City of Las Vegas
1700 N. Grand Avenue | Las Vegas, NM 87701 | T 505.454.1401 | lasvegasnm.gov
Mayor Louie A. Trujillo

CITY OF LAS VEGAS
REGULAR CITY COUNCIL MEETING
MARCH 8, 2023–Wednesday– 5:30 p.m.

City Chambers
1700 North Grand Avenue
Las Vegas, NM 87701

Public comments can **only** be made **in person**.

AGENDA

City Council Meetings are
Available via YouTube
https://www.youtube.com/channel/UCNGDVGRRAL0qVevel5JYeRw?view_as=subscriber

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. MOMENT OF SILENCE

V. APPROVAL OF AGENDA

VI. PUBLIC INPUT(comments limited to topics on current agenda; not to exceed 3 minutes per person and individuals must sign up at least fifteen (15) minutes prior to meeting.)

VII. MAYOR'S APPOINTMENTS/REPORTS AND RECOGNITIONS/PROCLAMATIONS

VIII. COUNCILORS' REPORTS

IX. CITY MANAGER'S REPORT

X. PRESENTATIONS (not to exceed 10-15 minutes)

- Presentation by Jason Vigil with Will Ferguson & Associates Law firm in Albuquerque, NM speaking on the costs associated with the Hermits Peak/Calf Canyon Fire.

- Presentation by Maria Gilvarry, Utilities Director regarding project development and management.

- Presentation by Maria Gilvarry, Utilities Director regarding water and waste water operations staffing challenges.

XII. BUSINESS ITEMS

1. Discussion/Direction in regards to legal representation for costs associated with the Hermits Peak/Calf Canyon Fire.

Mayor Louie Trujillo Discussion regarding the City's legal options associated with the Hermits Peak/Calf Canyon Fire.

2. Request approval to accept State Appropriations from the Department of Finance and Administration in the amount of $281,250.00 over the next three year for Law Enforcement Recruitment and Retention.

Antonio Salazar, Police Chief The allocated funds will be disbursed 100% up to $112,500 the first year, 50% up to $112,500 the second year and 25% up to $56,250 the third year.

3. Request approval to accept a Project Agreement from the New Mexico Department of Transportation in the amount of $19,523.00.

Antonio Salazar, Police Chief The grant funding is to conduct traffic operations throughout the City of Las Vegas.

4. Request to purchase one transport trailer for the Solid Waste Division.

Maria Gilvarry, Utilities Director Solid Waste is in need of additional equipment to include a trailer to haul refuse to Wagon Mound. The cost of the trailer is $131,626.38 and is a budgeted expense.

XIII. EXECUTIVE SESSION

THE COUNCIL MAY CONVENE INTO EXECUTIVE SESSION IF SUBJECT MATTER IS EXEMPT PURSUANT TO THE OPEN MEETINGS ACT.

XIV. ADJOURN

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office prior to the meeting so that arrangements may be made.

ATTENTION PERSONS ATTENDING COUNCIL MEETING: By entering the City Chambers you consent to photography, audio recording, video recording and its/their use for inclusion on the City of Las Vegas website and to be broadcast on YouTube.

NOTE: A final agenda will be posted 72 hours prior to the meeting. Copies of the Agenda may be obtained from City Hall, Office of the City Clerk, 1700 N. Grand Avenue, Las Vegas, NM 87701 or the City's website at **www.lasvegasnm.gov**

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: 2/22/23 **Department:** Executive

Item: Presentation by Jason Vigil with Will Ferguson & Associates Law firm in Albuquerque, NM speaking on the costs associated with the Hermits Peak/Calf Canyon Fire.

Fiscal Impact:

Attachments:

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:
Mayor Louie Trujillo

Reviewed By:

_____
Finance Director

City Manager

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To:_____
Referred To: _____
Denied _____
Other _____

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: 02/28/23 **Department:** Utilities

Item/Topic: Presentation regarding project development and management.

Fiscal Impact: None.

Attachments: None.

Committee Recommendation: This item will be discussed at the March 7, 2023 Utility Advisory Committee Meeting.

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:

_____
Department Director

_____
City Manager

Reviewed By:

_____
Finance Director

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To: _____
Referred To: _____
Denied _____
Other _____

Revised October 2020

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: 02/28/23 **Department:** Utilities

Item/Topic: Presentation regarding water and waste water operations staffing challenges.

Fiscal Impact: None.

Attachments: None.

Committee Recommendation: This item will be discussed at the March 7, 2023 Utility Advisory Committee Meeting.

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:

Department Director

City Manager

Reviewed By:

Finance Director

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To: _____
Referred To: _____
Denied _____
Other _____

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: 2/28/23 **Department:** Executive

Item: Discussion/Direction in regards to legal representation for costs associated with the Hermits Peak/Calf Canyon Fire.

Fiscal Impact:

Attachments:

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:
Mayor Louie Trujillo

City Manager

Reviewed By:

Finance Director

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

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Ordinance No. _____
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Approved _____

Continued To:_____
Referred To: _____
Denied _____
Other _____

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: February 23, 2023 **Department: Police**

Item/Topic: Requesting approval to accept State Appropriations from the Department of Finance and Administration in the amount of $281,250.00 over the next three years for Law Enforcement Recruitment and Retention.

Fiscal Impact: None

Attachments: Allocation Disbursement and House Bill 68

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:

Department Director

City Manager

Reviewed By:

Finance Director

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To: _____
Referred To: _____
Denied _____
Other _____

Revised October 2022

REIMBURSING AGENCY: Department of Finance and Administration

Business Unit: 341

RECIPIENT:

City of Las Vegas

APPROPRIATION NUMBER:	ALLOCATION AMOUNT:	REVERSION DATE:
22-ZG1016-30	**$281,250.00**	**June 30, 2023**

ALLOCATION PURPOSE

Two Hundred Eighty One Thousand Two Hundred Fifty Dollars and Zero Cents over three years to be utilized in accordance with the provisions of HB68. The first allocations will be disbursed at 100% within 5 business days of acceptance of this agreement to include approval of the local governing body.

ALLOCATION DISBURSEMENT

The allocated funds will be disbursed 100% up to $112,500 the first year, 50% up to $112,500 the second year, and 25% up to $56,250 the third year. The Allocation Recipient will submit to the Department of Finance & Administration this signed document and evidence of approval of the local governing body. Disbursements of funds will be made within 5 business days of receipt of the signed agreement and evidence of approval of the local governing body.

Funds for the first disbursement must be expended by June 30, 2023; the second 50% disbursement will be made in July 2023 to be expended by June 30, 2024; and the last disbursement of 25% will be made in July 2024 to be expended by June 30, 2025. Any amount not expended in each of the three years will be returned to the State of New Mexico, Department of Finance and Administration in the year that it is scheduled for reversion. All expenditures must occur prior to the reversion date.

The Allocation Recipient agrees to submit quarterly reports using Exhibit A, Law Enforcement Report, providing updates on expenditures for the eligible activities defined in HB68.

CERTIFICATION

I hereby certify that the **City of Las Vegas**

1. Will only use the allocated funds to carry out and/or perform activities described in allocation language.
2. Will follow the procedure described in "Allocation Reporting" of allocated funds.

Local Law Enforcement Agency — Date: 2-17-2023

Authorized Local Governing Body Authority — Date: 2/17/23

APPROVAL

In accordance with the authority conferred on the Department of Finance & Administration by the statute appropriating these funds, I hereby approve this certification for appropriation number 22-ZG1016-30 in the amount of $281,250.

DocuSigned by: Renee Ward

Local Government Division Director — Date: 2/22/2023

AN ACT

RELATING TO PUBLIC SAFETY; ENHANCING DEATH BENEFITS FOR PEACE OFFICERS, NEW MEXICO MOUNTED PATROL MEMBERS AND RESERVE POLICE OFFICERS; CHANGING DISTRIBUTIONS FROM THE LAW ENFORCEMENT PROTECTION FUND; EXPANDING THE DISTRIBUTION OF THE LAW ENFORCEMENT PROTECTION FUND TO THE NEW MEXICO LAW ENFORCEMENT ACADEMY; EXPANDING THE PURPOSES FOR WHICH A CRIME REDUCTION GRANT MAY BE MADE; CREATING ADDITIONAL JUDGESHIPS IN THE SECOND, FIFTH AND THIRTEENTH JUDICIAL DISTRICTS; CREATING THE LAW ENFORCEMENT RETENTION FUND; PROVIDING A RETENTION DIFFERENTIAL DISBURSEMENT TO CERTAIN LAW ENFORCEMENT OFFICERS; PROVIDING REPORTING REQUIREMENTS; REQUIRING THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ESTABLISH A PROGRAM TO DISTRIBUTE FUNDS TO LOCAL LAW ENFORCEMENT AGENCIES; CREATING THE LAW ENFORCEMENT CERTIFICATION BOARD; CREATING THE NEW MEXICO LAW ENFORCEMENT STANDARDS AND TRAINING COUNCIL; INCREASING THE STATUTE OF LIMITATIONS FOR SECOND DEGREE MURDER; MAKING A THREAT OF A SHOOTING UNLAWFUL; CLARIFYING EXCEPTIONS FOR UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON; CLARIFYING THE PENALTY FOR RECEIPT, TRANSPORTATION OR POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE BY A SERIOUS VIOLENT FELON; ADDING PENALTIES FOR AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER; MAKING AVAILABLE GLOBAL POSITIONING SYSTEM DATA ON DEFENDANTS ON PRETRIAL RELEASE; CLARIFYING NONCAPITAL FELONY SENTENCING

PROVISIONS; PROVIDING FOR A SENTENCING ENHANCEMENT WHEN A FIREARM IS USED DURING THE COMMISSION OF A DRUG TRANSACTION OR SERIOUS VIOLENT OFFENSE; CLARIFYING THAT A FIREARM USED DURING THE COMMISSION OF A DRUG TRANSACTION OR SERIOUS VIOLENT OFFENSE MAY BE SEIZED; ENACTING THE VIOLENCE INTERVENTION PROGRAM ACT; CREATING THE VIOLENCE INTERVENTION PROGRAM FUND; ESTABLISHING APPLICATION AND REPORTING REQUIREMENTS; CREATING THE CRIME OF THREATENING A JUDGE OR IMMEDIATE FAMILY MEMBER OF A JUDGE; CREATING THE CRIME OF MALICIOUS SHARING OF PERSONAL INFORMATION OF A JUDGE OR AN IMMEDIATE FAMILY MEMBER OF A JUDGE; CREATING THE CRIME OF OPERATING A CHOP SHOP; CREATING THE CRIME OF CRIMINAL DAMAGE TO PROPERTY BY THEFT OR ATTEMPTED THEFT OF REGULATED MATERIAL; PROHIBITING A SECONDHAND METAL DEALER FROM PURCHASING OR RECEIVING REGULATED MATERIAL NOT LAWFULLY POSSESSED; PROHIBITING A DEFENSE BASED ON A DEFENDANT'S DISCOVERY OF, KNOWLEDGE ABOUT OR THE POTENTIAL DISCLOSURE OF A VICTIM'S OR WITNESS' GENDER, GENDER IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION; PROHIBITING A DEFENSE BASED ON A DEFENDANT BEING ROMANTICALLY PROPOSITIONED IN A NONVIOLENT OR NON-THREATENING MANNER BY A PERSON OF THE SAME GENDER OR A PERSON WHO IS TRANSGENDER; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Department of Finance

and Administration Act is enacted to read:

"DISTRIBUTION OF FUNDS.--The department of finance and administration shall establish a program to distribute funds for local law enforcement agencies to provide recruitment and retention stipends to law enforcement officers. The program shall establish criteria for distribution of funds appropriated for that purpose, prioritizing recruitment and retention of personnel to increase investigative capacity. The program shall also establish appropriate guidelines on the use of those funds, including recruitment and retention stipends that may be distributed to:

A. a person who is not certified as a law enforcement officer pursuant to the Law Enforcement Training Act upon employment with a law enforcement agency; provided that the recipient successfully obtains such certification;

B. a person who is certified as a law enforcement officer pursuant to the Law Enforcement Training Act upon employment with a law enforcement agency; provided that the recipient remains employed with that agency for three months; and

C. a person who is certified as a law enforcement officer pursuant to the Law Enforcement Training Act currently employed by a law enforcement agency; provided that the law enforcement officer remains employed with that law enforcement officer's current agency for one additional

year."

SECTION 2. Section 9-19-8 NMSA 1978 (being Laws 1987, Chapter 254, Section 8, as amended) is amended to read:

"9-19-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The governor's organized crime prevention commission, the New Mexico law enforcement standards and training council and the law enforcement certification board are administratively attached to the department in accordance with the Executive Reorganization Act."

SECTION 3. Section 29-4A-5 NMSA 1978 (being Laws 1995, Chapter 59, Section 5, as amended) is amended to read:

"29-4A-5. PEACE OFFICERS', NEW MEXICO MOUNTED PATROL MEMBERS' AND RESERVE POLICE OFFICERS' SURVIVORS SUPPLEMENTAL DEATH BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

A. There is created the "peace officers', New Mexico mounted patrol members' and reserve police officers' survivors supplemental death benefits review committee". The committee shall consist of the attorney general, the chief of the New Mexico state police and the state president of the fraternal order of police or their designees.

B. The peace officers', New Mexico mounted patrol members' and reserve police officers' survivors supplemental death benefits review committee shall determine whether a peace officer, New Mexico mounted patrol member or reserve police officer has been killed in the line of duty and advise

the secretary of that determination. In addition to any other death benefits provided by law, the surviving spouse, children or parents shall be paid one million dollars ($1,000,000) as supplemental death benefits whenever a peace officer, New Mexico mounted patrol member or reserve police officer is killed in the line of duty. The benefits shall be paid from the fund.

C. The benefits shall be paid first to the surviving spouse. If there is no surviving spouse, the benefits shall be distributed in pro rata shares to all surviving children. If there are no surviving children or spouse, benefits shall be distributed to the surviving parents of the peace officer, New Mexico mounted patrol member or reserve police officer."

SECTION 4. Section 29-7-3 NMSA 1978 (being Laws 1979, Chapter 202, Section 42, as amended) is amended to read:

"29-7-3. NEW MEXICO LAW ENFORCEMENT STANDARDS AND TRAINING COUNCIL.--

A. There is created the "New Mexico law enforcement standards and training council".

B. The council shall develop and adopt basic training and in-service training standards for police officers and telecommunicators in New Mexico.

C. The council shall consist of the director of the New Mexico law enforcement academy and the directors of

all the satellite law enforcement academies, who shall serve automatically by reason of their position. The remaining seven members of the council shall be appointed by the governor and confirmed by the senate. An appointed council member shall serve and have all of the duties, responsibilities and authority of that office during the period prior to the final action by the senate in confirming or rejecting the appointment. The members appointed by the governor shall consist of one attorney who is currently employed in a district attorney's office; one attorney who is currently employed by the public defender department; one certified police chief of a New Mexico Indian nation, tribe or pueblo; two members who have experience and specialize in providing adult education; and two citizen-at-large members, one of whom shall have experience as a behavioral health provider and neither of whom shall be a police officer or retired police officer or have familial or financial connections to a police officer or any agency or department for which a police officer works. Vacancies shall be filled by the governor for the unexpired term.

D. Appointments to the council shall be for terms of four years or less made in such manner that the terms of not more than two members expire on July 1 of each year.

E. Members of the council shall receive, for their service as members of the council, per diem and mileage as

provided in the Per Diem and Mileage Act."

SECTION 5. Section 29-7-4 NMSA 1978 (being Laws 1969, Chapter 264, Section 6, as amended) is amended to read:

"29-7-4. POWERS AND DUTIES OF COUNCIL.--The council shall:

A. develop a planned program, to be implemented by the director, of:

(1) basic law enforcement training and in-service law enforcement training, a portion of which may be conducted on a regional basis; and

(2) basic telecommunicator training and in-service telecommunicator training, as provided in the Public Safety Telecommunicator Training Act, a portion of which may be conducted on a regional basis;

B. prescribe qualifications for instructors and prescribe courses of instruction for:

(1) basic law enforcement training and in-service law enforcement training; and

(2) basic telecommunicator training and in-service telecommunicator training, as provided in the Public Safety Telecommunicator Training Act;

C. report annually to the governor;

D. in its discretion, accept donations, contributions, grants or gifts from whatever source for the benefit of the academy, which donations, contributions,

grants or gifts are appropriated for the use of the academy; and

E. adopt, publish and file, in accordance with the provisions of the State Rules Act, all rules concerning the implementation and enforcement of Sections 29-7-2 through 29-7-7.7, 29-7-12, 29-7-14, 29-7C-4, 29-7C-5 and 29-7C-7 NMSA 1978."

SECTION 6. A new section of the Law Enforcement Training Act, Section 29-7-4.4 NMSA 1978, is enacted to read:

"29-7-4.4. LAW ENFORCEMENT OFFICER TRAINING.--The curriculum of each basic law enforcement training class and in-service training each year for certified police officers shall include:

A. crisis management and intervention;

B. dealing with individuals who are experiencing mental health issues;

C. methods of de-escalation;

D. peer-to-peer intervention;

E. stress management;

F. racial sensitivity;

G. reality-based situational training; and

H. use of force training that includes the elimination of vascular neck restraints."

SECTION 7. Section 29-7-5 NMSA 1978 (being Laws 1969, Chapter 264, Section 7, as amended) is amended to read:

"29-7-5. POWERS AND DUTIES OF THE DIRECTOR.--The director shall be under the supervision and direction of the secretary of public safety. The director shall:

A. be the chief executive officer of the academy and employ necessary personnel;

B. issue a certificate of completion to any person who:

(1) graduates from an approved basic law enforcement training program and who satisfies the qualifications for certification as set forth in Section 29-7-6 NMSA 1978; or

(2) graduates from an approved basic telecommunicator training program and who satisfies the qualifications for certification as set forth in the Public Safety Telecommunicator Training Act;

C. perform all other acts necessary and appropriate to the carrying out of the director's duties;

D. implement the training standards and requirements developed and adopted by the council; and

E. annually evaluate the courses of instruction being offered by the academy and make necessary modifications and adjustments to the programs."

SECTION 8. Section 29-7-5.1 NMSA 1978 (being Laws 1979, Chapter 202, Section 45, as amended) is amended to read:

"29-7-5.1. REMOVAL OF DIRECTOR.--The director may be

removed by the secretary in accordance with the procedures provided in Section 29-2-11 NMSA 1978 for removal of members of the New Mexico state police holding permanent commissions. In the case of removal proceedings for the director under that section, "commission", as used in Subsections C and D of Section 29-2-11 NMSA 1978, shall be construed to mean the New Mexico law enforcement standards and training council."

SECTION 9. Section 29-7-7 NMSA 1978 (being Laws 1981, Chapter 114, Section 6, as amended) is amended to read:

"29-7-7. DEFINITIONS.--For the purpose of the Law Enforcement Training Act:

A. "academy" means the New Mexico law enforcement academy;

B. "basic law enforcement training" means a course consisting of not less than four hundred hours of instruction in basic law enforcement training as required by the Law Enforcement Training Act;

C. "board" means the law enforcement certification board;

D. "conviction" means an adjudication of guilt or a plea of no contest and includes convictions that are suspended or deferred;

E. "council" means the New Mexico law enforcement standards and training council;

F. "director" means the director of the division;

G. "division" means the New Mexico law enforcement academy of the department of public safety;

H. "in-service law enforcement training" means a course of instruction required of all certified peace officers and designed to train and equip all police officers in the state with specific law enforcement skills and to ensure the continuing development of all police officers in the state. The training and instruction shall be kept current and may be conducted on a regional basis at the discretion of the director;

I. "law enforcement agency" means an agency of the state or local political subdivision of the state that employs certified law enforcement officers or the police department of a tribe that has entered into an agreement with the department of public safety pursuant to Section 29-1-11 NMSA 1978;

J. "police officer" means any commissioned employee of a law enforcement agency that is part of or administered by the state or any political subdivision of the state, and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional law enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal, or traffic or highway laws of this

state. The term specifically includes deputy sheriffs. Sheriffs are eligible to attend the academy and are eligible to receive certification as provided in the Law Enforcement Training Act. As used in this subsection, "commissioned" means an employee of a law enforcement agency who is authorized by a sheriff or chief of police to apprehend, arrest and bring before the court all violators within the law enforcement agency's jurisdiction; and

K. "certified regional law enforcement training facility" means a law enforcement training facility within the state certified by the director, with the approval of the academy's board of directors, that offers basic law enforcement training and in-service law enforcement training that is comparable to or exceeds the standards of the programs of the academy."

SECTION 10. Section 29-7-7.2 NMSA 1978 (being Laws 1981, Chapter 144, Section 8, as amended) is amended to read:

"29-7-7.2. REPORTS.--Every law enforcement agency within the state shall submit quarterly a report to the director and the board on the status of each police officer employed by the law enforcement agency. The reports shall include the status of in-service law enforcement training. The reporting forms and submittal dates shall be prescribed by the board."

SECTION 11. Section 29-7-10 NMSA 1978 (being Laws 1971,

Chapter 247, Section 4, as amended by Laws 1981, Chapter 107, Section 1 and also by Laws 1981, Chapter 114, Section 10) is amended to read:

"29-7-10. CERTIFICATION BY WAIVER.--

A. The board may, with the approval of the council, waive the basic law enforcement training program and certify applicants who are employed as full-time police officers and who furnish evidence of satisfactory completion of a basic law enforcement training program which is comparable to or exceeds the standards of the programs of the academy.

B. All individuals allowed a waiver under this section shall meet the requirements set out in the Law Enforcement Training Act, and this section shall not be construed to exempt them from those requirements in any manner."

SECTION 12. Section 29-7-12 NMSA 1978 (being Laws 1981, Chapter 114, Section 12, as amended) is amended to read:

"29-7-12. CHARGES--FUND CREATED--USE.--

A. The division shall not charge local public bodies or New Mexico Indian tribes or pueblos for any expenses associated with providing basic law enforcement training programs to applicants for certification seeking commission pursuant to the provisions of the Law Enforcement Training Act. The division may charge state agencies and

institutions and federal agencies and shall charge civilian participants for the cost of providing basic law enforcement training programs, which charges shall be specified in a tuition and fee schedule promulgated by the council and shall not exceed the actual cost of providing the training programs.

B. The division may charge state agencies and institutions, local public bodies, New Mexico Indian tribes and pueblos and federal agencies and shall charge civilian participants for the cost of providing advanced training programs, which charges shall be specified in a tuition and fee schedule promulgated by the council and shall not exceed the actual cost of providing the training programs.

C. The division may charge for the rental or other use of the academy's facility, personnel and equipment, which charges shall be specified in a tuition and fee schedule promulgated by the council and shall not exceed the actual cost of the facility, personnel or equipment.

D. The "law enforcement training and recruiting fund" is created in the state treasury. Money received by the division for activities specified in this section shall be deposited in the fund. The department of public safety shall administer the fund, and money in the fund is appropriated to the division to offset the operational costs of the division. Money in the fund shall be nonreverting.

Money shall be expended on warrants issued by the secretary of finance and administration upon vouchers signed by the secretary of public safety or the secretary of public safety's authorized representative.

E. As used in this section, "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions."

SECTION 13. A new section of the Law Enforcement Training Act, Section 29-7-4.3 NMSA 1978, is enacted to read:

"29-7-4.3. LAW ENFORCEMENT CERTIFICATION BOARD--APPOINTMENT--POWERS AND DUTIES.--

A. The "law enforcement certification board" is established and administratively attached to the department of public safety as an independent board in accordance with the Executive Reorganization Act. The board consists of nine members appointed by the governor with the advice and consent of the senate. No more than five members of the board shall be members of the same political party. The members of the board shall be appointed for five-year terms. Two of the initial board members shall be appointed for one-year terms; two of the initial board members shall be appointed for two-year terms; two of the initial board members shall be appointed for three-year terms; two of the initial board members shall be appointed for four-year terms; and one of the initial board members shall be appointed for a five-year

term.

B. The board shall include the following members:

(1) a retired judge, who shall serve as chair of the board;

(2) a municipal peace officer;

(3) a sheriff;

(4) a tribal law peace officer;

(5) an attorney in private practice who practices as a plaintiff's attorney in the area of civil rights or who represents criminal defendants;

(6) an attorney in private practice who represents public entities in civil rights claims; and

(7) an attorney who is employed by the public defender department.

C. The board shall:

(1) deny, suspend or revoke:

(a) a peace officer's certification for just cause as provided in the Law Enforcement Training Act; and

(b) a telecommunicator's certification for just cause as provided in the Public Safety Telecommunicator Training Act; and

(2) conduct investigations, administer oaths and subpoena persons as necessary to make determination regarding fitness of a law enforcement officer to execute a

law enforcement officer's duties.

D. The board may require by subpoena the attendance of witnesses or the production of records and other evidence relevant to an investigation and shall have such other powers and duties and administer or enforce such other acts as further provided by law.

E. The board shall appoint a chief executive officer to assist the board in carrying out its functions. The chief executive officer shall employ persons as necessary to assist the board in carrying out its functions.

F. The board shall adopt, publish and file, in accordance with the provisions of the State Rules Act, all rules concerning the implementation and enforcement of the Law Enforcement Training Act and Public Safety Telecommunicator Training Act except those sections enumerated in Subsection E of Section 29-7-4 NMSA 1978 for which rules shall be adopted, published and filed by the council.

G. The board shall issue or renew a certification to:

(1) graduates from an approved basic law enforcement training program who satisfy the qualifications for certification as set forth in Section 29-7-6 NMSA 1978; or

(2) graduates from an approved basic

telecommunicator training program who satisfy the qualifications for certification as set forth in the Public Safety Telecommunicator Training Act.

H. Members of the board shall receive, for their service as members of the board, per diem and mileage as provided in the Per Diem and Mileage Act."

SECTION 14. Section 29-7C-2 NMSA 1978 (being Laws 2003, Chapter 320, Section 4) is amended to read:

"29-7C-2. DEFINITIONS.--As used in the Public Safety Telecommunicator Training Act:

A. "board" means the law enforcement certification board;

B. "certified" means meeting the training standards established by statute and rule as determined by the board;

C. "council" means the New Mexico law enforcement standards and training council;

D. "director" means the director of the New Mexico law enforcement academy;

E. "dispatch" means the relay of information to public safety personnel by all forms of communication;

F. "safety agency" means a unit of state or local government, a special purpose district or a private business that provides police, firefighting or emergency medical services; and

G. "telecommunicator" means an employee or volunteer of a safety agency who:

(1) receives calls or dispatches the appropriate personnel or equipment in response to calls for police, fire or medical services; and

(2) makes decisions affecting the life, health or welfare of the public or safety employees."

SECTION 15. Section 29-7C-4 NMSA 1978 (being Laws 2003, Chapter 320, Section 6) is amended to read:

"29-7C-4. BASIC TELECOMMUNICATOR TRAINING PROGRAM.--The council shall develop and adopt a basic telecommunicator training program for telecommunicator certification. The program shall be constructed to meet the minimum basic needs of telecommunicators in New Mexico."

SECTION 16. Section 29-7C-5 NMSA 1978 (being Laws 2003, Chapter 320, Section 7) is amended to read:

"29-7C-5. MINIMUM TRAINING STANDARDS FOR CERTIFICATION.--

A. A telecommunicator shall satisfy the qualifications for certification set forth in the Public Safety Telecommunicator Training Act within twelve months after beginning employment and shall provide a certificate of completion to the director.

B. The director shall waive the training requirements set forth in Subsection A of this section for a

police radio dispatcher who is certified as a police radio dispatcher and has met all other requirements set forth by the council."

SECTION 17. Section 29-7C-6 NMSA 1978 (being Laws 2003, Chapter 320, Section 8) is amended to read:

"29-7C-6. CERTIFICATION BY WAIVER.--

A. The board may, with the approval of the council, waive the basic telecommunicator training program and certify applicants who furnish evidence of satisfactory completion of a basic telecommunicator training program that, in the director's opinion, is substantially equivalent to the board's basic telecommunicator training program.

B. A telecommunicator granted a waiver under this section shall meet all other requirements set out in the Public Safety Telecommunicator Training Act."

SECTION 18. Section 29-7C-8 NMSA 1978 (being Laws 2003, Chapter 320, Section 10) is amended to read:

"29-7C-8. REPORTS AND ROSTERS.--

A. A safety agency that operates within the state shall submit a quarterly report to the director and the board on the status of each telecommunicator. The reporting forms and submittal dates shall be prescribed by the director.

B. The director and the board shall maintain a roster of all certified telecommunicators."

SECTION 19. A new section of the Public Safety

Telecommunicator Training Act is enacted to read:

"PUBLIC SAFETY TELECOMMUNICATOR TRAINING.--The curriculum of each basic telecommunicator training class and in-service training each year for telecommunicators shall include:

A. crisis management and intervention;

B. dealing with individuals who are experiencing mental health issues;

C. methods of de-escalation;

D. peer-to-peer intervention;

E. stress management;

F. racial sensitivity; and

G. reality-based situational training."

SECTION 20. Section 29-13-3 NMSA 1978 (being Laws 1983, Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is created in the state treasury the "law enforcement protection fund". Ten percent of all money received for fees, licenses and penalties from life, general casualty and title insurance business pursuant to the New Mexico Insurance Code shall be paid monthly to the state treasurer and credited to the fund. On or before June 30 of each year, the state treasurer shall transfer to the law enforcement retention fund any balance in the law enforcement protection

fund in excess of one hundred thousand dollars ($100,000) that is not obligated for expenses in that current fiscal year."

SECTION 21. That version of Section 29-13-4 NMSA 1978 (being Laws 1993, Chapter 179, Section 6, as amended) that is to become effective July 1, 2022 is amended to read:

"29-13-4. DETERMINATION OF NEEDS AND RATE OF DISTRIBUTION.--

A. Annually on or before April 15, the division shall consider and determine the relative needs as requested by tribal, municipal, school district and university police departments, county sheriff's departments, the department of public safety and the academy for money in the fund in the succeeding fiscal year pursuant to the provisions of Subsections C and E of this section.

B. As necessary during the year, the division shall transfer an amount from the fund to the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund that enables the balance of the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund to be maintained at a minimum balance of three hundred fifty thousand dollars ($350,000) through fiscal year 2023 and one million dollars ($1,000,000) thereafter.

C. The division shall determine the rate of

distribution of money in the fund as follows:

(1) all municipal police, school district police and county sheriff's departments shall be entitled to a rate of distribution of forty-five thousand dollars ($45,000) through fiscal year 2023 and ninety-five thousand dollars ($95,000) thereafter;

(2) university police departments shall be entitled to a rate of distribution of forty-five thousand dollars ($45,000) through fiscal year 2023 and ninety-five thousand dollars ($95,000) thereafter;

(3) the academy shall be entitled to a rate of distribution of twenty-four thousand five hundred dollars ($24,500) to carry out the purposes of Section 29-7-7.7 NMSA 1978 and to a rate of distribution of two hundred thousand dollars ($200,000) to carry out the purposes of the Law Enforcement Training Act;

(4) tribal police departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to one thousand dollars ($1,000) through fiscal year 2023 and one thousand five hundred dollars ($1,500) thereafter for each commissioned peace officer in the tribe. To be counted as a commissioned peace officer for the purposes of this paragraph, a commissioned peace officer shall have been assigned to duty and have worked in New Mexico for no fewer

than two hundred days in the calendar year immediately prior to the date of payment. Payments shall be made for only those divisions of the tribal police departments that perform services in New Mexico. A tribal police department shall not be eligible for any disbursement under the fund if commissioned peace officers cite non-Indians into the tribal court for civil or criminal citations;

(5) municipal, school district and university police and county sheriff's departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to one thousand dollars ($1,000) through fiscal year 2023 and one thousand five hundred dollars ($1,500) thereafter for each police officer or sheriff's deputy employed full time by that department who has been certified by the law enforcement certification board as a police officer or has been authorized to act as a New Mexico peace officer pursuant to the provisions of Section 29-1-11 NMSA 1978; and

(6) municipal police, sheriff's and school district police departments that assign officers as school resource officers shall be entitled to one thousand dollars ($1,000) through fiscal year 2023 and one thousand five hundred dollars ($1,500) thereafter for each assigned school resource officer's training pursuant to Section 29-7-14 NMSA 1978.

D. After distributions are determined in accordance with Subsection A, Subsection B and Paragraphs (1), (2), (3) and (6) of Subsection C of this section, if the balance in the fund is insufficient to permit the total allocations provided by Paragraphs (4) and (5) of Subsection C of this section, the division shall reduce that allocation to the maximum amount permitted by available money.

E. After all distributions have been made in accordance with Subsections A through D of this section, and if the balance in the fund is sufficient, the department of public safety shall be entitled to a rate of distribution of not more than two million dollars ($2,000,000).

F. The division shall confirm, before making any distribution under this section, that the beneficiary is in compliance with all of the beneficiary's statutory reporting requirements, including those described in Subsection C of Section 29-3-11 NMSA 1978, Subsection B of Section 29-7-7.1 NMSA 1978 and Sections 29-7-7.2, 29-7C-7 and 29-7C-8 NMSA 1978."

SECTION 22. That version of Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended by Laws 2020, Chapter 54, Section 1 and by Laws 2020, Chapter 67, Section 6) that is to become effective July 1, 2022 is amended to read:

"29-13-7. EXPENDITURE LIMITATION--CONTROL.--

A. Except as provided for the academy and the department of public safety in Subsections B and C of this section, amounts distributed from the fund shall be expended only for the following:

(1) the repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;

(2) the purchase of law enforcement equipment, including protective vests, for police dogs;

(3) expenses associated with advanced law enforcement planning and training;

(4) maintaining the balance of the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund at a minimum amount of three hundred fifty thousand dollars ($350,000) through fiscal year 2023 and one million dollars ($1,000,000) thereafter;

(5) complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs;

(6) no more than fifty percent of the replacement salaries of municipal and county law enforcement personnel of municipalities or counties participating in basic law enforcement training;

(7) a law enforcement officer retention

differential in the amount of seven thousand five hundred dollars ($7,500); provided that:

(a) the distribution is requested by a municipality or county law enforcement agency to retain a law enforcement officer who is certified in accordance with the Law Enforcement Training Act and has at least twenty years of actual service credit earned under a municipal police member coverage plan as determined by the public employees retirement association;

(b) the municipality or county law enforcement agency provides seven thousand five hundred dollars ($7,500) in matching funds to the law enforcement officer;

(c) the law enforcement officer remains employed with that municipality or county law enforcement agency for one additional year; and

(d) the distribution and the matching funds paid to a law enforcement officer shall not constitute the officer's base salary or wages and shall not be considered to be salary or otherwise be used to determine a pension for the purposes of the Public Employees Retirement Act; and

(8) recruiting, providing stipends for and training law enforcement officers engaged in community-oriented policing; provided that any law enforcement officer

who receives a stipend in accordance with this paragraph remains employed with the law enforcement agency providing the stipend for one additional year.

B. For the academy, amounts distributed from the fund shall be expended only for providing tourniquet and trauma kits and training on the use of tourniquet and trauma kits pursuant to Section 29-7-7.7 NMSA 1978 and to carry out the purposes of the Law Enforcement Training Act.

C. The amount distributed to the department of public safety:

(1) shall:

(a) be used only to offset overtime-pay-related expenses incurred directly by the department of public safety from the special deployment of state police officers or other emergency assistance to counties or municipalities in response to critical circumstances as authorized by the governor; and

(b) not be expended to hire new personnel; and

(2) may be expended for costs, including travel, fuel, overtime, per diem and ammunition.

D. Amounts distributed from the fund shall be expended only pursuant to approved budgets and upon duly executed vouchers approved as required by law."

SECTION 23. Section 30-1-8 NMSA 1978 (being Laws 1963,

Chapter 303, Section 1-8, as amended) is amended to read:

"30-1-8. TIME LIMITATIONS FOR COMMENCING PROSECUTION.--A person shall not be prosecuted, tried or punished in any court of this state unless the indictment is found or information or complaint is filed within the time as provided:

A. for a second degree felony, within six years from the time the crime was committed;

B. for a third or fourth degree felony, within five years from the time the crime was committed;

C. for a misdemeanor, within two years from the time the crime was committed;

D. for a petty misdemeanor, within one year from the time the crime was committed;

E. for any crime against or violation of Section 51-1-38 NMSA 1978, within three years from the time the crime was committed;

F. for a felony pursuant to Section 7-1-71.3, 7-1-72 or 7-1-73 NMSA 1978, within five years from the time the crime was committed; provided that for a series of crimes involving multiple filing periods within one calendar year, the limitation shall begin to run on December 31 of the year in which the crimes occurred;

G. for an identity theft crime pursuant to Section 30-16-24.1 NMSA 1978, within five years from the time the

crime was discovered;

H. for any crime not contained in the Criminal Code or where a limitation is not otherwise provided for, within three years from the time the crime was committed; and

I. for a capital felony, a first degree violent felony or second degree murder pursuant to Subsection B of Section 30-2-1 NMSA 1978, no limitation period shall exist and prosecution for these crimes may commence at any time after the occurrence of the crime."

SECTION 24. Section 30-20-16 NMSA 1978 (being Laws 1975, Chapter 285, Section 1, as amended) is amended to read:

"30-20-16. BOMB SCARES AND SHOOTING THREATS UNLAWFUL.--

A. Making a bomb scare consists of falsely and maliciously stating to another person that a bomb or other explosive has been placed in such a position that property or persons are likely to be injured or destroyed.

B. Making a shooting threat consists of intentionally communicating to another person an intent to bring a firearm to a property or use the firearm with the intent to:

(1) place a person or group of persons in fear of great bodily harm;

(2) prevent or interrupt the occupation or use of a public building; or

(3) cause a response to the threat by a law

enforcement official or volunteer agency organized to deal with emergencies.

C. Whoever commits making a bomb scare is guilty of a fourth degree felony.

D. Whoever commits making a shooting threat is guilty of a misdemeanor.

E. A court may order a person convicted for the offense of making a bomb scare or shooting threat to reimburse the victim of the offense for economic harm caused by that offense.

F. As used in this section, "economic harm" means all direct, incidental and consequential financial harm suffered by a victim of the offense of making a bomb scare or shooting threat. "Economic harm" includes:

(1) wages, salaries or other compensation lost as a result of the commission of the offense of making a bomb scare or shooting threat;

(2) the cost of all wages, salaries or other compensation paid to employees for time that those employees are prevented from working as a result of the commission of the offense of making a bomb scare or shooting threat; and

(3) overhead costs incurred for the period of time that a business is shut down as a result of the commission of the offense of making a bomb scare or shooting threat."

SECTION 25. Section 30-7-2.2 NMSA 1978 (being Laws 1994, Chapter 22, Section 2) is amended to read:

"30-7-2.2. UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON--EXCEPTIONS--PENALTY.--

A. Unlawful possession of a handgun by a person consists of a person knowingly having a handgun in the person's possession or knowingly transporting a handgun, except when the person is:

(1) in attendance at a hunter's safety course or handgun safety course or participating in a lawful shooting activity;

(2) engaging in the use of a handgun for target shooting at an established range authorized by the governing body of the jurisdiction in which the range is located or in an area where the discharge of a handgun without legal justification is not prohibited by law;

(3) engaging in an organized competition involving the use of a handgun;

(4) participating in or practicing for a performance by an organization that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

(5) engaging in legal hunting or trapping

activities;

(6) traveling, with an unloaded handgun in the person's possession, to or from an activity described in Paragraph (1), (2), (3), (4) or (5) of this subsection; or

(7) on real property under the control of the person's parent, grandparent or legal guardian and the person is being supervised by a parent, grandparent or legal guardian.

B. A person who commits unlawful possession of a handgun by a person is guilty of a misdemeanor.

C. As used in this section:

(1) "person" means an individual who is less than nineteen years old; and

(2) "handgun" means a loaded or unloaded pistol, revolver or firearm that will or is designed to or may readily be converted to expel a projectile by the action of an explosion and the barrel length of which, not including a revolving, detachable or magazine breech, does not exceed twelve inches."

SECTION 26. Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT, TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to receive, transport or possess a firearm or destructive device

in this state:

(1) a felon;

(2) a person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

(3) a person convicted of any of the following crimes:

(a) battery against a household member pursuant to Section 30-3-15 NMSA 1978;

(b) criminal damage to property of a household member pursuant to Section 30-3-18 NMSA 1978;

(c) a first offense of stalking pursuant to Section 30-3A-3 NMSA 1978; or

(d) a crime listed in 18 U.S.C. 921.

B. A felon found in possession of a firearm shall be guilty of a third degree felony.

C. A serious violent felon that is found to be in possession of a firearm shall be guilty of a third degree felony, and notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a basic term of six years imprisonment.

D. Any person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted of a crime listed in Paragraph (3) of Subsection A of this section who receives, transports or possesses a

firearm or destructive device is guilty of a misdemeanor.

E. As used in this section:

(1) except as provided in Paragraph (2) of this subsection, "destructive device" means:

(a) any explosive, incendiary or poison gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge of more than four ounces; 4) missile having an explosive or incendiary charge of more than one-fourth ounce; 5) mine; or 6) similar device;

(b) any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell that is generally recognized as particularly suitable for sporting purposes; or

(c) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in this paragraph and from which a destructive device may be readily assembled;

(2) the term "destructive device" does not include any device that is neither designed nor redesigned for use as a weapon or any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar

device;

(3) "felon" means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence;

(4) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon; and

(5) "serious violent felon" means a person convicted of an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978; provided that:

(a) less than ten years have passed since the person completed serving a sentence or a period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a

deferred sentence and completed the total term of deferment as provided in Section 31-20-9 NMSA 1978."

SECTION 27. Section 30-22-1.1 NMSA 1978 (being Laws 2003, Chapter 260, Section 5) is amended to read:

"30-22-1.1. AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER.--

A. Aggravated fleeing a law enforcement officer consists of a person willfully and carelessly driving a vehicle in a manner that endangers the life of another person after being given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or other signal, by a uniformed law enforcement officer in an authorized emergency vehicle pursuant to Section 66-7-6 NMSA 1978 in pursuit in accordance with the provisions of the Law Enforcement Safe Pursuit Act.

B. Whoever commits aggravated fleeing a law enforcement officer that does not result in injury or great bodily harm to another person is guilty of a fourth degree felony.

C. Whoever commits aggravated fleeing a law enforcement officer that results in injury to another person is guilty of a third degree felony."

SECTION 28. A new section of Chapter 31, Article 3 NMSA 1978 is enacted to read:

"AVAILABILITY OF GLOBAL POSITIONING SYSTEM DATA ON

DEFENDANTS ON PRETRIAL RELEASE.--Any public entity that possesses or controls global positioning system data with respect to a defendant on pretrial release shall make that data available without a warrant to a law enforcement officer pursuant to an ongoing and pending criminal investigation for which there is reasonable suspicion to believe the data will be probative. Any data provided to the law enforcement officer shall be limited to data that relates to the criminal investigation and is not more than one year old. The data shall not be made a part of any public record unless admitted as evidence during a criminal trial. The law enforcement officer may request immediate access to the data if it involves an investigation of:

A. any of the following serious violent felony offenses:

(1) murder in the first degree;

(2) first or second degree felony human trafficking of a child;

(3) first degree felony abuse of a child;

(4) sexual exploitation of a child constituting at least a second degree felony; or

(5) a serious violent felony offense as provided in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978;

B. a felony offense during which a firearm

was brandished pursuant to Section 31-18-16 NMSA 1978 or during which a firearm was discharged; or

C. a felony offense during which great bodily harm was inflicted as defined in Section 30-1-12 NMSA 1978 or that caused the death of a person."

SECTION 29. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS DEDUCTIONS.--

A. As used in a statute that establishes a noncapital felony, the following defined felony classifications and associated basic sentences of imprisonment are as follows:

FELONY CLASSIFICATION	BASIC SENTENCE
first degree felony resulting in the death of a child	life imprisonment
first degree felony for aggravated criminal sexual penetration	life imprisonment
first degree felony	eighteen years imprisonment
second degree felony resulting in the death of a human being	fifteen years imprisonment
second degree felony for a sexual	

offense against a child	fifteen years imprisonment
second degree felony for sexual exploitation of children	twelve years imprisonment
second degree felony	nine years imprisonment
third degree felony resulting in the death of a human being	six years imprisonment
third degree felony for a sexual offense against a child	six years imprisonment
third degree felony for sexual exploitation of children	eleven years imprisonment
third degree felony	three years imprisonment
fourth degree felony for sexual exploitation of children	ten years imprisonment
fourth degree felony	eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. A period of parole shall be imposed only for

felony convictions wherein a person is sentenced to imprisonment of more than one year, unless the parties to a proceeding agree that a period of parole should be imposed. If a period of parole is imposed, the court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. If imposed, the period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for

which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars ($17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars ($17,500);

(3) for a first degree felony, fifteen thousand dollars ($15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars ($12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars ($12,500);

(6) for a second degree felony for sexual exploitation of children, five thousand dollars ($5,000);

(7) for a second degree felony, ten thousand

dollars ($10,000);

(8) for a third degree felony resulting in the death of a human being, five thousand dollars ($5,000);

(9) for a third degree felony for a sexual offense against a child, five thousand dollars ($5,000);

(10) for a third degree felony for sexual exploitation of children, five thousand dollars ($5,000);

(11) for a third or fourth degree felony, five thousand dollars ($5,000); or

(12) for a fourth degree felony for sexual exploitation of children, five thousand dollars ($5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written

report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."

SECTION 30. Section 31-18-16 NMSA 1978 (being Laws 1977, Chapter 216, Section 5, as amended) is amended to read:

"31-18-16. USE, BRANDISHING OR DISCHARGE OF FIREARM--ALTERATION OF BASIC SENTENCE--SUSPENSION AND DEFERRAL LIMITED.--

A. When a separate finding of fact by the court or jury shows that a firearm was used in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 shall be increased by one year, except that when the offender is a serious youthful offender or a youthful offender who received an

adult sentence, the sentence imposed by this subsection may be increased by one year.

B. When a separate finding of fact by the court or jury shows that a firearm was brandished in the commission of a noncapital felony, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 shall be increased by three years, except that when the offender is a serious youthful offender or a youthful offender that received an adult sentence, the sentence imposed by this subsection may be increased by one year.

C. When a separate finding of fact by the court or jury shows that a firearm was discharged in the commission of a noncapital felony, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 shall be increased by five years, except that when the offender is a serious youthful offender or a youthful offender who received an adult sentence, the sentence imposed by this subsection may be increased by three years.

D. For a second or subsequent offense, when a separate finding of fact by the court or jury shows that a firearm was used, brandished, or discharged in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the sentence shall be increased by five years, except that when the offender is a serious youthful

offender or a youthful offender, the sentence imposed by this section may be increased by three years.

E. If the case is tried before a jury and if a prima facie case has been established showing that a firearm was used, brandished or discharged in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the court shall submit the issue to the jury by special interrogatory. If the case is tried by the court, the court shall decide the issue and shall make a separate finding of fact thereon.

F. When a separate finding of fact by the court or jury shows that a firearm was used, brandished or discharged in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the firearm is subject to seizure and forfeiture as an instrumentality pursuant to the provisions of the Forfeiture Act.

G. As used in this section:

(1) "brandished" means displaying or making a firearm known to another person while the firearm is present on the person of the offending party with intent to intimidate or injure a person;

(2) "in relation to a drug transaction" means participating or attempting to participate in the

trafficking of a controlled substance pursuant to Section 30-31-20 NMSA 1978, distribution of a controlled substance to a minor pursuant to Section 30-31-21 NMSA 1978 or distribution of a controlled or counterfeit substance pursuant to Section 30-31-22 NMSA 1978 as a seller, purported seller or as an accomplice; and

(3) "serious violent offense" means an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978."

SECTION 31. Section 31-28-1 NMSA 1978 (being Laws 2019, Chapter 192, Section 5) is amended to read:

"31-28-1. SHORT TITLE.--Chapter 31, Article 28 NMSA 1978 may be cited as the "Crime Reduction Grant Act"."

SECTION 32. Section 31-28-4 NMSA 1978 (being Laws 2019, Chapter 192, Section 8) is amended to read:

"31-28-4. APPLICATIONS FOR GRANTS--PURPOSES--CONDITIONS.--

A. A member of a criminal justice coordinating council with the consent of the council may apply to a grant administration agency for a grant to accomplish any of the enumerated purposes provided in Subsection B of this section.

B. Crime reduction grants may be made to:

(1) develop, expand and improve evidence-based treatment and supervision alternatives to incarceration;

(2) reduce barriers to participation by criminal offenders in preprosecution diversion or specialty court programs;

(3) develop or improve pretrial service programs;

(4) develop or improve coordination of services between law enforcement agencies and treatment programs;

(5) establish law enforcement crisis intervention teams;

(6) coordinate access to programs for transitional or reentry homes for individuals recently released from incarceration;

(7) recruit or retain law enforcement officers, prosecutors, public defenders, corrections officers and mental health workers;

(8) develop or expand data-driven policing programs and pretrial services;

(9) staff a criminal justice coordinating council; and

(10) purchase equipment or provide training to support any of the purposes provided in this section.

C. Crime reduction grants shall be conditioned on the criminal justice coordinating council and the recipient member complying with the following:

(1) using not more than five percent of a grant for administrative costs of the recipient;

(2) in consultation with the commission, developing data-sharing agreements and methods of data sharing among criminal justice agencies and with the commission to allow system-wide analysis of criminal justice operations within the judicial district and statewide;

(3) using or developing evidence-based best practices for any programs operated with crime reduction grants;

(4) developing performance measures in consultation with the commission and the grant administration agency relevant to the grantee's application;

(5) collecting data to evaluate the effectiveness of programs operated with crime reduction grants;

(6) evaluating quarterly the process, outputs, outcomes and other performance measures of programs funded with grants for compliance with all provisions of the Crime Reduction Grant Act;

(7) providing a quarterly report to the commission for review and comparison with other programs receiving grants for similar purposes; and

(8) providing an annual report to the grant administration agency by October 1 of each year regarding

program outcomes from use of the grant.

D. The commission shall assist with the implementation of data-sharing agreements to ensure compliance with crime reduction grants.

E. Each grant administration agency shall identify and require the use or development of evidence-based best practices for programs operated with crime reduction grants distributed by that grant administration agency.

F. A grant administration agency may consider any outcome reported to it by a grant recipient from a previous year in making a determination of whether to make subsequent grants or the amount of a subsequent grant."

SECTION 33. Section 34-6-5 NMSA 1978 (being Laws 1968, Chapter 69, Section 8, as amended) is amended to read:

"34-6-5. JUDGES--SECOND JUDICIAL DISTRICT.--There shall be thirty district judges in the second judicial district."

SECTION 34. Section 34-6-8 NMSA 1978 (being Laws 1968, Chapter 69, Section 11, as amended) is amended to read:

"34-6-8. JUDGES--FIFTH JUDICIAL DISTRICT.--There shall be twelve district judges in the fifth judicial district."

SECTION 35. Section 34-6-16 NMSA 1978 (being Laws 1971, Chapter 52, Section 3, as amended) is amended to read:

"34-6-16. JUDGES--THIRTEENTH JUDICIAL DISTRICT.--There shall be nine district judges in the thirteenth judicial district."

SECTION 36. A new section of the Department of Public Safety Act is enacted to read:

"LAW ENFORCEMENT RETENTION FUND--CREATED--RETENTION DIFFERENTIAL DISBURSEMENT--REPORTING.--

A. The "law enforcement retention fund" is created in the state treasury. The fund consists of money appropriated by the legislature, federal money granted to the state for the purposes of the fund, income from investment of the fund and money otherwise accruing to the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The department shall administer the fund to provide:

(1) retention differential disbursements for law enforcement officers meeting certain levels of tenure; and

(2) support for disbursement administration processes and reporting compliance.

B. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of public safety.

C. Contingent on the completion of reporting requirements provided in Subsection G of this section, the department shall determine and distribute annually the amount necessary to provide to a law enforcement agency for the

purpose of providing a retention differential disbursement to law enforcement officers employed by that law enforcement agency. A law enforcement agency shall expend funding received for no other purpose than that permitted by this section, and any unexpended balance received by a law enforcement agency pursuant to this section at the end of a fiscal year shall revert to the law enforcement retention fund. The department shall monitor the use of funding and ensure the proper reversions to the law enforcement retention fund.

D. A law enforcement officer shall receive a retention differential disbursement in the amount of five percent of the law enforcement officer's salary upon reaching four, nine, fourteen and nineteen years of service from the anniversary of the law enforcement officer's date of hire with that law enforcement agency; provided that:

(1) the law enforcement officer remains employed as a law enforcement officer with that same law enforcement agency for one additional year; and

(2) the retention differential disbursement shall be calculated based on the salary of the law enforcement officer on those dates.

E. After the calculations for retention differential disbursements are made in accordance with Subsection D of this section, if the balance in the fund is

insufficient to permit the total disbursements provided by Subsection D of this section, the department shall reduce that allocation to the maximum amount permitted by available money in the fund.

F. The amount provided for a retention differential disbursement shall include the amount of employer tax liabilities, which shall be paid by the employer at the time the retention differential disbursement is provided to the law enforcement officer.

G. To receive funding pursuant to Subsection C of this section, a law enforcement agency shall make that request to the department prior to June 1 of each fiscal year, and in that request, the agency shall report the following:

(1) the number of officers that are projected to become eligible for a retention differential disbursement in the upcoming fiscal year and the projected amount of the retention differential disbursement, including any employer tax liabilities;

(2) the number of law enforcement officers employed by the law enforcement agency for the last five years;

(3) the number of years of service of each law enforcement officer employed by the law enforcement agency;

(4) the number of law enforcement officers that left the employ of the law enforcement agency in the last year and the stated reasons why each law enforcement officer left the employ of the law enforcement agency;

(5) the number of years of service of each law enforcement officer that left the employ of the law enforcement agency in the last year;

(6) the number of applicants to the law enforcement agency in the last year;

(7) the number of applicants to the law enforcement agency in the last year that attended a law enforcement academy;

(8) the number of law enforcement officers that received one or more certifications in the last year;

(9) the number of law enforcement officers added to the law enforcement agency via lateral transfer and the years of service of each law enforcement officer at each previous law enforcement agency;

(10) any changes to compensation, recruiting, retention or benefits implemented by the law enforcement agency in the last year; and

(11) any other information that is used for determining retention rates unless disclosure of such information is otherwise prohibited by law.

H. The department shall:

(1) provide forms, standards and procedures and related training to law enforcement agencies as necessary for the agencies to report retention information;

(2) maintain the privacy and security of information in accordance with applicable state and federal laws; and

(3) adopt and promulgate rules as necessary to implement the provisions of this section.

I. The annual report and other statistical data reports generated by the department shall include an evaluation of a program's efficacy in law enforcement retention and shall be made available to law enforcement agencies and the public.

J. The department shall provide monthly reports to the department of finance and administration and the legislative finance committee about expenditures from the law enforcement retention fund, including an itemized list of expenditures and the balance remaining in the fund.

K. The department may waive reporting information required by a law enforcement agency pursuant to Subsection G of this section; provided that the department shall provide an explanation of its decision in writing.

L. The department shall submit an annual report providing information collected pursuant to Subsection G of this section to the governor and the legislature no later

than December 15 of each year.

M. As used in this section:

(1) "law enforcement agency" means an agency of the state or local political subdivision of the state that employs certified law enforcement officers or the police department of a tribe that has entered into an agreement with the department pursuant to Section 29-1-11 NMSA 1978;

(2) "law enforcement officer" means a full-time salaried public employee of a law enforcement agency, or a certified part-time salaried police officer employed by a law enforcement agency, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes; and

(3) "retention differential disbursement" means the amount disbursed from the law enforcement retention fund based on a law enforcement officer's service at a law enforcement agency but is not considered salary for the purpose of calculating retirement benefits."

SECTION 37. A new section of Chapter 34, Article 9 NMSA 1978 is enacted to read:

"CRITERIA FOR DISTRIBUTION OF GRANTS.--The administrative office of the courts shall establish criteria for the distribution of grants supporting pretrial services statewide and develop a framework for the standardization of pretrial services and supervision, including performance

measurement and reporting. The framework and criteria for grant distribution shall incorporate national best practices and modify them as needed and shall explore the use of electronic location monitoring or other modes of pretrial services to enhance the certainty and celerity of punishment of low-level offenses with minimal impact on correctional institutions."

SECTION 38. SHORT TITLE.--Sections 38 through 46 of this act may be cited as the "Violence Intervention Program Act".

SECTION 39. DEFINITIONS.--As used in the Violence Intervention Program Act:

A. "commission" means the New Mexico sentencing commission;

B. "community-based service provider" means an entity that is eligible to be awarded a contract to provide services that accomplish the purposes of the Violence Intervention Program Act;

C. "department" means the department of health; and

D. "grantee" means a state agency, county, municipality or tribal government that has applied for and received funding pursuant to the Violence Intervention Program Act for the purposes of addressing gun violence and aggravated assaults in a locally focused geographic area.

SECTION 40. VIOLENCE INTERVENTION PROGRAM FUND--CREATED--PURPOSE.--The "violence intervention program fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations. The department shall administer the fund, and money in the fund is appropriated to the department to administer the provisions of the Violence Intervention Program Act and award violence intervention program grants to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of health. The department may expend no more than three percent of the balance of the fund each fiscal year for administering the Violence Intervention Program Act. No money in the fund may be expended in any way except as provided by the Violence Intervention Program Act.

SECTION 41. VIOLENCE INTERVENTION PROGRAM REQUIREMENTS.--A violence intervention program shall:

A. use an evidence- or research-based public health approach to reduce gun violence and aggravated assaults;

B. use focused deterrence, problem-oriented

policing and proven law enforcement strategies to reduce gun violence and aggravated assaults;

C. target a population that is at high risk for victimization or retaliation that results from gun violence or aggravated assault through engaging in the cycles of violence in the community;

D. use data-driven methods for program development; and

E. use program funding in a manner that is directly related to the reduction of gun violence and aggravated assaults.

SECTION 42. GRANT AWARDS.--

A. On or after July 1, 2022, the department shall receive and review applications for grants from the violence intervention program fund. The department may make grants from the fund to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults.

B. The department shall make awards of grants from the fund in accordance with the following limitations:

(1) grant awards shall be made to at least two counties, municipalities or tribal governments with a population of fifty thousand or less according to the most recent annual university of New Mexico intercensal population

estimate;

(2) at least twenty percent of the total annual amount appropriated to the fund shall be awarded to counties or municipalities with a population of five hundred forty thousand or greater according to the most recent federal decennial census; and

(3) the department of health shall utilize the funds in accordance with department of finance and administration guidelines.

SECTION 43. APPLICATION REQUIREMENTS.--

A. Each application for a grant from the violence intervention program fund shall include:

(1) clearly defined, measurable objectives for a proposal to improve public health and safety through evidence-based violence reduction interventions;

(2) a comprehensive violence reduction strategic plan, including consistent quality improvement and quality assurance measures, and a description of the strategies and tasks developed by a state agency, county, municipality or tribal government describing the goals of the plan, including community-based services or joint community-based services and law enforcement intervention strategies;

(3) a description of how a grant award would be used if awarded; and

(4) a list of community-based service

providers in the locally focused geographic area in which the grant funds would be used, including those with an expressed commitment to participating in a violence intervention program.

B. The commission shall provide state agencies, counties, municipalities and tribal governments with data relevant to grant applications.

C. An applicant shall notify the appropriate criminal justice coordinating council established pursuant to Section 31-28-3 NMSA 1978 of its grant application.

SECTION 44. CONDITIONS OF GRANT.--

A. As a condition of each grant made pursuant to the Violence Intervention Program Act, the department shall require each grantee to use at least fifty percent of its grant for the purpose of entering into contracts with one or more community-based service providers.

B. Each grantee shall report to the appropriate criminal justice coordinating council established pursuant to Section 31-28-3 NMSA 1978 regarding outcomes of the grant.

C. A grant may be awarded to a county or municipality, but shall not be awarded to both a county and a municipality falling within the county.

SECTION 45. RULES.--The department shall adopt rules necessary to administer the provisions of the Violence Intervention Program Act, including standardized rules

pertaining to the collection and sharing of data by grantees.

SECTION 46. REPORTS.--

A. Each grantee shall report to the department and the commission by November 1 of each year regarding the:

(1) purpose and amount of each grant received by the grantee for the previous fiscal year; and

(2) processes, outputs and outcomes resulting from each grant approved by the department for the previous fiscal year, including relevant data as required by department rules.

B. Each year through 2027, the department and the commission shall report to the legislature by December 1 regarding the awards and outcomes of each grantee.

SECTION 47. A new section of the Criminal Code is enacted to read:

"THREATENING A JUDGE OR AN IMMEDIATE FAMILY MEMBER OF A JUDGE--PENALTY.--

A. No person shall threaten a judge or the immediate family member of a judge with the intent to:

(1) place the judge or the immediate family member of a judge in fear of great bodily harm to the judge or to an immediate family member of the judge;

(2) prevent or interrupt the ability to carry out the judge's job duties; or

(3) retaliate against a judge on account of

the performance of the judge's official duties during the judge's term of service.

B. A person who violates the provisions of this section is guilty of a fourth degree felony.

C. As used in this section:

(1) "immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild, and "immediate family member" includes a stepparent, a stepchild, a stepsibling and an adoptive relationship;

(2) "judge" means a current or former justice, judge, magistrate, domestic violence special commissioner or hearing officer; and

(3) "retaliate" means intentionally threatening bodily injury to or damage to the property of a judge or a family member of a judge with the intent to retaliate against the judge for the judge's exercise of the judge's judicial duties and causing the judge or the family member to reasonably believe that the judge's or the family member's person or property is in danger."

SECTION 48. A new section of the Criminal Code is enacted to read:

"MALICIOUS SHARING OF PERSONAL INFORMATION OF A JUDGE OR AN IMMEDIATE FAMILY MEMBER OF A JUDGE--PENALTY.--

A. No person shall share the personal information of a judge or an immediate family member of a judge with the

intent to:

(1) cause harm to the judge or an immediate family member of a judge;

(2) place the judge or an immediate family member of a judge in fear of great bodily harm to the judge or to an immediate family member of the judge; or

(3) prevent or interrupt the ability to carry out the judge's job duties.

B. A person who violates the provisions of this section is guilty of a misdemeanor.

C. As used in this section:

(1) "immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild, and "immediate family member" includes a stepparent, a stepchild, a stepsibling and an adoptive relationship;

(2) "judge" means a current or former justice, judge, magistrate, domestic violence special commissioner or hearing officer; and

(3) "personal information" means a person's personal physical address, personal phone number or physical location."

SECTION 49. A new section of the Criminal Code is enacted to read:

"OPERATING A CHOP SHOP--PENALTY.--

A. Operating a chop shop consists of a person

owning, operating, maintaining, controlling or conducting operations in a chop shop, who knows or should have known that it is a chop shop.

B. Whoever commits operating a chop shop is guilty of a third degree felony.

C. As used in this section:

(1) "chop shop" means a premises where a person possesses, receives, stores, disassembles or alters an unlawfully obtained motor vehicle or vehicle as defined in the Motor Vehicle Code, including the alteration or concealment of any identifying feature or number, including the manufacturer's serial number, engine number, decal or other distinguishing number or identification mark or number placed under assignment of the motor vehicle division of the taxation and revenue department; and

(2) "unlawfully obtained" means obtained by theft, fraud or deceit or obtained without the permission of the owner.

D. Nothing in this section shall be construed to preclude a claim made pursuant to any other section of law."

SECTION 50. A new section of the Criminal Code is enacted to read:

"CRIMINAL DAMAGE TO PROPERTY BY THEFT OR ATTEMPTED THEFT OF REGULATED MATERIAL--PENALTY.--

A. Criminal damage to property by theft or

attempted theft of regulated material consists of the unlawful taking or attempted taking of any regulated material from another that results in any damage to real or personal property. Whoever commits criminal damage to property by theft or attempted theft of regulated material resulting in property damage or property loss, based on the fair market value of that damage or loss, in an amount of:

(1) less than one thousand dollars ($1,000) is guilty of a petty misdemeanor;

(2) one thousand dollars ($1,000) or more but less than two thousand five hundred dollars ($2,500) is guilty of a misdemeanor; or

(3) two thousand five hundred dollars ($2,500) or more is guilty of a fourth degree felony.

B. For the purposes of this section:

(1) "aluminum material" means wire or coil products made from aluminum, an aluminum alloy or an aluminum byproduct;

(2) "copper or brass material" means:

(a) insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at least twenty-five percent copper; or

(b) a copper or brass item of a type commonly used in construction or by a public utility,

commercial mobile radio service carrier or common carrier;

(3) "regulated material" means:

(a) aluminum material;

(b) copper or brass material;

(c) steel material;

(d) a utility access cover;

(e) a water meter cover;

(f) a road or bridge guard rail;

(g) a highway or street sign;

(h) a traffic directional or control sign or signal; or

(i) a catalytic converter that is not part of an entire motor vehicle; and

(4) "steel material" means infrastructure-grade or construction products made from an alloy of iron, chromium, nickel or manganese.

C. Nothing in this section shall be construed to preclude a claim made pursuant to any other section of law."

SECTION 51. Section 57-30-2.4 NMSA 1978 (being Laws 2012, Chapter 29, Section 16 and Laws 2012, Chapter 33, Section 16) is amended to read:

"57-30-2.4. RESTRICTED TRANSACTIONS--ADDITIONAL DOCUMENTATION REQUIRED.--

A. A secondhand metal dealer shall not purchase any of the following without written documentation indicating

that the seller is the rightful owner or has permission from the rightful owner and that the material was otherwise lawfully obtained:

(1) infrastructure grade regulated material that has been burned to remove insulation, unless the seller can produce written proof that the regulated material was lawfully burned;

(2) regulated material where the manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon the material have been conspicuously removed or altered;

(3) regulated material marked with the name, initials or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, a railroad or a governmental entity;

(4) a utility access cover;

(5) a water meter cover;

(6) a road or bridge guard rail;

(7) a highway or street sign;

(8) a traffic directional or control sign or signal;

(9) a metal beer keg that is clearly marked as being the property of the beer manufacturer; or

(10) a catalytic converter that is not part

of an entire motor vehicle.

B. The department shall promulgate rules that more specifically describe the type of documentation required before a secondhand metal dealer may engage in a transaction described in this section.

C. A secondhand metal dealer shall not purchase or otherwise receive any regulated material that the secondhand metal dealer knows is not lawfully possessed by the person offering to sell or provide the regulated material."

SECTION 52. A new section of Chapter 30, Article 1 NMSA 1978 is enacted to read:

"DEFENSE BASED ON VICTIM'S GENDER, GENDER IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION PROHIBITED.--

A. It shall not be a defense, justification or excuse in a criminal proceeding that the defendant's conduct was a reaction to the discovery of, knowledge about or potential disclosure of a victim's or witness's actual or perceived:

(1) gender;

(2) gender expression;

(3) gender identity; or

(4) sexual orientation.

B. It shall not be a defense, justification or excuse in a criminal proceeding that the defendant was romantically propositioned in a nonviolent or non-threatening

manner by a person of the same gender or a person who is transgender.

C. Nothing in this section shall prevent a defendant from raising other recognized affirmative defense.

D. As used in this section:

(1) "gender expression" means the external appearance of a person's gender identity, often expressed through the person's behavior, physical appearance or voice, which expression may or may not conform to socially defined behaviors and characteristics typically associated with masculinity or femininity;

(2) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth; and

(3) "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

SECTION 53. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 21, 22 and 33 through 35 of this act is July 1, 2022.

B. The effective date of the provisions of

Sections 2 through 6 and 7 through 20 of this act is July 1, 2023.

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: February 23,2023 **Department: Police**

Item/Topic: Requesting approval to accept a Project Agreement from the New Mexico Department of Transportation in the amount of $19,523.00 in order to conduct traffic operations throughout the City of Las Vegas.

Fiscal Impact: None

Attachments: Award Letter and Project Agreement

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:

_____
Department Director

_____
City Manager

Reviewed By:

_____
Finance Director

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To:_____
Referred To: _____
Denied _____
Other _____

Revised October 2022

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New Mexico DEPARTMENT OF TRANSPORTATION
MOBILITY FOR EVERYONE

September 13, 2022

Las Vegas PD
Chief Antonio Salazar
318 Moreno Street
Las Vegas, NM 87701

RE: Project Agreement

Dear Coordinator:

Enclosed is the project agreement for the federal 2023 fiscal year. This letter contains information required to meet Federal Funding Accountability and Transparency Act (FFATA) and 2 CFR Part 200 requirements. Please provide a copy of this letter to the person responsible for meeting those requirements at your City, County, Town or Tribal agency. The following table contains the information necessary to meet these requirements.

Project Number	Funding Source	CFDA #	FAIN	Award Date	Amount
03-AL-64-050	BIL 164 Transfer Funds	20.608	69A37522300001640NMA	5/16/2022	$10,742.00
03-OP-RF-050	State Road Fund				$3,079.00
03-PT-RF-050	State Road Fund				$5,702.00

2 CFR Subpart F 200.500-521
(a) Audit required. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) *Program-specific audit election.* When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

Michelle Lujan Grisham
Governor

Ricky Serna
Cabinet Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
District 1

Bruce Ellis
Commissioner
District 2

Hilma E. Chynoweth
Commissioner
District 3

Walter G. Adams
Commissioner, Chairman
District 4

Thomas C. Taylor
Commissioner
District 5

Charles Lundstrom
Commissioner, Secretary
District 6

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New Mexico DEPARTMENT OF TRANSPORTATION
MOBILITY FOR EVERYONE

(d) Exemption when Federal awards expended are less than $750,000. A non-Federal entity that expends less than $750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

If expenditures are less than $750,000 during your agency's fiscal year 2022, please submit a statement to the Traffic Safety Division at the address listed on this letterhead. The Statement should read, "We did not meet the $750,000 expenditure threshold and therefore we are not required to have a single audit performed for FY {22}."

Your agency must submit copies of any audits and review reports which they have had prepared to the Department for informational purposes if requested regardless of whether the criteria for audit or review are met.

Operational Plan
Your agency is required to develop an operational plan to include a jurisdiction-specific performance goal, problem statement, problem identification and basic crash data upon which the project is based. Performance goals should be specific, measurable, action-oriented, realistic, and time-bound.

Performance Indicators
The Department has implemented performance indicators on Department funded law enforcement projects. The performance indicators are as follows:
ENDWI 1 DWI in 36 hours
BKLUP 1 seat belt or child restraint citation for every 2 hours of enforcement worked.
STEP 2 citations or warnings for every hour of enforcement worked.

At no time does the New Mexico Department of Transportation require an individual officer to issue a specific number of citations during an enforcement period.

We look forward to working with you to prevent injuries and fatalities. Thank you for your cooperation.

Sincerely,

DocuSigned by:
Jeff Barela
E291EAE03FAF441...

Jeff Barela, Director
Traffic Safety Division

Enclosure

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Office of General Counsel Contract Brief Form

Date: September 13, 2022 From: Kimberly Wildharber **Location: Traffic Safety Division**

Phone: 505-490-1121 **Agency: NMDOT**

Contractor: Las Vegas, City of

Project No.: 03-AL-64-050 03-OP-RF-050 03-PT-RF-050

NEW CONTRACT
__ Copy of RFP, if applicable
__ Copy of approved sole source justification
__ Copy of approved small purchase justification
__ Copy of Contract Brief signed by Contract Administration

AMENDMENT TO EXISTING CONTRACT
__ Scope of Work
__ Additional Compensation
__ Time extension
Note: For amendments please attach a copy of the original agreement, any previous amendments, and a copy of the RFP. (If applicable)

X EXEMPT FROM PROCUREMENT PROCESS (university: other educational institutions; other state agency, bureau; local public bodies).

The Office of General Counsel's policy for turnaround time is ten (10) working days. Please indicate below if there are extenuating circumstances, which require immediate review of this agreement.

Attorney Review Comments

The attached agreement is being returned for revisions or corrections. Please call at (505) 469-6411 if you have any questions.
____Please make corrections on pages _
____I have signed the agreement with the understanding that you will make the corrections indicated on the agreement submitted for review or discussed with you.
____Please make corrections on pages and return the marked copy to the receptionist for further review and approval.

Other Comments

DocuSign Envelope ID: DA9355 7A-7F7C-4FD4-B51A-0F5110CDFACB

CONTRACT NUMBER: TS05109

UNIQUE ENTITY IDENTIFIER: N6LCHKCKGJV7

SUPPLIER: 54343

GRANT AGREEMENT

This Grant Agreement (**Agreement**) is between the New Mexico Department of Transportation (**Department**) and Las Vegas, City of (**Grantee**), collectively referred to as the "parties." This Agreement is effective as of the date of the last party to sign it on the signature page below. The Department and the Grantee agree as follows:

1. **Award.** The Department hereby awards the Grantee funding for the following projects:

   a. End Driving While Impaired (**ENDWI**), Project No. 03-AL-64-050 $10,742.00

   b. Buckle Up (**BKLUP**)/Click It or Ticket (**CIOT**), Project No. 03-OP-RF-050 $3,079.00

   c. Selective Traffic Enforcement Program (**STEP**), Project No. 03-PT-RF-050 $5,702.00

   d. Total Funding awarded per this Agreement $19,523.00

2. **Scope of Work.** The Grantee shall perform the professional services stated in the following exhibits: **Exhibit A** - ENDWI; **Exhibit B** - BKLUP/CIOT; **Exhibit C** - STEP.

3. **Payment.** To be reimbursed for eligible expenses, the Grantee must submit timely and properly prepared reimbursement requests as provided in the Department's Electronic Grant Management System or the Traffic Safety Division Financial Management Manual 2019, as directed by the Department. The Grantee acknowledges that the Department will not pay for any expenses incurred prior to both Parties signing the Agreement, after termination of the Agreement, or in excess of the amount of the award noted in Section 1. The Grantee must submit its final reimbursement request no later than forty-five (45) calendar days after termination of this Agreement, unless otherwise approved by the Department.

4. **Records and Audit.** The Grantee shall strictly account for all receipts and disbursements related to this Agreement. The Grantee shall record costs incurred, services rendered, and payment received. The Grantee shall maintain these financial records during the term of this Agreement and for three (3) years from the date of submission of the final reimbursement request. On request, the Grantee shall provide the financial records to the Department and the state auditor, and shall allow the Department and the state auditor to inspect or audit these financial records during business hours at the Grantee's principal office during the term of this Agreement and for three (3) years from the date of submission of the final reimbursement request. If the financial records provided by the Grantee are insufficient to support an audit by customary accounting practices, the Grantee shall reimburse the Department for any expense incurred related to the insufficient documentation within thirty (30) calendar days of written notice from the Department. If an audit or inspection reveals that funds were used for expenses not directly related to the project or were used inappropriately, or that payments were excessive or otherwise erroneous, the Grantee shall reimburse the Department for those funds or payments within thirty (30) calendar days of written notice.

5. **Officials Not to Benefit.** The parties intend that no member of the New Mexico legislature or the United States Congress, or any public official, public employee or tribal council member, in that person's individual capacity, will benefit from this Agreement.

6. **Termination.** The Department may terminate this Agreement for any reason, by giving the Grantee thirty (30) calendar days written notice. On receipt of a "Notice of Cancellation," the Grantee shall suspend work unless otherwise directed by the Department in writing. The Grantee may only terminate this Agreement based on the Department's uncured, material breach of the Agreement and by giving the Department thirty (30) calendar days' written notice. The Parties acknowledge that termination will not nullify obligations incurred prior to termination, including any obligations intended to survive termination of the Agreement, including but not limited to Section 4 and Section 11.

7. **Appropriations.** The Grantee acknowledges that:

   a. this Agreement is contingent upon sufficient appropriations and authorizations being made by the Congress of the United States or the New Mexico state legislature;
   b. if sufficient appropriations and authorizations are not made, this Agreement will terminate upon written notice by the Department to the Grantee; and
   c. the Department will not expend any funds until approved for expenditure, and the Department's determination as to whether approval has been granted will be final.

8. **Compliance with Law.** The Grantee, its employees, agents and contractors, shall comply with the following:

   a. Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, and 49 C.F.R. Section 21;
   b. all applicable federal and state laws, rules, regulations, and executive orders pertaining to equal employment opportunity, including the Human Rights Act, NMSA 1978, Sections 28-1-1 through 28-1-15, and in accordance with such, the Grantee states that no person, on the grounds of race, religion, national origin, sex, sexual orientation, gender identity, spousal affiliation, serious medical condition, age, disability, or other protected class will be excluded from employment with or participation in, denied the benefits of, or otherwise subjected to, discrimination in any activity performed under this Agreement; if the Grantee is found to be in violation of any of these requirements, the Grantee shall take prompt and appropriate steps to correct such violation, subject to Section 6 above;
   c. state laws applicable to workers compensation benefits for the Grantee's employees, including the Workers' Compensation Act, NMSA 1978, Sections 52-1-1 through 52-1-70, and related rules;
   d. 2 C.F.R. 200, Subpart F - Audit Requirements, Sections 200.500 - 200.521; and
   e. those sections in Appendix A to Part 1300 labeled "applies to subrecipients as well as states."

9. **Notices.** For a notice under this Agreement to be valid, it must be in writing; be delivered by hand, registered or certified mail postage prepaid, fax or email; and be addressed as follows:

to the Department at:	to the Grantee at:
New Mexico Dept. of Transportation	Las Vegas PD
Attn: Traffic Safety Division	Attn: Chief Antonio Salazar
P.O. Box 1149	318 Moreno Street
Santa Fe, NM 87504	Las Vegas, NM 87701

10. **Severability**. The terms of this Agreement are lawful; performance of all duties and obligations shall confirm with and do not contravene any state, local, or federal statute, regulation, rule, or ordinance. The parties intend that if any provision of this Agreement is held to be unenforceable, the rest of the Agreement will remain in effect as written.

11. **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 the Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*, as amended, and any other applicable law. This section is intended only to define the liabilities between the parties and it is not intended to modify in any way, the Parties' liabilities as governed by law.

12. **Project Responsibility.** The Grantee acknowledges that it bears sole responsibility for performing the services referred to in Exhibits A, B and C, Scope of Work, Training, Reimbursement and Reporting.

13. **Term.** This Agreement takes effect as of the date the last party to sign it on the signature page below. The grantee may not start work until directed to by the Department. The Agreement terminates at 12:00 a.m. on September 30, 2023, unless earlier terminated as provided in Section 6 or Section 7.

14. **Applicable Law.** The laws of the state of New Mexico, without giving effect to its choice of law provisions, govern all adversarial proceedings arising out of this Agreement.

15. **Jurisdiction and Venue.** The Grantee acknowledges the jurisdiction of the courts of the state of New Mexico for any adversarial proceeding arising out of this Agreement, and that venue for any such proceeding will be in the First Judicial District Court for the county of Santa Fe, New Mexico.

16. **Amendment.** No amendment of this Agreement will be effective unless it is in writing and signed by the parties.

17. **No Third-party Beneficiary**. This Agreement does not confer any rights or remedies on anyone other than the Department and the Grantee.

18. **Scope of Agreement and Merger.** This Agreement incorporates all the agreements, covenants, and understanding between the parties concerning the subject matter of this Agreement. No prior

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agreements or understandings, verbal or otherwise, of the parties or their agents will be valid unless included in this Agreement.

19. **Disadvantaged Business Enterprise.** The following provision applies to a USDOT-assisted federally funded agreement only. The recipient shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

The remainder of this page is intentionally left blank.

Each party is signing this Agreement on the date stated opposite that party's signature. This Agreement is effective as of the date of the last party to sign it on the signature page below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: DocuSigned by: Ricky Serna 5910E8A6255842F... Date: 2/2/2023

Cabinet Secretary or Designee

Las Vegas, City of

By: DocuSigned by: Chief Antonio Salazar 284438801 2D3466... Date: 1/30/2023

Title: Police Chief

Approved as to form and legal sufficiency.

By: DocuSigned by: C750CEC1625D488... Date: 9/15/2022

Assistant General Counsel
Department of Transportation

Approved as to form and legal sufficiency.

By: _____ Date: _____

Counsel for Las Vegas, City of

Exhibit A: Scope of Work, Training, Reimbursement and Reporting

END DRIVING WHILE IMPAIRED (ENDWI) Project Number: 03-AL-64-050

1. **Scope of Work.** The Grantee shall conduct sobriety checkpoints (SCs) and DWI directed enforcement patrols (DDEPs) as negotiated between the Department and the Grantee, in high crash locations identified in data compiled by local, state or federal government agencies and included the Grantee's Operational Plan. The Department encourages the Grantee to accompany SCs and DDEPs with public information, media and educational activities. SCs must be scheduled to be staffed by at least 5 officers as required by *City of Las Cruces v. Bentancourt, 1987-NMAC-039*. and must last a minimum of 4 hours. Number of officers should meet the amount required by *Bentancourt* but not exceed the number detailed in the Grantees Operational Plan. If for any reason, the SC is not staffed with the minimum number of officers or was not conducted for the minimum number of hours, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for SCs based on the justification. DDEPs must deploy officers in high crash locations consistent with the enforcement plan. If for any reason, the DDEPs were conducted in areas not consistent with the enforcement plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DDEPs based on the justification. The Grantee is encourage to schedule SCs and DDEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, and National DWI Mobilizations as identified below.

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

   "Winter Superblitz Period" means November 18, 2022 to January 1, 2023.

   "St. Patrick's Day Mini Superblitz Period" means March 11 to March 19, 2023.

   "Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2023.

   "Fourth of July Mini Superblitz Period" means July 1 to July 8, 2023.

   "National DWI Mobilization Period" means August 18 to September 4, 2023.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to

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conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the SCs and DDEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2023. If the final claim is submitted after October 31, 2023, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

   a. pay, including overtime, for officers conducting traffic safety DWI enforcement in areas consistent with the enforcement plan;
   b. pay, including overtime, for officers attendance at administrative license revocation hearings and court hearings directly related to DWI arrests made while participating in the ENDWI program;
   c. overtime costs for officers or authorized personnel to support activities directly related to the SCs and/or DDEPs conducted during the claim month. Authorized personnel may include dispatcher, transport or others as authorized by checkpoint supervisor or command staff. The Grantee can only claim up to 10 percent of the total monthly claim amount; and
   d. in state travel and related expenses for officers to attend DWI related training approved by the Department in advance, and shall be reimbursed in accordance with the Regulation Governing the New Mexico Per Diem and Mileage Act, 2.42.2 NMAC.

5. **Reporting.** *The Grantee must submit activity reports by the 20th of each month using the activity report form provided unless otherwise directed by the Department*. Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding.** The Department expects the funding source to be BIL 164 Transfer Funds and the Catalog of Federal Domestic Assistance (CFDA) number to be . However, both funding source and CFDA number are subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$10,742.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$10,742.00

7. **Goals.** The Department's performance goals for the state are as follows: Five-year alcohol-impaired fatalities rose by 13.4 percent between 2016 and 2020, with continued, but with a smaller increase projected between 2020 and 2023. The State has determined to set the five-year average projection of 131.2 as the 2023 target. The State's ENDWI and participation in the National Drive Sober or Get Pulled Over enforcement and media will continue to focus on areas of the State that have higher incidents of alcohol-involved crashes, fatalities and injuries, and among high-risk groups such as young male drivers, motorcyclists and pedestrians.

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Exhibit B: Scope of Work, Training, Reimbursement and Reporting

BUCKLE UP (BKLUP) and CLICK IT OR TICKET (CIOT) Project Number: 03-OP-RF-050

1. **Scope of Work.** The Grantee shall conduct occupant protection directed enforcement patrols (ODEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the ODEPs with public information, media and educational activities. ODEPs must deploy officers in high crash locations consistent with the enforcement plan for occupant protection issues. If for any reason, the ODEPs were conducted in areas not consistent with the enforcement plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for ODEPs based on the justification. The Grantee is encouraged to schedule ODEPs throughout the grant period with a focus on participating during the Superblitz Period, 3 Mini Superblitz Periods, National DWI Mobilizations and the National Click It or Ticket Mobilizations identified below.

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

   "Winter Superblitz Period" means November 18, 2022 to January 1, 2023.

   "St. Patrick's Day Mini Superblitz Period" means March 11 to March 19, 2023.

   "Cinco de Mayo May Mini Superblitz Period" means May 1 to May 7, 2023.

   "National Occupant Protection Mobilization Click It or Ticket period" means May 22 to June 4, 2023.

   "Fourth of July Mini Superblitz Period" means July 1 to July 8, 2023.

   "National DWI Mobilization Period" means August 18 to September 4, 2023.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the ODEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that is not above and beyond the officers normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2023. If the final claim is submitted after October 31, 2023, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

   a. pay, including overtime, for officers conducting traffic safety occupant protection focused enforcement in areas consistent with the enforcement plan;
   b. attendance at, and excess per diem for, operation safe kids training and the four-day NHTSA standardized child passenger safety training; and
   c. assistance at child safety seat clinics or car seat fitting stations.

5. **Reporting.** *The Grantee must submit activity reports by the 20th of each month using the activity report form provided unless otherwise directed by the Department*. Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding.** The Department expects the funding source to be state road fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$3,079.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$3,079.00

7. **Goals.** The Department's performance goals for the state are to:

   a. Five-year unrestrained occupant fatalities rose by 11.6 percent between 2016 and 2020, and projected five-year data indicate a further 18.5 percent rise in 2023. The State has set the five-year average projection of 138.6 as the 2023 target. The State will continue to support its BKLUP enforcement and awareness campaign and its participation in the National CIOT in an effort to reduce these fatalities. The State requested and participated in an Occupant Protection Assessment in May of 2022 to obtain guidance from NHTSA to improve our OP programs and reduce unrestrained crashes and fatalities.

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b. The State anticipates being able to increase its seat belt use to at least 90 percent in 2023 and although projections indicate 89.8 percent use in 2023, the State has determined to set the 2023 target at 90.1 percent observed use. Until 2021, New Mexico's observed seat belt use percentage had remained above 90 percent since 2011.

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Exhibit C: Scope of Work, Training, Reimbursement and Reporting

SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) and SUMMER ENFORCEMENT PERIOD Project Number: 03-PT-RF-050

1. **Scope of Work.** The Grantee shall conduct directed enforcement patrols (DEPs) in high crash locations identified in data compiled by local, state or federal government agencies and the Grantee's Operational Plan. The Department encourages the Grantee to accompany the DEPs with public information, media and educational activities. DEPs must deploy officers in high crash locations consistent with the Operational Plan. If for any reason, the DEPs were conducted in areas not consistent with the Operational Plan, the Grantee must submit a justification with the invoice for these services. The Department may choose to deny the invoice for DEPs based on the justification. *The Grantee is encouraged to schedule DEPS through the grant period with a focus on participating during the Summer enforcement period which runs June 21, 2023 through September 23, 2023.*

2. **Definitions.** For purposes of this exhibit, the following definitions apply:

   "Agency Coordinator" means the person assigned by the Grantee to assume direct responsibility for administering all phases of the Agreement.

   "Directed Enforcement Patrols" means activities that enforce traffic laws in areas consistent with the agency's operational plan.

   "Operational Plan" means a plan based on the most current crash data that identifies the problem to be addressed, goals to be achieved, and the performance measures to be employed. The Grantee may update its operational plan as needed to align with current trends.

3. **Training and Qualifications.** The Agency Coordinator must attend the Department's Law Enforcement Coordinators symposium and other Department training as required. The Grantee should notify the Department of any changes in the Agency Coordinator as soon as possible. The Grantee's participating officers must have law enforcement certifications in all areas necessary to conduct the services noted in Section 1 of this exhibit. The Grantee shall keep documentation of training and provide the Department with a list of certified officers on request.

4. **Reimbursement.** The Department will pay the Grantee for the actual cost paid to personnel that worked the DEPs. Claims for payment must specify officers' actual hourly rate of overtime pay based on the Grantee's overtime policy; the Department will not pay any amount in excess of that rate or for any amount that was not above and beyond the officer's normal duties. The Grantee should submit claims at minimum quarterly no later than January 30th, April 30th and July 30th during this Agreement period. The final claim shall be submitted no later than October 31, 2023. If the final claim is submitted after October 31, 2023, the claim must be accompanied by a justification letter. The Department may choose to deny the claim based on the justification. The claim must be on a form approved by the Department. The Department will pay the Grantee for the following:

a. Pay, including overtime pay, for officers conducting the traffic safety enforcement described in paragraph 1 of this **Exhibit C**; and

b. training for officers as approved by the Department. Pay for travel and traffic safety related training

5. **Reporting.** *The Grantee must submit activity reports by the 20th of each month using the activity report form provided unless otherwise directed by the Department*. Activity reports must include the type of activity and types of citations issued. The Grantee must report all citations to the Motor Vehicle Division of the New Mexico Taxation and Revenue Department and to the appropriate court in accordance with New Mexico state statute. The Grantee must submit timely crash reports to the Department in accordance with NMSA 1978, Section 66-7-207. If the Grantee is not submitting crash reports in accordance with NMSA 1978, Section 66-7-207, the Department may hold reimbursement claims until this provision is met.

6. **Funding – STEP.**

The Department expects the funding source to be State Road Fund. However, the funding source is subject to change at the Department's discretion. The Grantee may transfer funds between budget categories only with prior written approval from the Department. The project's itemized budget is as follows:

Personal Services	$5,702.00
Contractual Services	$0.00
Commodities	$0.00
Indirect	$0.00
Other	$0.00
TOTAL	$5,702.00

7. **Goals.** The Department's performance goals for the state are as follows:

a. Five-year speeding-related fatalities rose by 12.7 percent between 2016 and 2020, and continue to show an upward trend into 2023. During the peak COVID-19 period (2020-2021), speeding-related fatalities increased by 15.6 percent, and were 38.6 percent of all crash fatalities in 2021. Given the projected continued rise in these fatalities, the State has determined to set the five-year average projection of 174.2 as the 2023 target.

b. AFive-year alcohol-impaired fatalities rose by 13.4 percent between 2016 and 2020, with continued, but with a smaller increase projected between 2020 and 2023. The State has determined to set the five-year average projection of 131.2 as the 2023 target. The State's ENDWI and participation in the National Drive Sober or Get Pulled Over enforcement and media will continue to focus on areas of the State that have higher incidents of alcohol-involved crashes, fatalities and injuries, and among high-risk groups such as young male drivers, motorcyclists and pedestrians.

c. Five-year unrestrained occupant fatalities rose by 11.6 percent between 2016 and 2020, and projected five-year data indicate a further 18.5 percent rise in 2023. The State has set the five-year average projection of 138.6 as the 2023 target. The State will continue to support its BKLUP enforcement and awareness campaign and its participation in the National CIOT in an effort to reduce these fatalities. The State requested and participated in an Occupant Protection Assessment in May of 2022 to obtain guidance from NHTSA to

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improve our OP programs and reduce unrestrained crashes and fatalities.

d. The State anticipates being able to increase its seat belt use to at least 90 percent in 2023 and although projections indicate 89.8 percent use in 2023, the State has determined to set the 2023 target at 90.1 percent observed use. Until 2021, New Mexico's observed seat belt use percentage had remained above 90 percent since 2011.

e. Five-year average fatalities rose by 13 percent between 2016 and 2020. 2021 preliminary data indicate a 20 percent increase in fatalities in 2021, with 2022 and 2023 projected increases at similar levels. The State has determined to set the five-year average projection of 446.6 as the 2023 target.

f. The methodology used to project the 5-year moving average number of suspected serious injuries for 2023 resulted in a target of 953.5, a 10 percent decrease from the previous year's target, and a larger decrease than in the years since 2016. Therefore, the State has determined a target of 995.4 to be more in-line with the anticipated decrease in the 5-year moving average of suspected serious injuries for 2023.

g. Annual motorcyclist fatalities rose from 47 in 2016 to 53 in 2017 and to 55 in 2019 before falling to 46 in 2020. Preliminary data indicate a large rise to 55 in 2021 and projected data show fatalities staying at this level into 2023. As gas prices are anticipated to remain high for some time, and motorcycle travel expected to increase, as evidenced by recent increases in motorcycle sales, the State has determined to set the annual projected target of 54.

h. Five-year average under-21 drivers in fatal crashes have risen steadily from 42 in 2016 to 52 in 2020. Preliminary 2021 and projected data indicate continued increases into 2023; therefore the State has determined to set the five-year average projection of 60 as the 2023 target.

i. Annual pedestrian fatalities remained in the 74 to 83 range from 2016 to 2020; however 2021 preliminary data indicate a high of 103 fatalities (a 30% increase from 2020), and projected data for 2023 show the number of fatalities remaining at 103. Five-year average data indicate a 26 percent increase in these fatalities, and the State has determined to set the five-year average projection of 93 as the 2023 target.

j. Bicyclist fatalities rose from 4 in 2016 to a high of 11 in 2018, then down to 8 in 2020. Preliminary data indicate a reduction to 6 fatalities in 2021, but projections indicate a rise to higher levels close to those in 2018. Given these fluctuations, the State has determined to set the five-year average projection of 9 as the 2023 target.

8. **Equipment.** The Grantee may only purchase equipment under this Agreement with prior written approval of the Department.

Appendix A to Part 1300 – Certifications and Assurances for Fiscal Year 2023 Highway Safety Grants (23 U.S.C. Chapter 4; Sec. 1906, Pub. L. 109-59, As Amended By Sec. 4011, Pub. L. 114-94)

[*Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.*]

State: New Mexico Fiscal Year: 2023

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 – Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 – Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subward and Executive Compensation Reporting, August 27, 2010, (https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;

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- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A Unique Entity identifier;
- The names and total compensation of the five most highly compensated officers of the entity if:
  (i) the entity in the preceding fiscal year received—
    (I) 80 percent or more of its annual gross revenues in Federal awards;
    (II) $25,000,000 or more in annual gross revenues from Federal awards; and
  (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION
(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies** Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.),* **and Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.),* (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

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- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;

- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;

- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;

- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;

- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

  "During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

  a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;

  b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;

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c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

b. Establishing a drug-free awareness program to inform employees about:
    1. The dangers of drug abuse in the workplace;
    2. The grantee's policy of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation, and employee assistance programs;
    4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
    5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
    1. Abide by the terms of the statement;
    2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted –

1. Taking appropriate personnel action against such an employee, up to and including termination;
2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who

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fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

RESTRICTION ON STATE LOBBYING
(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts

180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency enteringinto this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to complywith 2 CFR parts 180 and 1200.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

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(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (https://www.sam.gov/).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to

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purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.

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2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))

3. The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation. (23 U.S.C. 402(b)(1)(B))

4. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or for the benefit of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and for the benefit of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

5. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))

6. The State will provide for an evidenced-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. (23 U.S.C. 402(b)(1)(E))

7. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:
    - Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to –
        - Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
        - Increase use of seat belts by occupants of motor vehicles;
    - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

- An annual Statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
- Development of Statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
- Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a). (23 U.S.C. 402(b)(1)(F))

8. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))

9. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4))

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

DocuSigned by:
Justin Reese
79B5F2BB5F72403...

6/28/2022

Signature Governor's Representative for Highway Safety — Date

Justin Reese, Acting Cabinet Secretary

Printed name of Governor's Representative for Highway Safety

New Mexico Traffic Safety Division Project Information Sheet

Contract Number:	TS05109		
Government Unit:	Las Vegas, City of		
Contract term:	(02/02/2023 – 09/30/2023)		
Supplier Number:	54343	Address ID:	

Grantee Contact Info

Project Director and Title:	Chief Antonio Salazar		
Phone:	505-425-7504	E-mail:	asalazar@lasvegasnm.gov
Agency Name:	Las Vegas PD		
Address:	318 Moreno Street		
City, State ZIP:	Las Vegas, NM 87701		

TSD Contact Info

Program Manager:	Kimberly Wildharber	Phone:	505-490-1121
TSD Finance:	Clarice Marien	Phone:	505-699-1094

Budget Breakdown

Funding	Project Number	Amount	Fund	Department Code	PO Number
ENDWI	03-AL-64-050	$10,742.00	10010	5000000000	373960
BKLUP	03-OP-RF-050	$3,079.00	20100	5100000000	373661
STEP	03-PT-RF-050	$5,702.00	20100	5100000000	373962
Total		$19,523.00			

PO Entered by TSD Finance:	DocuSigned by: Clarice Marien 0BC4C2B98292 4B0...	Date:	2/3/2023
PO Approved by Contracts:	DocuSigned by: Jaio Dominguez 320A653A9C19432...	Date:	2/3/2023

Comments: 12/13/2022

Each party is signing this Agreement on the date stated opposite that party's signature. This Agreement is effective as of the date of the last party to sign it on the signature page below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: DocuSigned by: Ricky Suma — Date: 2/2/2023

Cabinet Secretary or Designee

Las Vegas, City of

By: DocuSigned by: Chief Antonio Salazar — Date: 1/30/2023

Title: Police Chief

Approved as to form and legal sufficiency.

By: DocuSigned by: — Date: 9/15/2022

Assistant General Counsel
Department of Transportation

Approved as to form and legal sufficiency.

By: — Date: 02.15.2023

Counsel for Las Vegas, City of

CITY OF LAS VEGAS
COUNCIL MEETING AGENDA REQUEST FORM

Meeting Date: March 8, 2023

Date Submitted: 02/21/23 **Department:** Utilities

Item/Topic: Request to purchase one transport trailer for the Solid Waste division. Solid Waste is in need of additional equipment to include a trailer to haul refuse to Wagon Mound. The cost of the trailer is $131,626.38.

Fiscal Impact: This is a budgeted expense that will be paid out of line item number 633-0000-650-8004.

Attachments: Price sheet, specification sheet.

Committee Recommendation: This item will be discussed at the March 7, 2023 Utility Advisory Committee Meeting. Their recommendation will be provided at the council meeting.

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:

Department Director

City Manager

Reviewed By:

Finance Director

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To: _____
Referred To: _____
Denied _____
Other _____

MCT, Inc.
7451 Pan American Freeway NE
Albuquerque, NM 87109
Phone (505) 345-8651
Fax (505) 345-2597
E-Mail mctindustries@mct-ind.com

Sales Quote
29700
Quoted 1/25/2023

Bill To
CITY OF LAS VEGAS
1700 NORTH GRANDE AVE
LAS VEGAS, NEW MEXICO 87701

Ship To
1700 NORTH GRANDE AVE
LAS VEGAS, NEW MEXICO 87701

Contact
LUCAS MARQUEZ

Purchase Order	Ship Via	FOB	Reference	Entered By	Sales rep	Terms
				TMM 1/25/2023	FM	Net 30

Product	Description	Ordered	Price	Disc %	Amount
2023 WILKENS WALKING	FLOOR TRAILER CES CONTRACT #: 2020-31D-C101-ALL DELIVERY APPROXIMATELY 3 WEEKS ARO	1.00	154,854.57	15.00%	$131,626.38

Sub-total **$131,626.38**

Quote Good for 30 Days **Total** **$131,626.38**

MCT, Inc.
7451 Pan American Freeway NE
Albuquerque, NM 87109
Phone (505) 345-8651
Fax (505) 345-2597
E-Mail mctindustries@mct-ind.com

Sales Quote
29700
Quoted 1/25/2023

Bill To
CITY OF LAS VEGAS
1700 NORTH GRANDE AVE
LAS VEGAS, NEW MEXICO 87701

Ship To
1700 NORTH GRANDE AVE
LAS VEGAS, NEW MEXICO 87701

Contact
LUCAS MARQUEZ

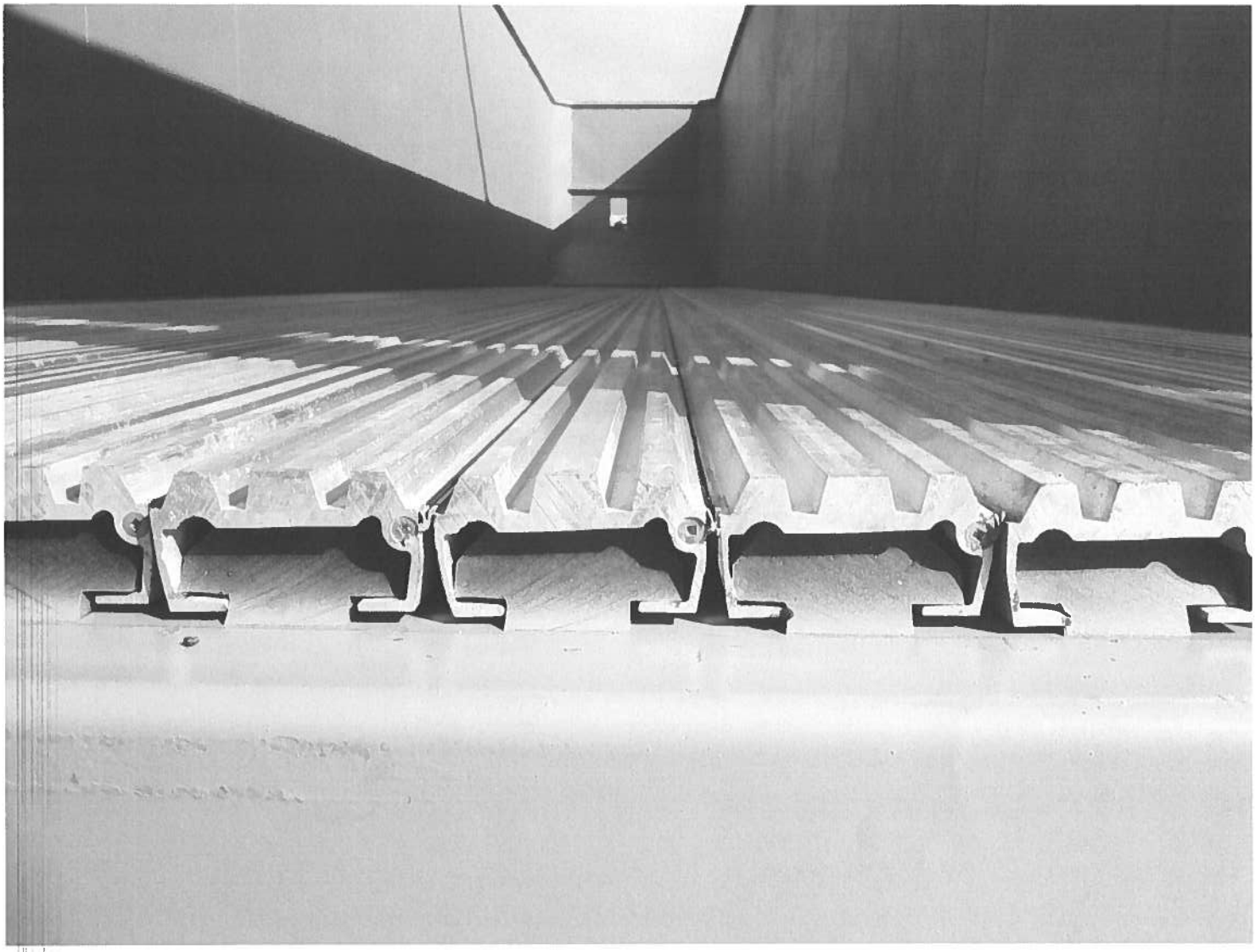
Purchase Order	Ship Via	FOB	Reference	Entered By	Sales rep	Terms
				TMM 1/25/2023	FM	Net 30

Product	Description	Ordered	Price	Disc %	Amount

Qty: 1 **Model:** 50125SPOT

Overall Measurements: L: 50' **H:** 13'4" **W:** 98 X 102"
Taper: 4" **Wedge:** NONE
Sides: 12 Ga. 50K M/Y **Post:** Flared 12 Ga. 50 K M/Y, 20" spacing.
Top rail: 3 X 5 X 5/16"
Kingpin: 36", 1/4" Plate X 1/4" Channels full width. Strenx 100K
Cross-members: 4" X 3.2 LBS steel
Sub-frame: 8 X 4 X ¼" **extended to allow possible third axle, prep for lift axle.**
Bottom Rail: 7 Ga. (1.81")
Suspension: Hutch 9700, 3-Leaf HA, 365-00, TRA# 2740, Setback.
Spring seats: 4.75" U-Bolts 15 ¼"
Axles: 2-25,OOO#, 77.5", 4S/2M ABS,
Hubs: Unimount 10, O/B drums.
Rims: (8) 8.25 X 22.5 Steel Disc. White.
Tire: (8) 11Rx22.5 14 ply tires.
Landing gear: Holland Mark V, D/Side crank. 7ga Supports. Sand shoe
Door: 12 Ga. Single Swing, C/Side hinges, 5-Sets, new style with bushing, 2-Strikers, LED lights in door.
Drive: KRF II, 3" Cyl, 2-Way.
Flooring: 24-Slats, Model# 2301, with 24" fillers one end, T-Blocks.
Sub-deck: Steel.
Cover: H.D. Side-Side Belted R.Tarp, Off-Set tarp stops, Black, Eyelets run down the middle length ways 2-3 rows as needed for proper drainage, Opens-C/Side, Rear crank, Tarp strap stick, (7) Ratchets and straps.
Final assembly: LED lights. Tema Q/C's, Federal D.O.T.
Options: Front window, Push bumpers, Tow hooks. Mount mud-flaps on the inside of the rear pan, move ICC bumper rear word so flap hangs straight down.
Paint: Gray PPG 31165.

Date of Mfg: 02/23 **Model Year:** 2023 **GVWR:** 29,484 KG - 65,000 LBS
GAWR, 1: 9072 KG – 20000 LBS **2:** 9072 KG – 20000 LBS
Tire: 11R X 22.5 G Dual **Rims:** 8.25 X 22.5 **Cold Tire Infl:** 724 KPA – 105 PSI



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