undersigned do hereby certify as follows:

1. We are familiar with the provisions of the 2021 Resolution authorizing the execution and delivery of the 2021 Loan Agreement, the 2022 Resolution authorizing the execution and delivery of the 2022 Loan Agreement, the 2023 Resolution authorizing the execution and delivery of the 2023 Loan Agreement, the 2024 Resolution authorizing the execution and delivery of the 2024 Loan Agreement and with the provisions of the 2021 Loan Agreement, the 2022 Loan Agreement, the 2023 Loan Agreement and the 2024 Loan Agreement.

2. We are familiar with the books, accounts and funds of the Governmental Unit pertaining to the Pledged Revenues.

3. Except as stated in the preambles to this Certificate, the Pledged Revenues have not been pledged or hypothecated to the payment of any outstanding parity lien obligations and no other outstanding obligations are payable from the Pledged Revenues.

4. The Governmental Unit is not, and has not been in default as to making any payments on the 2021 Loan Agreement, the 2022 Loan Agreement and the 2023 Loan Agreement, nor under any of the covenants or requirements of the 2021 Loan Agreement, the 2022 Loan Agreement and the 2023 Loan Agreement.

5. The 2024 Loan Agreement is payable from the Pledged Revenues and will constitute a lien upon the Pledged Revenues on a parity with the lien of the outstanding 2021 Loan Agreement, the outstanding 2022 Loan Agreement and the outstanding 2023 Loan Agreement.

6. The fiscal year immediately preceding the date of the 2023 Loan Agreement is the period commencing on July 1, 2022 and ending in June 30, 2023.

7. The Pledged Revenues for the fiscal year ended June 30, 2023, are fairly stated at \$98,000.

8. The combined maximum Aggregate Annual Debt Service Requirements on the 2021 Loan Agreement, the 2022 Loan Agreement, the 2023 Loan Agreement and the 2024 Loan Agreement for the parity bond test set out in the preambles of this Certificate occurs in Fiscal Year 2026 and is \$45,762. One hundred twenty-five percent (125%) of such amount is \$57,202.50.

9. The Pledged Revenues of \$98,000 (i.e., paragraph 7 above) for the fiscal year immediately preceding the date of the execution and delivery of the 2024 Loan Agreement were sufficient to pay an amount representing one hundred twenty-five percent (125%) of the combined maximum Aggregate Annual Debt Service Requirements of \$57,202.50 on the 2021 Loan Agreement, the 2022 Loan Agreement, the 2023 Loan Agreement and the 2024 Loan Agreement.

10. This certificate is for the benefit of each holder from time to time of the 2024 Loan Agreement and for the benefit of bond counsel in rendering opinions to the effect that the 2024 Loan Agreement is secured by a lien pledge on the Pledged Revenues on a parity with the 2021 Loan Agreement, the 2022 Loan Agreement and the 2023 Loan Agreement.

(Signature Page Follows)

WITNESS our hands this 8th day of March, 2024.

VILLAGE OF MAGDALENA, NEW MEXICO

[SEAL]

By _____
Richard Rumpf, Mayor

By _____
Juanita Puente, Clerk/Treasurer

EXHIBIT A

DEBT SERVICE COVERAGE TABLE

Year	2021 Loan PPRF-5623	2022 Loan PPRF-5863	2023 Loan PPRF-6196	2024 Loan PPRF-6354	Total Debt Service	Pledged Revenues	Coverage
2023	\$11,070.00				\$11,070.00	\$98,000.00	8.85275519
2024	\$11,069.00	\$11,355.00			\$22,424.00	\$98,000.00	4.37031752
2025	\$11,069.00	\$11,355.00	\$13,589.85	\$9,748.00	\$45,761.85	\$98,000.00	2.14152181
2026	\$11,069.00	\$11,355.00	\$13,590.00	\$9,748.00	\$45,762.00	\$98,000.00	2.14151479
2027	\$11,069.00	\$11,355.00	\$13,590.00	\$9,748.00	\$45,762.00	\$98,000.00	2.14151479
2028	\$11,070.00	\$11,355.00	\$13,589.00	\$9,748.00	\$45,762.00	\$98,000.00	2.14151479
2029		\$11,354.39		\$9,748.00	\$21,102.39	\$98,000.00	4.64402373
2030				\$9,748.00	\$9,748.00	\$98,000.00	10.05334428

VILLAGE OF MAGDALENA, NEW MEXICO
RESOLUTION NO. 2024-01

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN VILLAGE OF MAGDALENA, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$58,488 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING A NEW POLICE VEHICLE AND THE RELATED EQUIPMENT FOR THE GOVERNMENTAL UNIT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE STATE LAW ENFORCEMENT PROTECTION FUND REVENUES DISTRIBUTED BY THE STATE TREASURER TO THE GOVERNMENTAL UNIT PURSUANT TO SECTION 29-13-6, NMSA 1978; PROVIDING FOR THE DISTRIBUTION OF STATE LAW ENFORCEMENT PROTECTION FUND REVENUES TO BE REDIRECTED BY THE STATE TREASURER TO THE FINANCE AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

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

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

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

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

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

WHEREAS, other than as described in Exhibit "A" to the Loan Agreement, the Pledged Revenues have not been pledged to secure the payment of any obligation which is currently outstanding; and

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF VILLAGE OF MAGDALENA, 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, Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, Sections 29-13-1 through 29-13-9, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and Intercept Agreement, including this Resolution.

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

“Authorized Officers” means the Mayor, Mayor Pro Tem, and Clerk/Treasurer.

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

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

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

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

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

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

“Finance Authority” means the New Mexico Finance Authority.

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

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

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

“Governmental Unit” means the Village of Magdalena, New Mexico.

“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.

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

“Intercept Agreement” means the Intercept Agreement, dated the Closing Date, between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing

State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

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

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

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

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

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

“Pledged Revenues” means the State Law Enforcement Protection Fund revenues distributed to the Governmental Unit, which is utilizing the Project and benefiting from the Loan Agreement, which distribution is made periodically by the State Treasurer pursuant to Section 29-13-6, NMSA 1978, as amended.

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

“Project” means the project described in Exhibit “A” to the Loan Agreement.

“Resolution” means this Resolution No. 2024-01 adopted by the Governing Body on January 22, 2024, approving the Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement as shown on the Term Sheet, as supplemented and amended from time to time.

“State” means the State of New Mexico.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and acquiring the Project, it is hereby declared necessary that

the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of \$58,488 plus interest thereon, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the acquisition of the Project; (ii) make a deposit to the Finance Authority Debt Service Account. The Project will be owned by the Governmental Unit.

B. Detail. The Loan Agreement and Intercept Agreement shall be in substantially the forms of the Loan Agreement and Intercept Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Loan shall be in an original aggregate principal amount of \$58,488, shall be payable in installments of principal due on May 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on May 1 and November 1 of each year, beginning on May 1, 2025, at the rates designated in Exhibit "B" to the Loan Agreement.

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

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

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

A. Program Account, Finance Authority Debt Service Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held by the Finance Authority and to the Program Account to be held by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves the deposit of a portion of the proceeds of the Loan Agreement in the Program Account and the Finance Authority Debt Service Account, all as set forth in Exhibit "A" to the Loan Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 14. Severability Clause. If any section, paragraph, clause or provision of this 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, resolutions, and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This

repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

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

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

(Form of Summary of Resolution for Publication)

Village of Magdalena, 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. 2024-01, duly adopted and approved by the Governing Body of Village of Magdalena, New Mexico, on January 22, 2024. A complete copy of the Resolution is available for public inspection during the normal and regular business hours of the Clerk/Treasurer, 108 N. Main Street, Magdalena, New Mexico 87825.

The title of the Resolution is:

VILLAGE OF MAGDALENA, NEW MEXICO
RESOLUTION NO. 2024-01

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN VILLAGE OF MAGDALENA, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF \$58,488 TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF PURCHASING A NEW POLICE VEHICLE AND THE RELATED EQUIPMENT FOR THE GOVERNMENTAL UNIT; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE STATE LAW ENFORCEMENT PROTECTION FUND REVENUES DISTRIBUTED BY THE STATE TREASURER TO THE GOVERNMENTAL UNIT PURSUANT TO SECTION 29-13-6, NMSA 1978; PROVIDING FOR THE DISTRIBUTION OF STATE LAW ENFORCEMENT PROTECTION FUND REVENUES TO BE REDIRECTED BY THE STATE TREASURER TO THE FINANCE

AUTHORITY OR ITS ASSIGNS FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT PURSUANT TO AN INTERCEPT AGREEMENT; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND INTERCEPT AGREEMENT; SETTING THE MAXIMUM INTEREST RATE OF THE LOAN; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND INTERCEPT AGREEMENT.

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

(End of Form of Summary for Publication)

PASSED, APPROVED AND ADOPTED THIS 22ND DAY OF JANUARY, 2024.

VILLAGE OF MAGDALENA, NEW MEXICO

By _____
Richard Rumpf, Mayor

[SEAL]

ATTEST:

By _____
Juanita Puente, Clerk/Treasurer

Trustee _____ then moved adoption of the foregoing Resolution, duly seconded by Trustee _____.

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

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

_____ () members of the Governing Body having voted in favor of said motion, the Mayor declared said motion carried and said Resolution adopted, whereupon the Mayor and the Clerk/Treasurer signed the Resolution upon the records of the minutes of the Governing Body.

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

VILLAGE OF MAGDALENA, NEW MEXICO

By _____
Richard Rumpf, Mayor

[SEAL]

ATTEST:

By _____
Juanita Puente, Clerk/Treasurer

EXHIBIT "A"

Meeting Agenda
of the January 22, 2024
Board of Trustees Meeting

(See attached)

STATE OF NEW MEXICO
VILLAGE OF MAGDALENA
COUNTY OF SOCORRO

I, Juanita Puente, the duly qualified and acting Clerk/Treasurer of Village of Magdalena, New Mexico (the "Governmental Unit"), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of Trustees of Village of Magdalena, New Mexico (the "Governing Body"), constituting the governing body of the Governmental Unit had and taken at a duly called regular meeting held at 108 N. Main Street, Magdalena, New Mexico 87825, on January 22, 2024, at the hour of 5:00 p.m., insofar as the same relate to the execution and delivery of the proposed Loan Agreement and Intercept Agreement, a copy of each of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of March, 2024.

VILLAGE OF MAGDALENA, NEW MEXICO

By _____
Juanita Puente, Clerk/Treasurer

[SEAL]

6885988



RESOLUTION № 2024-02

OPEN MEETINGS

WHEREAS, the Village of Magdalena Board of Trustees met upon notice of a duly published meeting at 5:00 P.M. on January 22, 2024 at Village Hall, 108 N. Main Street, Magdalena, New Mexico as required by law; and,

WHEREAS, Section 10-15-1 (B) of the Open Meetings Act (NMSA 1978, Section 10-15-1 to - 4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or their policy-making body of any state or local public agency held for the purpose of formulating public policy, or for the purpose of taking any action within the authority of such body, are declared to be public meetings open to the public at all times; and,

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and,

WHEREAS, Section 10-15-1 (D) of the Open Meetings Act requires the Village of Magdalena Board of Trustees to determine at least annually what constitutes reasonable notice of its public meetings; and,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees that:

1. All meetings shall be held at Village Hall, 108 N. Main Street, Magdalena, New Mexico 87825 as detailed below or as indicated on the meeting notice.
2. Unless otherwise specified, regular meetings shall be held twice a month, on the second and fourth Mondays of the month at 5:00 p.m. The agenda will be available to the public at least seventy-two (72) hours prior to the meeting as specified in Paragraph 5 below.
3. Special meetings may be called by the Mayor or a majority of the members upon seventy-two (72) hours notice. The agenda shall be available to the public at least seventy-two (72) hours prior to any special meeting as specified in Paragraph 5 below.
4. Emergency meetings will be called only under unforeseen circumstances that demand immediate action to protect the health, safety and property of the citizens or to protect the public body from substantial financial loss. The Board of Trustees will avoid emergency meetings whenever possible. Emergency meetings may be called by the Mayor or a majority of the members upon twenty-four hours notice, unless protecting the Village of Magdalena from substantial financial loss or a threat to the health, safety and property of the residents of the Village requires less notice. The notice for all emergency meetings

shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Within ten (10) days of taking action on an emergency matter, the Mayor on behalf of the Board shall report to the New Mexico Attorney General's office the action taken and the circumstance creating the emergency unless the made pursuant to a declaration of state or national emergency.

5. For the purposes of regular meetings and special meetings described in paragraphs 2 and 3 of this resolution, notice requirements are met if the notice of the date, time, place and a copy of the agenda is posted at Village Hall, 108 N. Main St., Magdalena, New Mexico 87825 and the Village's web site www.villageofmagdalena.com. Copies of the written notice shall also be mailed, faxed or emailed to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
6. For the purposes of emergency meetings described in paragraph 4 of this resolution, notice requirements are met if notice of the date, time, place and copy of agenda is posted at Village Hall, 108 N. Main St., Magdalena, New Mexico 87825 and the Village's web site www.villageofmagdalena.com. Notice shall also be given by telephone, facsimile or email to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.

7. In addition to the information specified above, all notices shall include the following language:
"If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting please contact the Village Clerk/Treasurer, clerk@villageofmagdalena.com, phone (575) 854-2261 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Village Clerk/Treasurer if a summary or other type of accessible format is needed."

8. The Board of Trustees may close a meeting to the public only if the subject matter of such discussion or action is exempted from the Open Meeting requirement under Section 10-15-1 (H) (1 through 10) of the Open Meetings Act.
 - A. If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Board of Trustees taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.
 - B. If a closed meeting is conducted when the Board of Trustees is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity is given to the members of the general public.
 - C. Following completing of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for closure.
 - D. Except as proved in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Board of Trustees in an open public meeting.

9. A member of the Board of Trustees or any of its Boards may participate in a meeting by means of a conference telephone, internet or other similar communications equipment when necessary as a COVID Safe Practice or when it is difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.
10. Effort will be made to provide virtual access to meetings via Zoom. All members of the public will be able to attend and listen to the meeting via Zoom at the link published on the agenda. Public comment may be made via email and will be entered and/or read into the meeting minutes (if less than 5 minutes) by emailing comments to: clerk@villageofmagdalena.com. The deadline for written public comments to be received is 5:00 pm the Friday prior to the meeting. Emailed public comment must contain the author's name and physical address.

APPROVED, ADOPTED, AND PASSED on this 22nd day of January 2024.

Richard Rumpf
Mayor

Attest:

Juanita Puente
Clerk/Treasurer



**MEMORANDUM OF AGREEMENT BETWEEN
THE COUNTY OF SOCORRO AND THE VILLAGE OF MAGDALENA
FOR THE PURPOSE OF PROVIDING LIMITED ANIMAL CONTROL SERVICES
JURISDICTION OF THE VILLAGE OF MAGDALENA**

THIS AGREEMENT (“Agreement”) by and between the Village of Magdalena (“Village” or “Magdalena”) and the County of Socorro (“County”).

RECITALS:

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order,” and;

WHEREAS, NMSA 1978, Section 4-38-18 (1876) provides that the Board of County Commissioners has the power to represent the county and have the care of the county property and the management of the interest of the county in all cases where no other provision is made by law; and,

WHEREAS, NMSA 1978, Section 77-1-12 (2009) provides that, “[e]ach municipality and each county shall make provision by ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on the person's premises; provided, however, that the ordinance does not conflict with the provisions of Chapter 77, Article 1B NMSA 1978.,” and,

WHEREAS, stray dogs, cats and other animals running at large and dangerous dogs in the municipality pose a danger to the health safety and welfare of its citizens & the municipality currently does not have an animal control officer; and,

WHEREAS, neither the County nor Magdalena have an animal control shelter facility and accordingly rely on an agreement for sheltering services with the City of Socorro; and,

WHEREAS, the County of Socorro employees and equips an animal control officer; and,

WHEREAS, the County of Socorro is willing to assist Magdalena in performing its duties to for the seizure and disposition of dogs and cats running at large and to address dangerous dogs in the Village limits on a limited basis; and,

WHEREAS, the Village desires to engage the County to provide certain services to the Village regarding the capture of Village animals, and the County is willing to provide the service on a limited basis.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES:

1. **PURPOSE:** The purpose of this Agreement is to provide certain services to the Village regarding the capture of Village animals and the transport of those animals to the City of Socorro's animal shelter.

2. **COMMON POWER:** The common powers to be exercised is the power pursuant to NMSA 1978, Section 3-18-1 (1972) for municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), to "protect generally the property of its municipality and its inhabitants" and to "preserve peace and order".

3. **SCOPE OF SERVICES & GENERAL PARTY OBLIGATIONS:**

Services to be supplied to Magdalena by the County shall include:

A. **Animal Control.**

- i. The County, depending on available resources, will respond to animal control calls in the municipality when prior notice is given by Magdalena to the Manager of Socorro County by the Mayor of the Village. Magdalena will pay the County a rate of \$35.00 per hour worked per Animal Control Officer. This service will consist of the seizure of Village animals that are running at large or determined to be dangerous or have attached persons or livestock.
- ii. The County seized animals that are not otherwise disposed of will be housed at the City of Socorro's animal control shelter pursuant to the County's agreement with the City effective March 15, 2021, as amended from time to time.
- iii. Seized animals on Magdalena Court Holds (Protective Custody) status will be held at held at the City of Socorro's animal shelter the cost set for the in the City/County agreement.

4. **OBLIGATIONS OF MAGDALENA:**

- A. The Village agrees and understands that, in regard to the services described in this Agreement, the County has a statutory responsibility to first provide services to the unincorporated area of the County and can only provide the described services to Magdalena if there is available manpower and resources.
- B. The Village of Magdalena will commission the County's animal control officer as a Village animal control officer with the authority to enforce the Village's animal

control ordinance(s). All actions of the County's animal control officer will be deemed to be made under the authority of the Village of Magdalena.

5. PAYMENT FOR SERVICES:

- A. The County shall submit an invoice to Magdalena accounting for all services performed and expenses incurred in this Agreement. Magdalena shall submit payment to the County for the services performed and expenses incurred within thirty days of receipt of the invoice.
- B. The County shall forward all invoices received by the City of Socorro for sheltering services for Village impounded animals Magdalena. Magdalena shall submit payment to the City for the services performed and expenses incurred within thirty days of receipt of the invoice.

6. LIABILITY:

- A. A. Agreement is not intended to and does not establish any waiver of immunity from liability for alleged tortuous conduct or any other matter of any officer, agent, or employee of Village or the County apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.* (1976) (hereinafter, as heretofore and hereafter (i) amended and (ii) construed and applied by the appellate courts of the State of New Mexico, the "Act"). All privileges and immunities from liability, and exemptions from laws, ordinances, and rules, which apply to "governmental entities" and to "public employees," each as defined in the Act, shall apply to the same extent while engaged in the performance of any of their respective functions and duties hereunder.
- B. No Party shall be responsible for liability, beyond the obligation to provide insurance coverage, incurred as a result of any other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act.
- C. This Agreement shall not create or confer on any other person or entity any right or benefit, substantive or procedural, enforceable at law or otherwise, against any party or their officers, directors, officials, employees, agents, representatives, contractors, subcontractors, consultants or advisors.
- D. All employees or contractors engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to the County's supervision and control and said County shall be solely responsible for the conduct and performance of these individuals.

7. THIRD PARTY BENEFICIARY: This Agreement shall not create or confer on any other person or entity any right or benefit, substantive or procedural, enforceable at law or otherwise, against any party or their officers, directors, officials, employees, agents, representatives, contractors, subcontractors, consultants or advisors.

8. **PROPERTY:** No property shall be acquired as a result of this Agreement, which does not involve the disposition, division, or distribution of any property. The disposition of records generated by performance of this Agreement shall be decided by the parties upon termination.

9. **STRICT ACCOUNTABILITY OF ALL RECEIPTS AND DISBURSEMENTS:** Each party shall be strictly accountable for all receipts and disbursements under this Agreement.

10. **AMENDMENT:** This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties.

11. **APPROPRIATIONS:** Performance under this Agreement is contingent upon sufficient authority and appropriations.

12. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of New Mexico.

13. **EFFECTIVE DATE, TERM AND TERMINATION OF AGREEMENT.**

- A. This Agreement shall become effective upon the approval of the parties.
- B. This Agreement shall continue, unless terminated per section 13 (D).
- C. This Agreement, in whole or in part, may be amended or terminated by the consent of all Parties at any time,
- D. This agreement may be terminated by any one Party upon not less than (30) days written notice. Upon termination all obligations incurred under this Agreement shall terminate.

14. **HEADINGS.** The headings of the sections of this Agreement are inserted only for convenience or reference and are not intended or to be construed to modify, define, limit or expand the intent of the Parties.

15. **SEVERABILITY.** If any provision of this Agreement shall be found by a court of competent jurisdiction to be illegal, in conflict with any law of the State of New Mexico or otherwise unenforceable, the validity and enforceability of the remaining provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision found to be illegal, invalid or otherwise unenforceable.

16. **FURTHER ASSURANCES.** Each party hereto agrees to do all acts and things and to make, execute and deliver such written instruments as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.

IN WITNESS WHEREOF, each Party has executed this Agreement effective upon the approval of both parties.

**SOCORRO COUNTY
BOARD OF COUNTY COMMISSIONERS**

Approved, Adopted and Passed this _____, day of _____, 2024.

JOE GONZALES, COMMISSIONER
DISTRICT I

CRAIG D. SECATERO, VICE-CHAIRMAN
DISTRICT II

JOHN J. AGUILAR, COMMISSIONER
DISTRICT III

GLEN DUGGINS, COMMISSIONER
DISTRICT IV

ANTONIO RAY MARTINEZ, CHAIRMAN
DISTRICT V

ATTEST BY:

BETTY SAAVEDRA, COUNTY CLERK

VILLAGE OF MAGDALENA

RICHARD RUMPF, MAYOR

DATE

ATTEST BY:

JUANITA PUENTE, VILLAGE CLERK