



City of Bayard
CITY COUNCIL REGULAR MEETING
June 10, 2024 at 4:00 PM
Bayard City Hall

AGENDA

WORK SESSION

Infrastructure Capital Improvement Plan FY 2026-2030

CALL TO ORDER: Mayor John L. Ojinaga

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF THE AGENDA

PUBLIC INPUT

CONSENT AGENDA

1. Approval of the Library Report for May 2024
2. Approval of the Fire Report for May 2024
3. Approval of the Regular Meeting Minutes May 28, 2024
4. Approval of the Accounts Payable Report for June 10, 2024

OLD BUSINESS

NEW BUSINESS

5. Discussion- Southwest New Mexico Community Forestry Network Presentation

ORDINANCES/RESOLUTIONS

6. Discussion/Action Resolution 10-2024 Adopt Grant County Affordable Housing Plan with the Grant Comprehensive Plan
7. Discussion/Action Permission to Publish the Intent to Adopt the City of Bayard Affordable Housing Ordinance.

CLOSED SESSION

8. Closed Session may be held pursuant to 10-15-1 (H-2) NMSA 1978 for limited personnel matters and Real Property and Water Rights

ACTION FOR PERSONNEL

9. Discussion/Action of Termination for Maintenance Department

ACTION ITEMS RESULTING FROM CLOSED SESSION

MAYOR AND COUNCILORS REPORTS

NEXT MEETING DATE:

Regular Meeting - June 24, 2024

ADJOURNMENT

MAY 2024 LIBRARY REPORT

1. Zoey M . did her school service hours (2) on May 14th.
2. Bayard Maintenance helped secure our horned toad sculpture placement in the park on May 16th.
3. We hosted an art reception for Franky DeAngelis May 16th, and 21 people attended.
4. Jenny's last day was May 17, 2024.
5. The SRP is set to kick off on June 3rd with a public event for children of all ages; singer Andy Mason.
6. Grecia R. from Dept. of Workforce will work some summer hours around her summer school schedule.
7. Sign up for SRP has filled 10 spaces out of 25.
8. Sonya cleared out old computer equipment from server room as the temp. exceeded 95 degrees, some items for disposal and or storage.
9. Sonya has made a contact through Luis Terrazas and SWCOG to discuss the building of a ramp or steps leading up to the park. The contact is through the DOT.
10. Sonya is shopping for gravel and mulch to complete some of the park landscaping as time permits. I did receive bids on a shed to store our equipment.
11. We received three applications for the unposted assistant librarian position and turned in to city hall.
12. Tom O. has moved and no longer volunteering at BPL.
13. The library had one CTW issued on a female.
14. June calendar of events is full with SRP, Co-Starters and Nature Discovery Cam; all have been finalized.

City of Bayard Vol. Fire Department

Monthly Service Report



May 2024

Service Report

Fire Service Calls					
Date	City	Address	Fire Type	Apparatuses	Responders
5/1/24	Bayard	100 Runnels Dr.	Propane Fire	E-2, Rescue	4
5/2/24	Bayard	408 Oak St.	Trash Fire	E-2, Rescue	4
5/11/24	Bayard	290 Hurley Ave	Fire Alarm	E-2, Rescue	4
5/12/24	Santa Clara	901 Pine St.	Structure Fire	E-2, Rescue, Command	4
5/13/24	Bayard	101 Tom Foy Blvd.	Trash Fire	E-2, Command	4
5/27/24	Bayard	303 Alta Vista	Grass Fire	E-2, Command	4

EMS Service Calls

City	Total
Bayard	5
Hurley	3
N. Hurley	0
Total:	8

Training Report

Fire Training			
Date	Training Location	Subject	Responders Attended
5/4-5/5	Santa Clara City Hall	Emergency Vehicle Operations Course	Officers-1 Members-3
5/7/24	Bayard Fire Dept.	Firefighter Safety: PPE and Decontamination	Officers- 2 Members-3
5/14/24	Bayard Fire Dept.	Introduction to Fireground Tools	Officers- 3 Members-2

EMS Training

Date	Training Location	Subject	Responders Attended

City of Bayard Vol. Fire Department

Monthly Service Report



Equipment Report

Fire Apparatuses				
Apparatus	Status	Inspection Date	Issues Identified	Mileage/Hrs.
Engine-1	In-service	05/07/2024	Missing pump lever bar.	9,326.4 / 1,2704 Hrs.
Engine-2	In-service	05/07/2024	No issues Identified	15,597.8 / 1,349.0 Hr
Command-3	In-service	05/07/2024	No issues identified	42,035.0
Mini-4	In-service	05/07/2024	No issues identified	13,470.5 / 1,662.7 Hrs
Rescue-1	In-service	05/07/2024	None identified.	1,640

Equipment			
Item	Date	Status	Return to Service Plan
Generator E-1	2/27/24	BO	Unrepairable; Replacement Pending
Ventilation Fan	2/27/24	BO	Will be replaced with SuperVac Battery Operated Unit

Safety Report

Safety/Incidents		
Date	Incident	Outcome
	Zero safety incident for May 2024	

City of Bayard Vol. Fire Department

Monthly Service Report



Community Service Report

Community Services/Events

Date	Type	Location	Service/ Event Description	Personnel
5/15/24	Event	Tri-City	Escort for Cobre High School Softball team out to state tournament.	Officers-3, Members-3
5/16/24	Service	Snell Middle School	Department members handed out fire prevention material and interacted with students.	Officers-2, Members-3
5/16/24	Event	Bayard Elementary Fun Day	E-1 was used to spray water across the field for students during the water activities.	Officers-2, Members-4
5/17/24	Event	Tri-City	Escort for Cobre High School Baseball out to state tournament.	Officers-3, Members-3
5/24/24	Event	Cobre High School	Graduation Ceremony EMS stand-by. Traffic control post-Event.	Officers-4

Department Updates:

- The department will begin work on securing funding for a new fire apparatus to replace Engine-1. The department plans to replace the engine with a state-of-the-art Class A cabover fire apparatus.
- Staff continue to work on completing self-paced required ICS trainings.
- Bayard Fire Department will host Dona Ana Community College for an EMS First Responder Course. The course is set to begin the second week of June. Six firefighters from the department will attend the course.

Submitted by,

Jose Gonzales EMT-I
Bayard Fire Department Secretary



City of Bayard
CITY COUNCIL REGULAR MEETING
May 28, 2024 at 4:30 PM
Bayard City Hall

MINUTES

CALL TO ORDER: Mayor John L. Ojinaga

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT

Mayor John L. Ojinaga
Councilor Eloy Medina
Councilor Eloy Gonzales
Councilor Gilbert Ortiz

ABSENT

Councilor Frances Gonzales Others in attendance were Dolores Charon, Bobby Terrazas, Michael Paez, Hector Carrillo, Martha Salas, and Tanya Ortiz.

APPROVAL OF THE AGENDA

Motion made by Councilor Gonzales, Seconded by Councilor Medina.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

PUBLIC INPUT

No public input

CONSENT AGENDA

Motion made by Councilor Gonzales, Seconded by Councilor Ortiz.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

1. Approval of Police Department report for April 2024
2. Approval of Regular Meeting Minutes May 13, 2024
3. Approval of Budget Work Session Minutes May 23, 2024

4. Approval of Accounts Payable

OLD BUSINESS

5. Discussion/Action- General Contract for Services between City of Bayard and Ideum- Master Plan for Mine Mill Hall

Clerk/Treasure Salas stated if the money is obligated to Ideum the money will be able to expended for the master plan.

Motion made by Councilor Medina, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

NEW BUSINESS

6. Discussion/Action- FY 25 Interim Budget

Clerk Treasurer Martha Salas presented interim budget. Included in interim budget was 3% to 5% salary increases for employees. New employees probation will receive their increase once probation is completed. Other increases included PERA (.25%) and health insurance (10%). The city had not increased utility rates in two years. The utilities will increase according to May's CPI.

Motion made by Councilor Gonzales, Seconded by Councilor Ortiz.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

RESOLUTIONS/ORDINANCES

7. Discussion/Action- Resolution 9-2024 Correction Fees

Motion made by Councilor Gonzales, Seconded by Councilor Ortiz.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

CLOSED SESSION

Closed Session held pursuant to 10-15-1 (H-2) NMSA 1978 for limited personnel matters

Motion made by Councilor Medina, Seconded by Councilor Ortiz.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

ACTION ITEMS RESULTING FROM CLOSED SESSION

Motion made by Councilor Gonzales, Seconded by Councilor Ortiz.

Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Ortiz

No action taken.

MAYOR AND COUNCILORS REPORTS

Maintenance Director Paez stated dry pads were placed today and getting past rock. The contractors are moving right along. Paint has been ordered of the little league.

Wastewater Director Terrazas stated everything going good just keeping up the weeds.

Mayor Ojinaga stated keep doing what we are doing. Keep up the good job.

NEXT MEETING DATE:

Regular Meeting - June 10, 2024

ADJOURNMENT

5:31 p.m.

John L. Ojinaga
Mayor

ATTEST:

Martha Salas
Clerk Treasurer

ACCOUNTS PAID

6/10/2024

<u>GENERAL FUND - 10</u>			
Lexis Nexis	Police	\$	215.25
Lexis Nexis	Police	\$	215.25
Bank of America(Sherwin Williams)	Parks	\$	961.81
Gila Health Resources	City Hall	\$	92.00
OpenGov	City Hall	\$	948.62
OpenGov	Police	\$	948.62
Ricoh	City Hall	\$	40.36
Ricoh	Police	\$	40.36
PNM	City Hall	\$	355.08
PNM	Parks	\$	359.21
PNM	Police	\$	86.09
AT&T	City Hall	\$	659.80
AT&T	Police	\$	2,356.15
Axon	Police	\$	4,652.23
Xfinity	City Hall	\$	312.46
WNM	City Hall	\$	212.10
WNM	Police	\$	106.05
Spectrum	City Hall	\$	4,419.25
Spectrum	Police	\$	1,398.18
TOTAL:		\$	18,378.87

SOLID WASTE FUND - 160

<u>JNT WASTEWATER FUND - 170</u>			
The UPS Store	Shipping Samples	\$	213.51
American Linen & Uniform Supply	Uniform Maint	\$	50.71
Eurofins Environmental Testing	WW Plant Testing	\$	426.20
American Linen & Uniform Supply	Uniform Maint	\$	50.71
HughesNet	WW Internet	\$	276.70
OpenGov	SEMS Software System	\$	948.61
PNM	CITY ELECTRIC	\$	44.25
TOTAL:		\$	-

Eurofins Environmental Testing	WW Plant Testing	\$	291.66
AT&T	CELL PHONE BILL	\$	269.75
American Linen & Uniform Supply	Uniform Maint	\$	50.71
WNM	monthly phone bill	\$	70.70
The UPS Store	shipping samples	\$	261.10
Eurofins Environmental Testing	WW Plant Testing	\$	221.71
Spectrum	monthly bill	\$	393.54
TOTAL:		\$	3,569.86

MUNICIPAL COURT FUND - 20

PNM	City Electric	\$	76.87
AT&T	PHONE BILL	\$	229.80
WNM	Monthly phone bill	\$	70.70
Spectrum	Monthly bill	\$	334.26
TOTAL:		\$	711.63

COMM. CENTER FUND - 200

Humphrey Enterprises Inc.	Grease Trap	\$	136.15
PNM	CITY ELECTRIC	\$	192.60
TOTAL:		\$	328.75

LIBRARY FUND - 210

Ricoh	Printer Services	\$	40.36
AT&T	CELL PHONE BILL	\$	229.80
WNM	Monthly Phone	\$	70.70
TOTAL:		\$	340.86

MUNICIPAL STREETS FUND- 240

OpenGov	SEMS Software System	\$	948.61
PNM	Payment for City	\$	4,053.36
Global Maven Enterprises	NM356 Sidewalk & ADA Improvements Project	\$	163,075.06
TOTAL:		\$	168,077.03

<u>Maintenance 150</u>			
Silver City Daily Press			34.55
OpenGov	\$		948.62
PNM	\$		2,600.10
AT&T	\$		470.30
WNM	\$		35.35
Spectrum	\$		779.94
TOTAL:	\$		4,868.86

<u>FIRE FUND- 30</u>			
Xfinity	\$		11.37
OpenGov	\$		948.61
PNM	\$		144.52
AT&T	\$		229.80
WNM	\$		35.35
Spectrum	\$		470.83
TOTAL:	\$		1,840.48

<u>SEWER FUND- 155</u>			
OpenGov	\$		948.61
TOTAL:	\$		948.61

<u>Law Enforcement Protection Fund 60</u>			
TOTAL:	\$		-
TOTAL:	\$		199,064.95

ACCOUNTS PAYABLES
Council Meeting Date 06/10/24

GENERAL FUND - 10

Mobile Communications America	police		
Ace Hardware	Parks		\$ 387.45
Ace Hardware	City Hall	Field Tech Labor program radios	\$ 234.55
Quill Corporation	City Hall	monthly supplies	\$ 275.11
Symbols Arts	police	monthly supplies	\$ 246.05
		Office Supplies	\$ 1,640.44
		Challenge Coins	
TOTAL:			\$ 2,783.60

JNT W/S O&M FUND - 150

Core & Main		Couplings for water	\$ 516.50
Core & Main		Coupling for state service agreement 10-00000-20-00044	\$ 367.18
Ace Hardware	shop	Monthly supplies	\$ 443.32
Ace Hardware	wells	Monthly supplies	\$ 43.18
TOTAL:			\$ 1,370.18

SEWER FUND- 155

Ace Hardware		monthly supplies	\$ 123.25
TOTAL:			\$ 123.25

JNT WASTEWATER FUND - 170

Ace Hardware		monthly supplies	\$ 419.80
Aerzen		Machine Inspection and service parts for blower #1	\$ 8,994.33
TOTAL:			\$ 9,414.13

COMMUNITY CENTER FUND- 200

TOTAL:		\$	-
	LIBRARY FUND - 210		
Demco	Label protector sheets	\$	187.11
Andy Mason Music	Summer Reading Program	\$	475.00
TOTAL:		\$	187.11

	MUNICIPAL STREET FUND- 240		
TG McCauley	Fill Dirt	\$	204.54
TOTAL:		\$	204.54

	Solid Waste 160-64		
TOTAL:		\$	-

	MUNICIPAL COURT FUND - 20		
TOTAL:		\$	-

	EMS FUND- 320		
Galls	Uniforms for fire	\$	71.73
TOTAL		\$	71.73

	FIRE FUND- 30		
Ace Hardware	monthly supplies	\$	128.24

TOTAL: \$ 128.24

PARKS AND RECREATION-43

TOTAL:

Law Enforcement Protection Fund 60

Pens.com \$ 299.33

Pens for PD

TOTAL: \$ 299.33

Total \$14,582.11

City of Bayard

A RESOLUTION ADOPTING THE GRANT COUNTY AFFORDABLE HOUSING PLAN WITHIN THE GRANT COUNTY COMPREHENSIVE PLAN

WHEREAS, Grant County has a Comprehensive Plan that was developed and approved in 2024; and

WHEREAS, the affordable housing plan is within the Grant County Comprehensive Plan; and

WHEREAS, the Grant County Affordable Housing Plan has been reviewed by NM Mortgage Finance Authority; and

WHEREAS, Grant County received an approval letter from MFA on January 2, 2024; and

WHEREAS, Grant County has an approved affordable housing ordinance # adopted on; and

WHEREAS, the Affordable Housing Act Rules allow for the City of Bayard to adopt the Affordable Housing Plan with in the Grant County Comprehensive Plan; and

WHEREAS, upon adoption the City of Bayard will have to develop their own ordinance to meet the requirements of the Affordable Housing Act; and

WHEREAS, the approval of the plan and adoption of the ordinance will allow the City to provide land, connection fees, etc. without being in violation of the anti-donation clause; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Board Trustees of City of Bayard hereby approves the following

1. That the City of Bayard will adopt the Grant County Comprehensive Plan/Affordable Housing Plan
2. That the City of Bayard will adopt an Affordable Housing Ordinance according to the Affordable Housing Act

PASSED, APPROVED AND ADOPTED: THIS 10TH DAY OF JUNE, 2024

John L. Ojinaga

ATTEST:

Martha Salas, Clerk/Treasurer



January 2, 2024

Priscilla Lucero
Executive Director
Southwestern Council of Governments

Randy Hernandez
Planning & Community Development Director
Grant County

Re: Request for Approval of Affordable Housing Plan

Dear Ms. Lucero and Mr. Hernandez:

The New Mexico Mortgage Finance Authority (MFA), in accordance with the Affordable Housing Act (Section 62-7-1 et. seq. NMSA 1978) (Act), and the Affordable Housing Act Rules (Rules) adopted thereto, has reviewed the revised Draft Affordable Housing Plan (Plan) as submitted by Grant County (County) on January 2, 2024. MFA has determined that the Plan meets the eligibility requirements set out in the Act and Rules.

Under the Rules, the County should provide MFA with a certification that the Plan was adopted by the County Council. Thank you for the County's continued efforts in providing affordable housing to its residents. If you have any questions, please call me at 505-308-4216.

Sincerely,

A handwritten signature in cursive script that reads "Julie Halbig".

Julie Halbig
Director of Compliance and Initiatives

CITY OF BAYARD

Ordinance No. __-2024

AN ORDINANCE AMENDING PART OF CHAPTER 42, CODE OF ORDINANCES OF CITY OF BAYARD CODE BY ENACTING A NEW ARTICLE VIII, SEC. 42-410 ESTABLISHING THE BAYARD AFFORDABLE HOUSING LAWS IN ACCORDANCE WITH THE NEW MEXICO AFFORDABLE HOUSING ACT, NMSA 1978, SECTIONS 6-27-1 THROUGH 6-27-9 (2004, AS AMENDED THROUGH 2015)

Whereas, in accordance with the New Mexico Constitution, Article IX, Sec 14: the Affordable Housing Act, NMSA 1978, §§6-27-1 through 6-27-9 (2004, as amended through 2015); and the New Mexico Mortgage Finance Authority Act, NMSA 1978, §§58-18-1 through 58-18-27 (1975, amended through 2007), the City now proposes to adopt an ordinance as Chapter 42, Article VIII, Sec. 42-410, to accomplish the purposes of the Affordable Housing Act, which will provide for more inclusive housing developments throughout the City residential zoning districts:

NOW, THEREFORE, BE IT ENACTED BY THE GOVERNING BODY OF THE CITY OF BAYARD, GRANT COUNTY, NEW MEXICO, ORDINANCE __ - 2024 TITLED "CITYOF BAYARD AFFORDABLE HOUSING ORDINANCE AS FOLLOWS:

Section 1. SHORT TITLE.

This article may be cited as the "Affordable Housing Ordinance." (Ord. No. _____)

Section 2. PURPOSE.

This ordinance is adopted to implement the City's Affordable Housing Plan. In accordance with the N.M. Constitution, Article IX, §14, the Affordable Housing Act, NMSA 1978, §6-27-1 et seq. (the "Act"), NMMFA Rules, the purpose of the Affordable Housing Ordinance is to:

1. Establish procedures to ensure that local housing assistance grantees are Qualifying Grantees who meet the requirements of the Act and the Rules promulgated pursuant to the Act both at the time of the award and throughout the term of any grant or loan under the Program;
2. Establish an application and award timetable for local housing assistance grants or loans to permit the selection of the Qualifying Grantee(s) by .
3. In conjunction with the MFA, create an evaluation process to determine:
 - a. The financial and management stability of the Applicant;
 - b. The demonstrated commitment of the Applicant to the community;
 - c. A cost-benefit analysis of the project proposed by the Applicant;
 - d. The benefits to the community of a proposed project;
 - e. The type or amount of assistance to be provided;
 - f. The scope of the Affordable Housing Project;
 - g. Any substantive or matching contribution by the Applicant to the proposed project;
 - h. A performance schedule for the Qualifying Grantee with performance criteria; and
 - i. Any other rules or procedures the City believes are necessary for a full review and evaluation of the Applicant and the Application or which the MFA believes is necessary for a full review of the City's evaluation of the Applicant;
4. Require long-term affordability of the City's Affordable Housing Projects so that a project cannot be sold shortly after completion and taken out of the affordable housing market;
5. Require that a grant or loan for a project must impose a contractual obligation on the Qualifying Grantee that the affordable housing units in any project be occupied by persons of low or moderate income as defined in this Ordinance;
6. Provide for adequate security against the loss of public funds or property in the event that the Qualifying Grantee abandons or otherwise fails to complete the project;
7. Require review and approval of a housing grant project budget by the City and/or the MFA before any expenditure of grant funds or transfer of granted property;
8. Require that a condition of grant or loan approval be proof of compliance with all applicable State and local laws, rules and ordinances;
9. Provide definitions for "low-income" and "moderate-income" and set out requirements for verification of income levels;
10. Provide the city with a valid affordable housing program; and
11. Require that the City enter into a contract with the Qualifying Grantee consistent with the Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee and which contract shall be subject to the review of the MFA in its discretion.

"Application" shall mean an application to participate in one or more Affordable Housing Projects or Programs under the Act submitted by an Applicant to the City.

"Builder" shall mean an individual or entity licensed as a general contractor to construct Residential Housing in the State that satisfies the requirements of a Qualifying Grantee and has been approved by the City and/or the MFA to participate in an Affordable Housing Program. The term "Builder" shall also include an individual or entity that satisfies the requirements of a Qualifying Grantee and has been approved by the City and/or the MFA to participate in an Affordable Housing Program, who is not licensed as a general contractor in the State, provided such individual or entity contracts with a general contractor licensed in the State to construct Residential Housing.

"Building" shall mean a structure capable of being renovated or converted into Affordable Housing or a structure that is to be demolished and is located on land donated for use in connection with an Affordable Housing Project.

"City" shall mean City of Bayard, New Mexico, a unit of local government under the Constitution and laws of the State of New Mexico. *NOTE: KEEP THE ONE OF THESE DEFINITIONS APPLICABLE TO YOUR COMMUNITY; DELETE ALL OTHERS.*

"Congregate Housing Facility" shall mean Residential Housing designed for occupancy by more than four Persons of Low- or Moderate-Income living independently of each other. The facility may contain group dining, recreational, health care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities.

"City" shall mean City of Bayard, New Mexico, a unit of local government under the Constitution and laws of the State of New Mexico. *NOTE: KEEP THE ONE OF THESE DEFINITIONS APPLICABLE TO YOUR COMMUNITY; DELETE ALL OTHERS.*

"Federal Government" shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

"Household" shall mean one or more persons occupying a housing unit.

"Housing Assistance Grant" means the donation, provision or payment by the City of:

1. Land upon which affordable housing will be constructed; or
2. An existing Building that will be renovated, converted or demolished and reconstructed as Affordable Housing; or
3. The costs acquisition, development, construction, financing, and operating or owning Affordable housing; or
4. The costs of financing or infrastructure necessary to support Affordable Housing.

"HUD" shall mean the United States Department of Housing and Urban Development.

"Infrastructure" shall mean Infrastructure Improvements and Infrastructure Purposes.

"Infrastructure Improvement" includes, but is not limited to:

1. Sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent

banking association, savings bank, savings and loan association, credit union, building and loan association and any other lending institution; provided that the mortgage lender maintains an office in the State, is authorized to make mortgage loans in the State of New Mexico and is approved by the City and/or the MFA and either the Federal Housing Authority, Veterans' Affairs, Federal National Mortgage Association (now known as Fannie Mae), or Federal Home Loan Mortgage Corporation (now known as Freddie Mac).

"Mortgage Loan" shall mean a financial obligation secured by a Mortgage, including a Mortgage Loan for a Project.

"Multiple Family Housing Project" shall mean Residential Housing that is designed for occupancy by more than four persons or families living independently of each other or living in a Congregate Housing Facility, at least sixty percent (60%) of whom are Persons of Low- or Moderate-Income, including without limitation Persons of Low- or Moderate-Income who are seniors and/or disabled as determined by the City and/or the MFA, provided that the percentage of low-income persons and families shall be at least the minimum, if any, required by federal tax law.

"Multi-Family Housing Program" shall mean a program involving a Congregate Housing Facility, a Multiple Family Housing Project, a Transitional Housing Facility or a Shelter used to provide emergency or transitional housing opportunities to Low-Income or Moderate-Income families who are or are at risk of becoming homeless.

"Ordinance" shall mean this ordinance (No. _____).

"Persons of Low- or Moderate-Income" shall mean persons and families who are determined to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary residential housing in the City and whose incomes are below the income levels established by the MFA and the Plan to be in need of the assistance made available by the Act, taking into consideration, without limitation, such factors as defined under the Act. For purposes of this definition, the word "families" shall mean a group of persons consisting of, but not limited to, the head of a Household; his or her spouse, if any; and children, if any, who are allowable as personal exemptions for Federal income tax purposes. In accordance with the Plan, persons of low- and moderate-income who are eligible for assistance in accordance with the plan are as follows:

1. Persons of low-income shall mean persons in Households with annual gross incomes below 80% of Area Median Income for the City as approved and published each year by MFA and verified by the City.
2. Persons of Moderate Income shall mean persons in Households with annual gross incomes between 80% and 120% of Area Median Income for City as approved and published each year by MFA and verified by the City.
3. For purposes of this definition, "annual gross income" shall mean the annual anticipated income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR Section 5.609.

"Policies and Procedures" shall mean Policies and Procedures of the MFA, including but not limited to, Mortgage Loan purchasing, selling, servicing and reservation procedures, which the MFA may update and revise from time to time as the MFA deems appropriate.

"Public Service Agencies" shall include, but are not limited to, any entities that support Affordable Housing and which believe that the program or project proposed by the Applicant is worthy and advisable, but

"Transitional Housing Facility" shall mean residential housing that is designed for temporary or transitional occupancy by Persons of Low- or Moderate-Income, or with special needs.

"City" shall mean City of Bayard, New Mexico, a unit of local government under the Constitution and laws of the State of New Mexico. *NOTE: KEEP THE ONE OF THESE DEFINITIONS APPLICABLE TO YOUR COMMUNITY; DELETE ALL OTHERS.*

Section 4. GENERAL REQUIREMENTS.

The following requirements shall apply to all Housing Assistance Grants and/or Affordable Housing Funds awarded, loaned or otherwise distributed by the City under the Act to a Qualifying Grantee.

1. Request for Proposals. The City, in its discretion, may issue one or more RFPs to solicit applications from Applicants or shall otherwise identify a Qualifying Grantee for the use of any Affordable Housing Funds or Housing Assistance Grants to be awarded, loaned, donated or otherwise distributed under the Act.
2. Applicant Eligibility. The following Applicants are eligible under the Act to apply for Affordable Housing Funds or a Housing Assistance Grant to provide housing or related services to Persons of Low- or Moderate-Income in the community:
 - a. All individuals who are qualified to receive assistance pursuant to the Act, the Rules, and this Ordinance that are approved by the City and MFA, as applicable;
 - b. All regional housing authorities and any governmental housing agencies;
 - c. All for-profit organizations, including any corporation, limited liability company, partnership, joint venture, syndicate or association;
 - d. All non-profit organizations meeting the following requirements:
 - i. A primary mission of the non-profit organization must be to provide housing or housing-related services to Persons of Low- or Moderate-Income;
 - ii. The non-profit organization must have received its 501(c)(3) designation prior to submitting an application;
 - iii. Have no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
 - e. All non-individual Applicants must:
 - i. Be organized under State or local laws and can provide proof of such organization and be approved by the City;
 - ii. Have a functioning accounting system that is operated in accordance with generally accepted accounting principles ("GAAP") or has designated an entity that will maintain such an accounting system consistent with GAAP;
 - iii. Have among its purposes significant activities related to providing housing or services to Persons or Households of Low or Moderate Income; and
 - iv. Have no significant outstanding or unresolved monitoring findings from the City, the MFA, or its most recent independent financial audit, or if it has any such findings, it has a certified letter from the City, the MFA, or auditor stating that the findings are in the process of being resolved.
3. Applications.
 - a. Process for Applying. Applicants wishing to apply for a Housing Assistance Grant, including the use of any Affordable Housing Funds, or to participate in any Affordable Housing Program are required to submit to the City the following (as applicable):
 - i. One original Application together with all required schedules, documents, or such other information which may be required by the City or in any RFP which may

- viii. Information as may be required by the City and/or the MFA in order for it to determine the financial and management stability of the Applicant;
 - ix. Information as may be required by the City and/or the MFA in order for it to determine the demonstrated commitment of the Applicant to the community;
 - x. A completed cost-benefit analysis of the Affordable Housing Project proposed by the Applicant. Any cost-benefit analysis must include documentation that clearly evidences that there is a need for the Housing Assistance Grant being requested from the City, that there is or will be a direct benefit from the project proposed by the Applicant to the community and/or to the purported beneficiaries of the project, consistent with the provisions of the Act, and that the Affordable Housing Project will meet the needs and affordability criteria defined in the City 's Affordable Housing Plan;
 - xi. Information supporting the benefits to the community of the Affordable Housing Project proposed by the Applicant;
 - xii. Proof of substantive or matching funds or contributions and/or in-kind donations to the proposed Affordable Housing Project in connection with the Application for funds under the Act. Nothing contained herein shall prevent or preclude an Applicant from matching or using local, private, or federal funds in connection with a specific Housing Assistance Grant or a grant of Affordable Housing Funds under the Act;
 - xiii. Any certifications or other proof which the City may require in order for the City to confirm that the Applicant is in compliance with all applicable federal, State and local laws, rules and ordinances;
 - xiv. A verification signed by the Applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge and belief;
 - xv. Certifications as may be required by the City and signed by the chief executive officer, board president, or another authorized official of the Applicant;
 - xvi. Applicant shall submit adequate information, as required by the City and/or MFA, of the Affordable Housing Project proposed by the Applicant. The information provided must clearly evidence the need for the subsidy, that the value of the housing assistance grant reduces the housing costs to Persons of Low- or Moderate-Income, and that there will be a direct benefit from the project proposed by the Applicant to the community and/or to the purported beneficiaries of the project, consistent with the provisions of the Act, the Rules, and this Ordinance.
- b. Additional Requirements for Multi-Family Housing Projects Applicants who are submitting Applications in connection with a Multi-Family Housing Program. The Applicant must also submit to the City following additional information:
- i. A verified certificate that, among other things:
 - 1. Identifies every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS, FHA and any other state or local government housing finance agency in which such Applicant has been or is a principal;
 - 2. States that, except as shown on such certificate:
 - a. No mortgage on a project listed on such certificate has ever been in default, assigned to the Federal Government or foreclosed, nor has any mortgage relief by the mortgagee been given;

2. Applications shall be submitted by Applicants to the City in the form required by the City and shall contain all information which is required by this Ordinance and any RFP which may have been issued.
- ii. Additional Factors.
 1. Timely completion and submission to the City of an Application or other appropriate response to any solicitation by the City;
 2. Timely submission of all other information and documentation related to the program required by the City as set forth in this Ordinance or as set forth in the Rules;
 3. Timely payment of any fees required to be paid to the City at the time of submission of the Application; and
 4. Compliance with program eligibility requirements as set forth in the Act, the Rules and this Ordinance.
 - iii. Submission Format.
 1. City forms or MFA forms (if available) must be used when provided and no substitutions will be accepted; however, attachments may be provided as necessary.
 2. An Applicant's failure to provide or complete any element of an application, including all requirements of the City or as may be listed on any RFP, may result in the rejection of the Application prior to review.
 3. Illegible information, information inconsistent with other information provided in the application, and/or incomplete forms will be treated as missing information and evaluated accordingly.
 4. City and the MFA reserve the right to request further information from any Applicant so long as the request is done fairly and does not provide any Applicant an undue advantage over another Applicant.
 5. The City in its discretion may cancel any RFP or reject any or all proposals in whole or part submitted by any Applicant.
 6. The Applicant shall be responsible for any expenses incurred in preparing and submitting an Application. However, the City or the MFA, as applicable, may establish and collect fees from Applicants who file Applications. Notice that fees will be charged and the amount of any such fees shall be included by the City or the MFA, as applicable, in any RFP or otherwise shall be advertised as part of the Application solicitation process.
- e. Review by the City. On receipt of an application, the City shall:
 - i. Determine whether the application submitted by the Applicant is complete and responsive;
 - ii. Determine whether the Applicant is a Qualifying Grantee as defined herein and in the Act;
 - iii. Review and analyze whether the Applicant has shown a demonstrated need for activities to promote and provide affordable housing and related services to Persons of Low- or Moderate-Income and that the proposal is consistent with the City's adopted Affordable Housing Plan;
 - iv. Determine whether the Applicant has demonstrated experience related to providing housing or services to Persons of Low- or Moderate-Income; as well as experience and/or the capacity of the Applicant to administer the Affordable Housing Program or Project for which the Applicant has applied;

materials submitted by the Applicant to the City. The MFA may also request any additional information from the Applicant, which it may require in order to determine whether the Applicant is a Qualifying Grantee under the Act and the application is complete. The MFA will then notify the City of its determination of whether or not the application is complete and that the requirements of the Act and the Rules have been satisfied and the Applicant is a Qualifying Grantee. Unless the period is extended for good cause shown, the MFA shall act on an application within forty-five (45) days of its receipt of any application, which the MFA deems to be complete, and, if not acted upon by the MFA, the application shall be deemed to be approved.

- h. Notification of Acceptance. The City, upon completion of its review of the Application and an evaluation of the criteria for approval of the Application as set forth in the this Ordinance and in any RFP issued by the City and upon its determination that the Applicant is a Qualifying Grantee, and upon its receipt of notification from the MFA that it agrees that the Application is complete and that the Act and Rules have been satisfied and the Applicant is a Qualifying Grantee, by written notice, shall notify each Applicant which has submitted an Application of the approval or disapproval of its Application. Upon approval of its Application, the Applicant shall be considered approved to participate in the Affordable Housing Program. The City's and the MFA's determination of any Application shall be conclusive.
4. Additional Requirements. Upon acceptance, the following additional requirements shall apply to any Applicant who is a Qualifying Grantee:
- a. Contractual Requirements. The Qualifying Grantee shall enter into one or more contracts with the City, which contract(s) shall be consistent with the Act and subject to the review of the MFA, in its discretion, and which contract(s) shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee.
 - b. Security Provisions; Collateral Requirements. In accordance with the Act, the Rules and this Ordinance, the City shall require the Qualifying Grantee to execute documents, which will provide adequate security against the loss of public funds or property in the event the Qualifying Grantee abandons or fails to complete the Affordable Housing Project, and which shall further provide, as may be permitted by law, for the recovery of any attorneys' fees and costs which the City and/or the MFA may incur in enforcing the provisions of this Ordinance, the Rules, the Act and/or any agreement entered into by the City and the Qualifying Grantee, and which documents may include, but are not limited to the following: note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement which the City may require in order to allow for any funds which the Qualifying Grantee may receive under a Housing Assistance Grant or Affordable Housing Funds to be adequately secured and to allow the City and the MFA to ensure that such funds shall be used by the Qualifying Grantee in accordance with the Act, the Rules and this Ordinance.
 - c. Performance Schedule and Criteria. The Qualifying Grantee shall be required to abide by a reasonable performance schedule and performance criteria that the City, in its discretion, may establish.
 - d. Examination of Books and Records. The Qualifying Grantee shall submit to and the City shall cause to be made such examinations of the books and records of each Qualifying Grantee as the City and/or the MFA deems necessary or appropriate to determine the Qualifying Grantee's compliance with the terms of the Act, the Rules, this Ordinance and any contracts between the Qualifying Grantee and the City. The City and/or the MFA may require each Qualifying Grantee to pay the costs of any such examination

Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, as Affordable Housing for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.

- ii. If any single-family properties are to be rehabilitated, weatherized, converted, leased, repaired, constructed or otherwise are to benefit from Affordable Housing Funds, and if the Qualifying Grantee intends to rent the single-family property out, those single-family properties shall be leased to Persons of Low- or Moderate-Income at the time of any such award. Grantees also shall agree that the Persons of Low- or Moderate-Income, who are tenants of those apartments, shall be allowed to remain tenants for so long as there are no uncured defaults by those tenants under their respective leases which must be compliant to the New Mexico Uniform Owner- Resident Relations Act (NMSA 1978 Sections 47-8-1 through 47- 8-52) -- and provided that there is no just cause (as outlined in Section 47-8-33 NMSA 1978) for the landlord to terminate any lease agreement with those tenants.

b. Multi-Family Property.

- i. Single Apartment within a Multi-Family Property. Qualifying Grantees shall agree that, if any single apartments are to be rehabilitated, weatherized, converted, leased, repaired, constructed or otherwise are to benefit from Affordable Housing Funds, those apartments shall be leased to Persons of Low- or Moderate-Income at the time of any such award. Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree to contribute at least sixty percent (60%) of the cost of the rehabilitation, weatherization, conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the Persons of Low- or Moderate- Income, who are tenants of those apartments, shall be allowed to remain tenants for so long as there are no uncured defaults by those tenants under their respective leases -- which must be compliant to the New Mexico Uniform Owner-Resident Relations Act (NMSA 1978 Sections 47-8-1 through 47-8-52) and provided that there is no just cause (as outlined in Section 47-8-33 NMSA 1978) for the landlord to terminate any lease agreement with those tenants.
- ii. Multiple Apartments. Qualifying Grantees shall agree that, if multiple apartments or an entire multi-family property are to be acquired, rehabilitated, weatherized, converted, leased, repaired, constructed or otherwise are to benefit from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, they shall maintain not less than sixty percent (60%) of the housing units as Affordable Housing for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.

- c. Non-Residential Property. Qualifying Grantees shall agree that they shall maintain any non-residential property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefitted from

the rules.

10. City Grant Requirements.

- a. The City is authorized to make Housing Assistance Grants under the Act. Upon determination that the City will make a Housing Assistance Grant, including the use of any Affordable Housing Funds, the City shall provide the MFA with the following:
 - i. Documentation that confirms that the City has an existing valid Affordable Housing Plan;
 - ii. Documentation that confirms that the City has an existing valid Affordable Housing Ordinance which provides for the authorization of the Housing Assistance Grant, including the use of any Affordable Housing Funds;
 - iii. Written certification that the proposed grantee is in compliance with Act and the Rules so that the MFA may confirm that the Application is complete, and that the proposed grantee is a Qualifying Grantee under the Act and the Rules.
- b. Prior to the submission of the application and project authorization to the Commission, the Commission must approve the budget submitted by the Applicant.
- c. An action authorizing the City to make a Housing Assistance Grant and/or distribute Affordable Housing Funds:
 - i. Must authorize the grant, including use of Affordable Housing Funds, if any;
 - ii. Must state the requirements and purpose of the grant;
 - iii. Must authorize the transfer or disbursement to the Qualifying Grantee only after a budget is submitted to and approved by the Commission;
 - iv. Must comply with the Rules, as amended; and
 - v. May provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through the MFA.
- d. The MFA shall act to approve the proposed Housing Assistance Grant authorized by the City within forty-five(45) days of its receipt of the documentation required above in Section 4.J.(i), (ii) and (iii) of this Ordinance.
- e. The City, in its discretion, may also hold any award of Affordable Housing Funds or any Housing Assistance Grant made by the City in suspense pending the issuance by the City of any RFP or pending the award of the Affordable Housing Funds or of the Housing Assistance Grant by the City to the Qualifying Grantee without the issuance of an RFP by the City. Any award of Affordable Housing Funds or a Housing Assistance Grant by the City shall subject the Qualifying Grantee of the award or grant to the oversight of the City and the MFA under this Ordinance and the Rules.

11. School District and Public Post-Secondary Educational Institution Donations for Housing Projects.

If a school district or a public post-secondary education institution intends to transfer land to the City to be further granted to a Qualifying Grantee as part or all of an Affordable Housing project, this transfer shall be subject to the limitations contained in the Act that the school district and the Commission enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district. Any transfer of land by a public post-secondary educational institution shall be subject to the additional limitations contained in the Act that:

- a. The property transferred shall be granted to a Qualifying Grantee by the City as part of a grant for an Affordable Housing project; and
- b. The governing board of the public post-secondary educational institution and the Commission enter into a contract that provides the public post-secondary educational institution with Affordable Housing units.

This Ordinance shall be in full force and effect thirty (30) days after it is recorded with the City Clerk in accordance with Section 4-37-9 NMSA, 1978.

Item 7.