



VILLAGE OF MAGDALENA
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AGENDA
NOTICE OF REGULAR MEETING OF THE VILLAGE OF MAGDALENA BOARD OF TRUSTEES
MONDAY, AUGUST 10, 2020
VILLAGE HALL 108 N. MAIN STREET 6:00 PM

DUE TO THE NATIONAL, STATE AND COUNTY COVID-19 DECLARED EMERGENCY AND PUBLIC HEALTH ORDER DATED JULY 30, 2020 LIMITING GATHERINGS TO LESS THAN 5 PERSONS THE MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. ALL MEMBERS OF THE PUBLIC WILL BE ABLE TO ATTEND AND LISTEN TO THE MEETING VIA ZOOM AT THE FOLLOWING LINK:

<https://us02web.zoom.us/j/84346631710>

Meeting ID: 843 4663 1710

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES
 - a. REGULAR MEETING – JULY 27, 2020
6. APPROVAL OF CASH BALANCE REPORT
7. APPROVAL OF BILLS
8. MAYOR'S REPORT
9. CLERK'S REPORT
10. DEPARTMENT REPORTS
 - a. EMS
 - b. FIRE
 - c. MARSHAL
 - d. JUDGE
 - e. PUBLIC WORKS
 - f. LIBRARY
11. DISCUSSION & POSSIBLE DECISION TO DIRECT PUBLICATION OF ORDINANCE NO. 2020-01, LODGER'S TAX
12. DISCUSSION & POSSIBLE DECISION CONCERNING IMPLEMENTING A TITLE VI POLICY, RESOLUTION NO. 2020-15
13. DISCUSSION & POSSIBLE DECISION CONCERNING PAY RAISE FOR VILLAGE EMPLOYEES
14. PUBLIC INPUT – 1 TOPIC PER PERSON - 3 MINUTE LIMIT

PUBLIC COMMENT MAY BE MADE VIA EMAIL AND WILL BE ENTERED AND/OR READ INTO THE MEETING MINUTES (IF LESS THAN 3 MINUTES) BY EMAILING COMMENTS TO: mayor@villageofmagdalena.com THE DEADLINE FOR WRITTEN PUBLIC COMMENTS TO BE RECEIVED IS MONDAY, AUGUST 10, 2020 AT 12:00 PM. EMAILED PUBLIC COMMENT MUST CONTAIN THE AUTHOR'S NAME AND PHYSICAL ADDRESS.

15. ADJOURNMENT

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

DRAFT
MINUTES OF THE REGULAR MEETING OF THE VILLAGE OF MAGDALENA
BOARD OF TRUSTEES
HELD MONDAY, JULY 27, 2020 AT 6:00 PM

DUE TO THE NATIONAL, STATE AND COUNTY COVID-19 DECLARED EMERGENCY AND PUBLIC HEALTH ORDER DATED MARCH 23, 2020 LIMITING GATHERINGS TO LESS THAN 5 PERSONS THE MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. ALL MEMBERS OF THE PUBLIC WILL BE ABLE TO ATTEND AND LISTEN TO THE MEETING VIA FACEBOOK LIVE AT THE FOLLOWING LINK: facebook.com/villageofmagdalenaofficial

Mayor Richard Rumpf called the meeting to order at 6:01 p.m.

PRESENT: Mayor Richard Rumpf, Clark Brown, Deborah Abingdon – Clerk/Treasurer, Kathy Stout – Attorney

Participating via Video Conference: Trustees: Harvan Conrad, Donna Dawson, James Nelson.

GUESTS: Carleen Gomez - Deputy Clerk, John Larson – Reporter El Defensor Chieftain

Mayor Richard Rumpf requested that all in attendance, recite the Pledge of Allegiance.

APPROVAL OF AGENDA: Mr. Nelson made a motion to approve the agenda as presented, seconded by Ms. Dawson. The motion carried unanimously.

APPROVAL OF MINUTES: Mrs. Conrad made a motion to approve the minutes of the Regular Meeting held on July 13, 2020, as presented, seconded by Ms. Dawson. The motion carried unanimously.

APPROVAL OF CASH BALANCE REPORT: Ms. Dawson made a motion to approve the cash balance report, as presented, seconded by Mr. Brown. The motion carried unanimously.

APPROVAL OF BILLS: Deputy Clerk Gomez stated that she would like to add three bills to the list which had to be paid before the next meeting. They were to Rak's in the amount of \$44.00, Acosta's Equipment in the amount of \$199.20, and Route 60 Trading Post/Visitor's Center in the amount of \$100.00.

Trustee Dawson, asked if this would be the last payment that the Village would make to Jake Finch? The Mayor replied that we were required to have someone with his credentials on staff but that we might be able to negotiate a lower rate.

Mr. Nelson made a motion to approve the bill list to include the three additional bills. The motion was seconded by Ms. Dawson. The motion carried unanimously.

BILL LIST

Acosta Equipment	\$439.95	Amazon Credit Plan	\$53.58
Bohannon-Huston Inc.	\$28,461.70	Consultant Pharm.	\$431.50
Econo Signs	\$249.60	Henry Schein, Inc.	\$11.78
Jacob Finch	\$1,073.13	Konica Minolta	\$229.66
Lar-Co Construction	\$4,200.00	Med-Tech Res.	\$73.75
NM Police Chiefs	\$75.00	NM Fire Chiefs	\$100.00
NM Muni. Clerk's	\$180.00	NM Court Clerk's	\$60.00
NM Muni. Judge's	\$150.00	MM Muni. Library	\$50.00
NM Self-Insurers	\$2,437.00	Rak's Building Supply	\$152.98
Socorro Cty. Mgr.	\$500.00	Soc Electric Co-op	\$3,932.13

TP Pump & Pipe	\$262.00	Uline, Inc.	\$72.98
Vexus Fiber	\$14.97	Rak's	\$44.00
Acosta	\$199.20	Rt 60 Trading Post	\$100.00

MAYOR'S REPORT

The Mayor reported that all three staff members taking the NM Purchasing courses had passed the final exam and that they would each be receiving credits from the University and Chief Procurement Officer Certificate. He also reported that the Utility Crew was chipping brush at the airport, had recently repaired a leak, and that the new Welcome to Magdalena sign for the west end of town was being prepared.

Donna Dawson asked when the next test for Joint Utility Workers exams would take place. Mayor Rumpf reported that all the classes were cancelled.

CLERK'S REPORT

RESOLUTION APPROVING 2019-2020 FINAL QUARTER FINANCIAL REPORT YEAR ENDING JUNE 30, 2020.

The final quarterly report has been reviewed and approved to ensure the accuracy of the beginning balances used on the FY2021 budget and this report depicts all funds for fiscal year 2020.

BUDGET ADJUSTMENT RESOLUTION NO. 2020-12 for FY 2019-2020

This is the final budget adjustment for the Fiscal Year ending June 30, 2020.

RESOLUTION ADOPTING THE FY 2020-2021 BUDGET

If adopted by the Governing Body, this will be our Fiscal Year 2020-2021 Budget.

Gross Receipts Tax

June 2020 GRT revenue totaled \$12,384.87. This is down from June of 2019 which was \$20,148.78.

Chief Procurement Officer Training

July 14th - 17th: Mayor Rumpf, Clerk/Treasurer Abingdon, and Deputy Clerk Gomez, attended live online training through New Mexico State University's NM Edge program. All successfully completed the Public Purchasing Foundation Classes and Culminating Test. Each will receive a Chief Procurement Officer Certificate. This will address one or more of our recent audit findings. Clerk/Treasurer Abingdon is scheduled to participate in additional NM Edge Finance Classes next week.

2019 Audit

The State Auditor's Office (OSA) has reviewed and approved our 2019 Audit subject to a list of items that Rice & Associates have been instructed to address. Once the Rice firm has corrected those items and returns the work to the OSA, the audit should be available.

2020 Audit

Beasley, Mitchell, & Co. have provided us with an extensive list of tasks to perform in preparation of the upcoming 2020 audit. One of those tasks is completion of the Governing Body Questionnaire. I have provided each of you with a copy of that questionnaire. Please complete and submit directly to Beasley Mitchell as instructed on the letter.

Additional comments made: The GRT for June 2019 is not a good comparable to June 2020 GRT.

DISCUSSION & POSSIBLE DECISION CONCERNING APPROVAL OF BUDGET ADJUSTMENT RESOLUTION NO. 2020-12, FISCAL YEAR 2019-2020

Clerk/Treasurer Abingdon explained that this is the final budget adjustment for the fiscal year ending June 30th, 2020. Trustee Dawson made a motion to approve the Resolution, Clark Brown seconded the motion. Mayor Rumpf called for a Role Call Vote. Clark Brown: Aye, Donna Dawson: Aye, Harvan Conrad: Aye, James Nelson: Aye. The motion passed unanimously.

DISCUSSION & POSSIBLE DECISION CONCERNING APPROVAL OF RESOLUTION NO. 2020-13, A RESOLUTION APPROVING 2019-2020 FINAL QUARTER FINANCIAL REPORT YEAR ENDING JUNE 30, 2020

Trustee Dawson asked why there were negative balances? Mr. Steininger responded that the negative figures reflected purchases that were not budgeted for. James Nelson asked about salaries listed in the Ambulance Fund and stated that no one doing that work was paid. Mr. Steininger responded that that posting may reflect the cost in insurance for that fund and that he would get back to the Council.

Donna Dawson made a motion to approve the Resolution, Harvan Conrad seconded the motion. The Mayor called for a Role Call Vote. Clark Brown: Aye, Donna Dawson: Aye, Harvan Conrad: Aye, James Nelson: Aye. The motion passed unanimously.

DISCUSSION & POSSIBLE DECISION CONCERNING APPROVAL OF RESOLUTION NO. 2020-14, A RESOLUTION ADOPTING THE 2020-2021 BUDGET

Trustee Dawson asked for clarification of detail on page 5: 60000 and "other financing sources" and 61200 transfers out. Mr. Steininger explained that the recap shows General Fund transfers to cover costs, and that except for one small change (the Fire Protection Fund), this was the same budget that they had previously approved.

Donna Dawson moved that the Council adopt the final budget, James Nelson seconded the motion. Mayor Rumpf requested a Role Call Vote. James Nelson: Aye, Clark Brown: Aye, Donna Dawson: Aye, Harvan Conrad: Aye. The motion passed unanimously.

DISCUSSION & POSSIBLE DECISION TO DIRECT PUBLICATION OF ORDINANCE NO. 2020-01, LODGER'S TAX

James Nelson pointed out several errors that should be corrected in the document. They include:

Section 7 subpart B and D should read IN not TO/take out and providing for offices lower case take out that, Section 8, subpart D, Section 8, subpart F, Section 9, subpart C, Section 9, subpart C and D, Section 12, subpart B, and Section 15 subpart F.

Attorney Kathy said that she would review all these possible corrections and suggested that the Clerk/Treasurer had some comments to share.

Donna Dawson asked if this ordinance would apply to long term rentals? Attorney Stout stated that it would not. Next there was a discussion of Air B and Bs. Ms. Dawson commented that they too, should be required to have a business license. She commented that she agreed with the privately owned wording.

Attorney Stout suggested that the business license ordinance could be referenced in the ordinance. She offered to work on the changes and stated that the document could still be published.

Clerk/Treasurer commented that she felt it was important to remember that whatever the Governing Body passes, we must have the ability to and be prepared to enforce. She added that staff might not be qualified to conduct an audit of Lodger's records. One preliminary audit quote inquiry resulted in a quote of \$2200.00 which could possibly exceed revenue.

Donna Dawson moved to table the resolution. Harvan Conrad suggested that we research what other small municipalities do and then seconded the motion to table the resolution.

James Nelson asked if we had a Lodger's Tax Committee. The Mayor suggested that we needed to create a committee. Attorney Stout added that a committee was a requirement.

PUBLIC INPUT –1 TOPIC PER PERSON – 3 MINUTE LIMIT

PUBLIC COMMENT MAY BE MADE VIA EMAIL AND WILL BE ENTERED AND/OR READ INTO THE MEETING MINUTES (IF LESS THAN 3 MINUTES) BY EMAILING COMMENTS TO: mayor@villageofmagdalena.com THE DEADLINE FOR WRITTEN PUBLIC COMMENTS TO BE RECEIVED IS MONDAY, JULY 27, 2020 AT 12:00 PM. EMAILED PUBLIC COMMENT MUST CONTAIN THE AUTHOR'S NAME AND PHYSICAL ADDRESS.

Mayor Rumpf reported that he had not received any inquiries from the public.

Trustee Nelson moved to adjourn the meeting at 6:45 p.m., the motion was seconded by Ms. Dawson. The motion carried unanimously.

Respectfully Submitted,

Deborah Abingdon
Clerk/Treasurer

Richard Rumpf
Mayor

August 10th Meeting

Clerk's Report

2019 Audit

The State Auditor's Office (OSA) has reviewed and approved our 2019 Audit subject to a list of items that Rice & Associates have been instructed to address. Once the Rice firm has corrected those items and returns the work to the OSA, the audit should be available.

2020 Audit

Beasley, Mitchell, & Co. have provided us with an extensive list of tasks to perform in preparation of the upcoming 2020 audit. Representatives from the firm will be in Magdalena on August 18th and 19th. In an effort to help prepare, Mr. Steininger will be here Monday the 17th in advance of their visit.

RAID/Community Recycling Grant

The Environment Department suggests recycling events be scheduled for September, November, January, and April. It would be good to get feedback as to whether or not those dates are good choices. There is a portion of the grant that will go towards educating the community. I suggest that we have a competition to create a "Keep Magdalena Beautiful" poster or sign.

It is a good time to recruit volunteers from the community to assist with the project.

Airport Improvement Projects

Village staff have been chipping brush at the airport. Roof repairs have been completed on the Pilot's Lounge and the building has been repainted. These expenses will be reimbursed by the New Mexico DOT at 90 percent. Our Runway Safety Grading project awaits FAA announcement, however, our State DOT grant is in place and we have been drawing on it.

Carleen Gomez

From: Jim Nelson <jcnelson@villageofmagdalena.com>
Sent: Wednesday, August 5, 2020 9:42 AM
To: Carleen Gomez
Subject: EMS July report

Three calls

--

Jim Nelson

Trustee
EMS coordinator
Village of Magdalena

Magdalena Marshal's Office

Monthly Report	Month: <u>July</u>	Year: <u>2020</u>
Marshal Zamora	ID#:Mag-1	
Total Miles Driven: <u>680</u>		
<u>GENERAL CALLS:</u>	<u>AMOUNT</u>	<u>REVENUE</u>
TRAFFIC CITATIONS: Village Ordinances	8	543
TRAFFIC CITATIONS: State Statutes		
CRIMINAL CITATIONS		
ANIMAL CONTROL CITATIONS		
TRAFFIC ACCIDENTS		
D.W.I. ARRESTS		
FELONY ARRESTS		
MISDEMEANOR ARRESTS		
12 HOUR HOLD ARREST		
CRIMINAL INVESTIGATIONS		
JUVENILE CASES		
DOMESTIC CASES		
CRIMINAL DAMAGE / PROPERTY		
<u>ASSISTANCE CALLS:</u>		
AMBULANCE/FIRE	2	
PUBLIC SERVICE	8	
NM STATE POLICE		
SHERIFF'S OFFICE		
NM FISH & GAME		
US BORDER PATROL		
US FOREST SERVICE		
<u>OTHER:</u>		
ALARM CALLS	3	
FINGERPRINTING		
Driving Tests		
Misc. Cases	10	
<u>TOTALS:</u>	33	543

MAGDALENA MARSHAL DEPARTMENT**MONTHLY VEHICLE EXPENDITURE REPORT**

For the month of : July Year: 2020

License Number: G93062

Make and Model: FORD EXPID.2015

Report due in NO LATER THAN THE 10th OF THE MONTH

Date	Beginning Mileage	Ending Mileage	Miles Traveled	Fuel Gallons	Amount	Motor Oil Quarts	Amount	Maintenance Section
1	60716	60934	218	25.9	57.5			01 Chassis Maintenance
2								02 Electrical Maintenance
3								03 Engine Maintenance
4								04 General Supplies
5								05 Interior Maintenance
6								06 Lubrication
7								07 Miscellaneous
8								09 Tire Purchase
9								10 Tire Repair
10								11 Wash and Wax
11								(Attach Copy of Invoices)
12								Invoice No.: Amt.\$
13								10
14								Invoice No.: Amt.\$
15	60934	61172	238	22.1	49.2			Date
16								Invoice No.: Amt.\$
17								Code: Date:
18								Invoice No.: Amt.\$
19								Code: Date:
20								Invoice No.: Amt.\$
21								Code: Date:
22	61172	61396	224	18.8	41.5			Invoice No.: Amt.\$
23								Code: Date:
24								Invoice No.: Amt.\$
25								Code: Date:
26								Invoice No.: Amt.\$
27								Code: Date:
28								Invoice No.: Amt.\$
29								Code: Date:
30								Invoice No.: Amt.\$
31								
Totals			680	66.8	148.2			

I certify that the above is correct to the best of my knowledge.

Signature:  Title: MARSHAL

Magdalena Marshal's Office

Monthly Report	<u>Month: July</u>	<u>Year: 2020</u>
Deputy Valenzuela	ID#:Mag-2	
Total Miles Driven:	1480	
<u>GENERAL CALLS:</u>	<u>AMOUNT</u>	<u>REVENUE</u>
TRAFFIC CITATIONS: Village Ordinances	3	262
TRAFFIC CITATIONS: State Statutes	1	0
CRIMINAL CITATIONS	0	
ANIMAL CONTROL CITATIONS	0	
TRAFFIC ACCIDENTS	0	
D.W.I. ARRESTS	0	
FELONY ARRESTS	0	
MISDEMEANOR ARRESTS	0	
12 HOUR HOLD ARREST	0	
CRIMINAL INVESTIGATIONS	5	
JUVENILE CASES/CYFD	0	
DOMESTIC CASES	0	
CRIMINAL DAMAGE / PROPERTY	1	
Larceny	1	
<u>ASSISTANCE CALLS:</u>		
AMBULANCE/FIRE	0	
PUBLIC SERVICE		
NM STATE POLICE	2	
SHERIFF'S OFFICE		
NM FISH & GAME	0	
US BORDER PATROL		
US FOREST SERVICE	1	
<u>OTHER:</u>		
ALARM CALLS	0	
FINGERPRINTING		
Driving Tests	0	
Misc. Cases	7	
<u>TOTALS:</u>	29	262

MAGDALENA MARSHAL DEPARTMENT**MONTHLY VEHICLE EXPENDITURE REPORT**

For the month of : July Year: 2020

License Number: G

Make and Model: Chevy Sil

Report due in NO LATER THAN THE 10th OF THE MONTH

Date	Beginning Mileage	Ending Mileage	Miles Traveled	Fuel Gallons	Amount	Motor Oil Quarts	Amount	Mainte
1								01 Chass
2								02 Electri
3								03 Engine
4								04 Gener
5		80382		22	50			05 Interio
6	80382	80519	137	10	20			06 Lubric
7	80519	80605	86	10	23			07 Miscel
8								09 Tire P
9								10 Tire R
10								11 Wash
11	80605	80897	219	20	45			(Attach C
12								Invoice N
13	80897	81069	172	11	\$24.50			3 7
14								Invoice No.
15								
16								Invoice No.
17	81069	81375	306	23	\$51.50			Code:_____
18								Invoice No.
19	81375	81611	236	18	41			Code:_____
20								Invoice No.
21	81611	81822	211	15	33.5			Code:_____
22								Invoice No.
23								Code:_____
24								Invoice No.
25								Code:_____
26	81822	82105	283	21	\$48.50			Invoice No.
27								Code:_____
28								Invoice No.
29								Code:_____
30								Invoice No.
31	82105	82396		21	48			
Totals			2014	171	385			

I certify that the above is correct to the best of my knowledge.

Signature:  Title: Deputy Valenzuela

Magdalena Marshal's Office

Monthly Report	Month: July	Year: 2020
FRAERE, Mariano	ID# Mag 03	
GENERAL CALLS / REPORTS:	TOTAL	REVENUE
TRAFFIC CITATIONS: Village Ordinances	3	\$272.00
TRAFFIC CITATIONS: State Statutes		
CRIMINAL CITATIONS		
ANIMAL CONTROL CITATIONS		
HARASSMENT		
TRAFFIC ACCIDENTS		
D.W.I. ARRESTS		
FELONY ARRESTS		
MISDEMEANOR ARRESTS		
12 HOUR HOLD ARREST		
CRIMINAL INVESTIGATIONS		
JUVENILE CASES		
DOMESTIC CASES		
CRIMINAL DAMAGE PROPERTY		
WELFARE		
ASSISTANCE CALLS:		
AMBULANCE/FIRE	1	
PUBLIC SERVICE	2	
NM STATE POLICE		
SHERIFF'S OFFICE		
NM FISH & GAME		
US BORDER PATROL		
US FOREST SERVICE		
OTHER:		
ALARM CALLS	1	
FINGERPRINTING		
DRIVING TEST		
MISC. CASES	1	
WARRANT ARREST		
TOTALS:	8	\$272.00

MAGDALENA MARSHAL DEPARTMENT**MONTHLY VEHICLE EXPENDITURE REPORT**

For the month of : July Year: 2020

License Number: _ G97490

Make and Model: _ 2016, Chev, Silverado

Report due in NO LATER THAN THE 10th OF THE MONTH								
Date	Beginning Mileage	Ending Mileage	Miles Traveled	Fuel Gallons	Amount	Motor Oil Quarts	Amount	Maintenance Section
1	69737	69821	84	16.06	\$48.19			04 General Supplies 05 Interior Maintenance 06 Lubrication 07 Miscellaneous 09 Tire Purchase 10 Tire Repair 11 Wash and Wax
2								
3								
4								
5								
6								
7								
8								
9								
10								
11	69821	69898	77	14.67	44.01			
12								(Attach Copy of Invoices)
13								Invoice# _____ Amt\$ _____
14								Invoice No# _____ Amt\$ _____
15								Date _____
16								Invoice No# _____ Amt\$ _____
17								Code: _____ Date: _____
18								Invoice# _____ Amt\$ _____
19								Code: _____ Date: _____
20								Invoice# _____ Amt\$ _____
21								Code: _____ Date: _____
22								Invoice# _____ Amt\$ _____
23	69898							Code: _____ Date: _____
24								Invoice# _____ Amt\$ _____
25								Code: _____ Date: _____
26								Invoice# _____ Amt\$ _____
27								Code: _____ Date: _____
28								Invoice# _____ Amt\$ _____
29								Code: _____ Date: _____
30								Invoice# _____ Amt\$ _____
31								
Totals	69898		161	30.73	\$92.20			

I certify that the above is correct to the best of my knowledge.

Signature:  703

Title: Deputy FRAERE 03



JUDGE'S REPORT JULY 2020

Magdalena Municipal Court held court on Monday, June 22, 2020 at 10AM for the first time since it's last case on February 24, 2020 prior to the COVID-19 pandemic.

An Emergency Response Team (ERT) Plan to reopen the Court was sent to the State of New Mexico Administrative Office of the Courts and Chief Judge Matthew Reynolds. This plan was submitted on June 9, 2020. Precautions for reopening were listed as follows:

- Plexiglass will be installed at the Judge's Bench as well as the Court Clerk's desk.
- Signage will be placed in the Court requiring the use of masks and social distancing of six feet between all those present in the Court.
- A COVID-19 Screening Questionnaire will be required to be answered before entering the Court.
- Only five (5) people will be allowed in the Court at any time including the Judge, Law Enforcement Officer(s), Court Clerk, the defendant and their witness(es).
- The Court will encourage telephonic appearances.
- All surfaces that are handled by the public will be sanitized, as needed.
- The Court will schedule Court dates other than the usual Monday appearances, as needed.

The Administrative Office of the Courts, Supreme Court of New Mexico sent back comments on the plan for reopening. The comments are being reviewed so that any changes necessary can be made.

As per the New Mexico Supreme Courts request regarding Municipal Court Scaled Back measures due to COVID-19 the Magdalena Municipal Court is also continuing to implement the following:

- Issue no Warrants during the COVID-19 pandemic
- Release any jail inmates if they are apprehended on a Magdalena Municipal Warrant
- We are recommending that any payments to the Court be made over the phone, via the Village drop box or by mail

- Clean/disinfect the courtroom and office that is handling defendants and citation payments. Use gloves and or hand sanitizer for employees and the public.

The Magdalena Municipal Court is a small Court, normally only conducting hearings/trials twice per month, usually seeing one to approximately five cases per Court date. We are also extending payments for 30 days. The Court can also encourage telephonic appearances when needed.

Cases Held on July 13, 2020 are as follows:

Speeding – 55 mph/30 mph zone

Defendant was not present in court.

Total: \$0.00

Assault

Defendant plead not guilty, a trial was scheduled for July 13, 2020 at 10AM. Defendant was ordered to 365 days of unsupervised probation and ordered to stay away from the victim.

Total: \$29.00

TOTAL: \$29.00

No Cases were heard on July 27, 2020.

Respectfully Submitted,

Simon Armijo
Magdalena Municipal Judge

Carleen Gomez, CMC
Deputy Clerk/Court Clerk

Librarian's Report JULY 2020

	JULY 2020	JULY 2019
Days Open	22 (129 hours)	20
Days Closed (other than norm)	1 (4 th of July)	2
Visitors	306	381
Museum Visits	-- (closed due to COVID-19)	51
New Patrons/Library Cards	2	8
# of Volunteers	4	9
Volunteer Hours	36	20

Events: No events in July 2020 due to COVID-19 restrictions.

Circulation

	JULY 2020	JULY 2019
# of Books	205 (70 J • 23 Y • 9 YA)	159 (15 J • 9 Y • 5 YA)
# of DVDs	214	175
# of Books on CD	4	0
Total Books/DVDs/Audio	423	334
# of eBooks	72	88
# of Online Audio	45	40
Total eBooks/Online Audio	117	128
Total Circulation	540	462
ILL Processed		0

Computers/Wi-Fi

	JULY 2019	JULY 2019
# Computer Sign ins	21	38
Total Unique Wi-Fi Users*	139	--
Avg. # Wi-Fi Users per day	22	--
Avg. Usage per User	7.08	--

*Total Unique Wi-Fi Users = How many distinct people used the Wi-Fi – each person only counted once, regardless of days used.

Other:

The library is still operating under temporary hours, designed to give me time to deep clean before and after each day. I am still working a full 29 hours. Bathrooms remain closed to the public for July; they will probably reopen in August or September. The Box Car Museum also remains closed to the public, until governor's orders lighten. Still only 4 computers available; keyboards and mice are cleaned daily and between uses.

Summer Reading 2020:

24 total children were signed up this year, with a total of 12 families. That may seem small, but it is much larger than last year. 21 children received craft bags each week (two are my siblings, who did crafts with me at home and didn't get bags, and one is the granddaughter of a local who lives out of state and participated remotely.)

See the attached sheet for the list of themes, crafts, and extra handouts that were given out each week.

Code Club was still canceled in July. I will spend August getting ready to restart it by at least the first week in September (possibly end of August if it goes well), with changes made to comply with State Health Orders. The safety of the children is my top priority; but I am looking forward to restarting the club.

The State Library Annual Report closes August 17th.

**Respectfully Submitted,
Ivy Stover,
Library Director**

List of Crafts and Handouts

Theme	Crafts	Extras
Dragons 6/8-6/14	Paper Plate Dragon Dragon Paper Mask Paper Airplane Dragon Pipe Cleaner Paperclip Dragon	<ul style="list-style-type: none"> • Pre-K: variety of small coloring workbooks
Mermaids 6/15-6/21	Mermaid Necklace Twirling Paper Mermaid Beach ("Moon) Sand	<ul style="list-style-type: none"> • Printed Family Story: Disney's Little Mermaid • Teen's Story: Han Christian Andersen's The Little Mermaid • Read Aloud: A Whale of a Time – Little Mermaid story • Pre-K: variety of small coloring workbooks
Pirates 6/22-6/28	Sunken Treasure Sensory Bottle Paper Plate Pirate Boat	<ul style="list-style-type: none"> • Printed Family Story: Pirates Don't Eat Children! • Read Aloud: Pirates Don't Eat Children! • Pre-K: variety of small coloring workbooks; line trace activity sheets; word trace activity sheets; color by ____; Pirate Feelings coloring workbook; How does a pirate sail? Coloring workbook • Older kids: pirate word search, wanted poster; treasure map; color by ____ • Teens only: wanted poster; treasure map • Family handouts: Pirate Memory game; pirate words and pictures; pirate lingo sheet; roll a sentence • All kids: Foldable treasure chest
Magic 6/29-7/5	Magic Wands DIY Confetti Poppers	<ul style="list-style-type: none"> • Read Aloud: Disney's Cinderella • Pre-K: Coloring Pages (4 half sheet); wizard words + trace + write; finish the pattern; big letter trace; wizard word cards; color by ____; Letter is for ____ book; • Older kids: Coloring Pages (6); finish the pattern; write a wizard story • Teens: expert from The Lord of the Rings; Coloring Pages (6) • Family handouts: wizard dice • All kids: wizard word search
Fairies 7/6-7/12	Flower Fairies Fairy Dolls (lots of flower pieces + other supplies to make fairy dolls however they wanted)	<ul style="list-style-type: none"> • Printed Family Story: excerpt from Peter Pan • Read Aloud: The Bootmaker and the Elves by Susan Lowell • Pre-K: variety of small coloring workbooks; Coloring Pages (3) • Older kids: Coloring Sheets (4) • Teens: The Shoemaker and the Elves story; excerpt from Midsummer Night's Dream

SUMMER READING 2020

Magdalena Public Library

Castle 7/13-7/19	Sword and Scroll Shield/Coat of Arms Castle Stage Puppet Popsicle Sticks	<ul style="list-style-type: none"> • Printed Family Story: The Sword in the Stone • Read Aloud: Take Care, Good Knight by Shelley Thomas • Pre-K: color by ____ activity sheets; table for dice game (5 rows); castle word cards • Older kids: King Arthur crossword with word bank; color by ____ activity sheets; medieval word search; table for dice game (10 rows) • Teens only: King Arthur crossword, no word bank; King Arthur Word Search; The Unicorn Hunt story and questions; St. George and the Dragon story and questions; expanded King Arthur Fact sheet • Family Handouts: King Arthur fact sheet; castle characters print out; Heraldry info sheet; 3 sets of foldable paper dice • All kids: Coloring sheets (2 knights, 3 princesses, 1 wizard, 1 sword in the stone)
Mythic Beasts 7/20-7/26	Phoenix Hanging Craft Griffin Paper Craft 3D Unicorn Paper Roll Craft	<ul style="list-style-type: none"> • Printed Family Story: Nessie, the Loch Ness Monster; The Princess and the Dragon; The Hungry Dragon • Read Aloud: You Don't Want a Unicorn by Ame Dyckman • Pre-K: variety of small coloring workbooks • Family Handouts: Bestiary; Mythic Creatures Pictures • All kids: Dot-to-dots (phoenix, hippocampus, ogre/cyclops, gargoyle, unicorn Pegasus)
Monsters 7/27-8/1	Monster Bookmarks Monster Feet (Felt) Yarn Monsters (extra craft supplies to make monsters)	<ul style="list-style-type: none"> • Printed Family Story: 10 little monsters; What About You? • Read Aloud: 10 little monsters; What About You; The Monster at the End of this Book: Starring Lovable, Furry Old Grover; Another Monster at the End of this Book: Starring Lovable, Furry Old Grover and Equally Lovable, Furry Little Elmo • All kids: make your own monster drawing sheet; create a monster activity sheet
Final Week 8/2-8/8	No crafts	<ul style="list-style-type: none"> • Coloring pages from NM Department of Cultural Affairs (1 packet per kid) • Home Science Kit from NM Department of Cultural Affairs (1 packet per family) • Imagine Your Story canvas bags • Personalized thank you note • Final Prizes • Awards & Participation Certificates

Other Stats:

Total children signed up: 24*

Number of families: 12*

Number of weeks: 8 main weeks + 1 final week

Total number of craft bags given out: 151

I gave away physical books on 5 different weeks

Total books given away: 93

Age Range: 4-16

- Pre-Ks (4 & 5): 8
- Elementary: 9
- Middle School (12): 2
- Teens (14+): 5

Paper Awards given out (each earns an extra prize)

- Craft Award – given to kids who brought their crafts back to the library to show me: 7
- Awesome Reader Award – given to kids who turned in reading logs: 11
- Top Reader Awards – given to the kids who read the most minutes (based on reading logs) in 3 age groups
 - Best Young Reader
 - Best Middle Reader
 - Best Teen Reader
- Certificate of Participation – everyone

Thank you for supporting this year's Summer Reading Program!

-Ivy Stover, Library Director

*24 total kids signed up. 21 received weekly bags, starting from the time they signed up. Two others were my younger siblings, who got some of my extra handouts but otherwise did the crafts with me at home, so they did not receive weekly bags. The other is from out of state and participated via reading logs remotely but did not get weekly bags.

**VILLAGE OF MAGDALENA
ORDINANCE NO. 2020-01**

LODGERS' TAX

WHEREAS, NMSA 1978, Section 3-17-1(A)(C)(1) provides that municipalities may adopt ordinances not inconsistent with the laws of the State of New Mexico and may enforce obedience to those ordinances;

WHEREAS, NMSA 1978, Section 3-38-15 provides that municipalities may impose by ordinance an occupancy tax for revenues on lodging within the municipality;

WHEREAS, NMSA 1978, Section 3-38-20 provides that an ordinance imposing an occupancy tax shall comply with certain requirements and not be inconsistent with the Lodgers' Tax Act, NMSA 1978, Section 3-38-13 through 3-38-25;

WHEREAS, NMSA 1978 Section 3-38-1 provides that a governing body may declare, by ordinance, that the licensing or regulation of a business not otherwise exempt by law is conducive to the promotion of the health and general welfare of the municipality and may impose a license fee.

NOW THEREFORE, BE IT ORDAINED that the Board of Trustees of the Village of Magdalena adopts the following Ordinance establishing a tax on lodging within the Village.

Section 1. PURPOSE

The purpose of this Ordinance is to impose a tax which will be borne by persons using commercial lodging accommodations, which tax will provide revenue for advertising, publicizing, and promoting tourist-related attractions, facilities, and events. This updated Ordinance incorporates changes in the law.

Section 2. DEFINITIONS

- A. Gross Taxable Rent. The total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes.
- B. Lodging. The transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has to right to use or possess the rooms or other units of accommodations in or at a taxable premises.

- C. Lodgings. The rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings.
- D. Occupancy Tax. The tax on lodging authorized by the Lodgers' Tax Act.
- E. Person. A corporation, firm, other body corporate, partnership, association or individual. Person includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. Person does not include the United States of America, the State of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government or any political subdivision of the State.
- F. Rent. The consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the Lodgers' Tax Act.
- G. Taxable Premises. A hotel, motel, or other premises used for lodging that is not the vendee's household or primary residence.
- H. Temporary Lodging. Lodgings for the purpose of housing a vendee within proximity of the vendee's employment or job location.
- I. Tourist. A person who travels for the purpose of business, pleasure or culture to a municipality imposing an occupancy tax.
- J. Tourist-Related Events. Events that are planned for, promoted to and attended by tourists.
- K. Tourist-Related Facilities and Attractions. Facilities and attractions that are intended to be used or visited by tourists.
- L. Tourist-Related Transportation Systems. Transportation systems that provide transportation for tourists to and from tourist-related facilities and attractions and tourist-related events.
- M. Vendee. A natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.
- N. Vendor. A person or his agent furnishing lodgings in the exercise of the taxable service of lodging.

Section 3. AMOUNT OF TAX

The occupancy tax shall be five percent (5%) of the gross taxable rent.

Section 4. PROCEEDS OF TAX

- A. Portions of the proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents lodgings in taxable premises shall be used only for advertising, publicizing and promoting tourist related facilities and attractions and tourist-related events as follows: Not less than one-half (1/2) of the proceeds from the first three percent (3%) of the tax and not less than one-fourth (1/4) of the proceeds from the tax in excess of three percent (3%).
- B. The proceeds from the occupancy tax that are collected based on the first thirty days a vendee rents lodgings in taxable premises in excess of the amount required to be used for advertising, publicizing and promoting tourist-related attractions, facilities, and events may be used to defray the costs of:
 - a. collecting and otherwise administering the tax, including the performance of audits required by the Lodgers' Tax Act and this Ordinance pursuant to guidelines issued by the Department of Finance and Administration;
 - b. establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities, attractions or transportation systems of the Village;
 - c. the principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by NMSA 1978, Section 3-38-23 or 3-38-24;
 - d. advertising, publicizing and promoting tourist-related attractions, facilities and events of the Village and tourist facilities or attractions within the area;
 - e. providing police and fire protection and sanitation service for tourist-related events, facilities and attractions located in the Village; or
 - f. any combination of the foregoing purposes or transactions in this subsection, but for no other Village purpose.

- C. The Village may use the proceeds from the occupancy tax that are collected based on the thirty-first and subsequent days a vendee rents lodgings in taxable premises for any Village purpose.

Section 5. REGISTRATION OF VENDORS

- A. No vendor shall engage in the operation of taxable premises in the Village of Magdalena who has not first registered as provided in the Registration of Business Activities Ordinance. Vendors who have registered under that Ordinance shall be deemed licensed for the purposes of NMSA 1978, Section 3-38-20.
- B. A vendor who is exempt from obtaining a taxpayer identification number under NMSA 1978, Section 7-9-1 thru 7-9-117 shall register with the Village as a vendor under this Ordinance; providing relevant contact information and a description of the taxable premises. Vendors shall update this information between January 1 and April 1 of each year.

Section 6. EXEMPTIONS

- A. The occupancy tax shall not apply if a vendee:
 - a. Has been a permanent resident of the taxable premises for a period of at least thirty (30) consecutive days, unless those premises are temporary lodging; or
 - b. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty (30) consecutive days, unless those premises are temporary lodging;
 - c. Pays less than two dollars (\$2.00) per day in rent.
- B. The occupancy tax shall not apply to lodging accommodations:
 - a. At institutions of the federal government, the state, or any political subdivision thereof;
 - b. At religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;
 - c. Clinics, hospitals, or other medical facilities;

- d. In privately owned and operated convalescent homes or homes for the aged, infirm, indigent, or chronically ill.

Section 7. CREATION and RETENTION OF RECORDS

- A. Each vendor shall make a report by the twenty-fifth (25th) day of each month on forms (known as returns) provided by the Village Clerk of the receipts for lodging paid in the preceding calendar month, verified on oath of the vendor;
- B. Vendors shall maintain vendee receipts or other accurate and regularly updated records reflecting the number of rooms and the number of nights the rooms are rented, and whether such rentals are claimed as exempt and the reasons(s) therefor;
- C. Vendors shall maintain tax returns or any other records required by any other law;
- D. Vendor shall maintain the above records in Magdalena, New Mexico;
- E. The records shall be available and open to inspection by the Village during reasonable hours;
- F. Records shall be retained for at least three (3) years.

Section 8. COLLECTION and PAYMENT OF TAX

- A. Every vendor providing lodgings shall collect the tax thereon on behalf of the Village and shall act as a trustee therefor;
- B. The tax herein shall be collected from vendees in accordance with this Ordinance and shall be charged separately from the rent fixed by the vendor for the lodgings;
- C. Each vendor shall be liable to the Village of Magdalena for the tax provided herein on the rent paid for lodging at each taxable premises;
- D. Payment shall be made by the twenty-fifth (25th) day of each month for lodging paid in the preceding calendar month in the form of check or money order; in person at Village offices or by U.S. mail or another reliable shipment or courier service.

Section 9. REFUNDS and CREDITS

- A. If any person believes they have made payment of occupancy tax in excess of that for which they were liable, they may claim a refund thereof by directing to the Village Clerk, no later than ninety (90) days from the date payment was made, a written claim for refund. Every claim for refund shall state the nature of the person's complaint and the affirmative relief requested. The Village Clerk shall allow the claim in whole or in part or may deny it within ten (10) working days of receipt of the complaint. If the person is not satisfied with the Clerk's proposed resolution, the person may request an appeal to the governing body within ten (10) working days of receipt of the Clerk's decision.
- B. Refunds of tax erroneously paid and amounting to one hundred dollars (\$100.00) or more may be made only with the approval of the governing body.

Section 10. AUDITS OF VENDORS

- A. Random audits shall be conducted to verify full payment of occupancy tax receipts.
- B. The governing body shall periodically select taxable premises and vendors subject to audit at an open meeting by selecting one of its members to draw from a collection of currently licensed vendors;
- C. No vendor shall be subject to random audit more than once per year;
- D. The audits may be performed by the Village Clerk or by any other designee selected by the governing body;
- E. Copies of audits completed shall be filed annually with the local government division of the department of finance and administration;
- F. It is unlawful for any employee of the Village of Magdalena to reveal to any person other than another employee, member of the governing body of the Village of Magdalena, or employee or representative of the local government division of the department of finance and administration, any information contained in the return or audit of any taxpayer, including vendors subject to the Lodgers' Tax Act, except to a court of competent jurisdiction in an action relating to taxes to which the Village of Magdalena is a party, or to the taxpayer or their authorized representative.

Section 11. ADMINISTRATION and REPORTING

- A. The governing body of the Village of Magdalena shall administer the occupancy tax monies collected;
- B. The governing body shall furnish to the Advisory Board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either Chapter 6, Article 6 NMSA 1978 of the Audit Act that is related to the expenditure of occupancy tax funds within ten (10) days of the filing or receipt of such proposed budget, report or audit by the governing body;
- C. The governing body shall report to the local government division of the department of finance and administration on a quarterly basis any expenditure of occupancy tax funds pursuant to Sections 3-38-15 and 3-38-21 NMSA 1978 and shall furnish a copy of this report to the Advisory Board when it is filed with the division.

Section 12. ADVISORY BOARD

- A. The Mayor shall appoint a five (5) -member advisory board that consists of two (2) members who are owners or operators of lodgings subject to the occupancy tax within the Village, two (2) members who are owners or operators of industries located within the Village that primarily provide services or products to tourists, and one (1) member who is a resident of the Village and represents the general public.
- B. Members of the Advisory Board shall serve at the pleasure of the Mayor.
- C. The Advisory Board shall advise the governing body on the expenditure of funds to be used for advertising, publicizing and promoting tourist-related attractions, facilities and events in the Village.
- D. The Advisory Board shall submit to the government body recommendations for the expenditures of funds for advertising, publicizing and promoting tourist-related attractions, facilities and events in the Village.

Section 13. CONTRACTING FOR SERVICES

- A. The governing body may contract for the management of programs and activities funded with the revenue from the tax authorized for use for advertising, publicizing and promoting tourist-related attractions, facilities and events. The governing body shall require periodic reports to the governing body, at least quarterly, listing the expenditures for those periods. Within ten (10) days of receiving the reports, the governing body shall furnish copies of them to the Advisory Board. Funds provided to the contracting person or governmental agency shall be maintained in a separate account established for that purpose and shall not be commingled with any other money.
- B. A person or governmental agency with whom the Village contracts under this Section to conduct an activity authorized by Section 4(B) of this Ordinance shall maintain complete and accurate financial records of each expenditure of the tax revenue made and upon request of the governing body, shall make such records available for inspection.
- C. The occupancy tax revenue spent for a purpose authorized by this Ordinance may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs only if those administrative costs are incurred directly for that purpose.
- D. A person or governmental agency with whom the Village contracts under this Section may subcontract with the approval of the governing body. A subcontractor shall be subject to the same terms and conditions as the contractor regarding separate financial accounts, periodic reports and inspection of records.

Section 14. CIVIL ENFORCEMENT and LIENS

- A. A vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the Village, due to failure to collect the tax or otherwise.
- B. The Village may bring an action in law or equity in the Seventh Judicial District Court for the collection of any amounts due, including without limitation penalties thereon, interest on the unpaid principal at a rate not

exceeding one percent a month, the costs of collection and reasonable attorneys' fees incurred in connection therewith;

- C. The civil penalty for failure to remit payment in a timely manner is an amount equal to the greater of ten percent (10%) of the amount that was not duly remitted or one hundred dollars (\$100.00).
- D. The occupancy tax constitutes a lien in favor of the Village upon the personal and real property of the vendor providing lodgings. The lien may be enforced as provided in Sections 3-36-1 through 3-36-7 NMSA 1978. Priority of the lien shall be determined from the date of filing.
- E. Under process or order of court, no person shall sell the property of any vendor without first ascertaining from the Village Clerk the amount of any occupancy tax due the Village. Any occupancy tax due the Village shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the sale proceeds.

Section 15. CRIMINAL PENALTY

Any person who violates the provision of this Lodgers' Tax Ordinance by a failure to pay the tax, to remit proceeds thereof to the Village, or to account properly for any lodging and the tax proceeds pertaining thereto, shall be guilty of a misdemeanor and upon conviction shall be fined in an amount of not more than five hundred dollars (\$500) or imprisonment of not more than ninety (90) days, or both.

Section 16. SEVERABILITY

If any section, subsection, sentence, clause, word or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause, word or phrase thereof be held unconstitutional or otherwise invalid.

Section 17. REPEALER

Ordinance 2015-06 is repealed. Any other ordinance, resolution, or rule directly in conflict with this ordinance is hereby repealed to the extent of such conflict.

Passed, Approved, and Adopted this _____ day of _____, 2020.

Approved:

Richard Rumpf, Mayor

Katherine Stout, General Counsel as to
legal sufficiency

Attested:

Deborah Abington
Village Clerk/Treasurer



**VILLAGE OF MAGDALENA
BOARD OF VILLAGE TRUSTEES
RESOLUTION №. 2020-15**

TITLE VI PROGRAM IMPLEMENTATION PLAN

Section I. Nondiscrimination Statement of Policy

Title VI Policy Statement

The Village of Magdalena (hereafter referred to as “the Village”) is committed to compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 2, and all related regulations and directives. The Village assures that no person shall on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity under any Village program, activity or service.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quantity, quality, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

Environmental Justice/Limited English Proficiency Policy Statement

The Village is also committed to assure every effort will be made to prevent the discrimination of low-income and minority populations as a result of any impact of its programs or activities in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and in Low-Income Populations.

In addition, the Village also assures every effort will be made to provide meaningful

access to persons that have Limited English Proficiency, in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.

Definition of Federal financial assistance and recipients affected

Federal financial assistance is defined as any Federal dollars that are assigned to the Village to support any program and activity, by way of grant, loan or contract, other than a contract of insurance or guaranty.

Specific Forms of Discrimination Prohibited

The Village's efforts to prevent discrimination must address, but are not limited to:

- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which the benefit is provided.
- Segregation or separation in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which directly or indirectly or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities related to a highway, infrastructure or facility built or repaired in whole or in part with Federal funds.
- Discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

The Village of Magdalena's programs and services covered by Title VI:

The Village's Title VI Plan applies to all of its programs, activities and services, regardless of funding source. Some sections deal with specific requirements (e.g. FTA funded programs).

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21).

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, subrecipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

1. 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);
2. Federal-Aid Highway Act of 1973 (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
3. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*) as amended, (prohibits discrimination on the basis of disability);
5. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability)
6. The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. § 4601
7. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321;
8. 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department of Transportation-Effectuation of Title VI Of The Civil Rights Act of 1964*);
9. 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
10. 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On the Basis Of Handicap In Program Or Activities Conducted By The Department Of Transportation*);
11. 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
12. 23 C.F.R. Part 200 (FHWA's Title VI/Nondiscrimination Regulation);
13. 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
14. 28 C.F.R. Part 50.3 (DOJ Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

By _____

Dated: _____

Richard Rumpf

Mayor of the Village of Magdalena

Section II. Title VI and Environmental Justice—The Public Participation Plan (PPP)

The Village of Magdalena's Public Participation Plan (PPP) describes how the Village communicates and distributes information to the public as well how the public can interact and provide comments to our organization. The

needs of those traditionally underserved by the existing system will be sought and considered by the Village of Magdalena.

Through its public involvement efforts, the Village will strive to achieve the following Title VI and Environmental Justice (EJ) goals:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Title VI states that no person shall, on the ground of race, color, or national origin be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The Village of Magdalena will ensure that the input and feedback from all people will be considered in the development of Village of Magdalena planning documents and activities.

The following actions related to Environmental Justice and Title VI are meant to reduce the barriers for participation in the decision-making process by low-income, minority or disabled individuals.

1. When possible, public meetings will be held in locations that are convenient to low and moderate income neighborhoods and accessible to disabled populations. Such locations include community centers, senior centers and schools. Where possible, members of our organization will meet at the locations of businesses, neighborhood groups, stakeholders, and other agencies.
2. Upon request, all of our organizations work products and documents will be made available in alternative formats, including Braille, large type and languages other than English.
3. The following statement will be included in all of our organization's documents: The Village of Magdalena does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the provision of services. This document can be made available in alternative formats by contacting the Village Clerk/Treasurer's office at (575) 854-2261.

4. The following statement will be included in all meeting announcements: If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the meeting, please contact the Village Clerk at 575-854-2261 at least one week prior to the meeting or as soon as possible.
5. Agencies and organizations that represent low-income, minority and disabled populations will be identified and included in our organization's mailings. Our staff will maintain an active listing of contacts for these organizations.
6. Our organization will evaluate Environmental Justice actions and Title VI requirements on an annual basis to ensure effectiveness of public involvement. This document will be reviewed and updated in conjunction with the Public Participation Plan.

Section III. Organization/Staff Responsibilities

Organizational Overview:

The Mayor; The four (4) member Board of Trustees; and, the Municipal Judge comprise the Village's elected officials. The Board, with the Mayor's input, establishes public policy, and administers Village services such as the Marshal's Office, the Library, and Joint Utilities (water and sewage, municipal streets, trash service). The Mayor, with the consent of the Board, appoints a Village Clerk/Treasurer who, along with his or her deputies and assistants, manages the day to day operations of the Village. The Clerk/Treasurer is the Title VI Coordinator for the Village of Magdalena.

Title VI Coordinator Responsibilities: The Title VI Coordinator is responsible for the development and implementation of the Title VI plan. The Coordinator must also ensure that all entities of the Village are compliant with Title VI requirements. The Title VI Coordinator is also responsible for:

- Submitting a Title VI plan and annual reports for the Village.
- Developing procedures for receiving, processing, investigating and reporting Title VI complaints.
- Maintaining a Title VI complaint log, and report to NMDOT on a periodic basis.
- Developing procedures for the collection and analysis of statistical data.
- Developing a program to conduct Title VI reviews or program areas.
- Conducting annual assessments of identified Title VI program areas.
- Developing Title VI information for dissemination.
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.

Section IV. Primary Program Area & Review Procedures

The Village of Magdalena, New Mexico engages in the following program areas.

Program Area	General Description	Title VI/ Nondiscrimination Concerns and Responsibilities	Review Procedures for Ensuring Nondiscrimination
Planning	At least twice monthly business meetings of the Board of Trustees to consider resolutions, ordinances, projects, expenditures, and properties.	Meetings are advertised on the Village website, MagE-Board (community postings). Village maintains FaceBook page as well	Notice to accommodate persons w/ disabilities on each meeting notice, meetings held at City Hall at a central location is ADA compliant. Public comment period held to hear from all in attendance.
Maintaining Streets and Rights of Way	Village responsible for maintaining its streets and rights of way	Major projects and minor complaints discussed at twice monthly meetings.	4 trustees hear from all residents and relate concerns for those not in attendance. Almost every Village neighborhood is mixed income.
Joint Utilities	Water, Sewage, Trash	Entire program encompassed in easy to understand Ordinance subject to input and amendment once per year	Ordinance contains provisions for special payment arrangements; joint utility workers visible and known in Village
Library	Magdalena owns its own accredited library at a central location	Usually staffed by a professional librarian who works closely with the schools and other programs and funding sources to ensure all are served	Librarian presents monthly public reports on usage and concerns to the Board of Trustees
Law Enforcement	One Marshal appointed by Mayor and at least two deputies	Staff familiar with residents and their families; work closely with the county sheriff and NMSP	Marshal is an at-will employee who reports directly to the Mayor
Airport	The Village owns a local airport	Endeavors to keep it up to FAA and State standards	Hopes to host fly-overs that are free and accessible to the community as well as

		other educational and use opportunities.
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Section V. Title VI Complaint Procedures

The Village of Magdalena is committed to ensuring that all residents have equal access to all transportation services. It is further the intent of the Village of Magdalena that all residents are aware of their rights to such access. Any person believing he or she has been excluded from, denied participation in, denied the benefits of, or otherwise has been subjected to discrimination under any transportation service, program or activity (whether federally funded or not) due to that person's race, color, national origin, gender, age, disability, economic status, or limited English proficiency has the right to file a complaint.

The complaint procedures cover the following:

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Civil Rights Restoration Act of 1973
- Civil Rights Restoration Act of 1987
- Americans with Disabilities Act of 1990
- Executive Order 12898
- Executive Order 13166

An individual, group of individuals or entity may file a formal Title VI complaint. Complaints must be submitted to the NMDOT Title VI Coordinator in writing, signed and dated, within 180 days of the alleged discriminatory act (or latest occurrence). The complaint should be submitted to the following address:

Attn: Title VI Coordinator
New Mexico Department of Transportation
Construction and Civil Rights Bureau
1570 Pacheco St.
Suite A-10
Santa Fe, NM 87505

The complaint should include the name, address, phone number and signature of complainant. The formal complaint should describe the alleged discriminatory act that violates Title VI in detail.

Title VI complaints may also be filed directly with the United States Department of Transportation (USDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA) or the Federal Railroad Administration (FRA) within the 180 day period of the alleged discriminatory act (or latest occurrence).

Section VI. Title VI Program Management Procedures

The Village of Magdalena Title VI Coordinator shall ensure the following occurs:

- The transportation planning process fully complies with the requirements of Title VI.
- Monitor the transportation planning process overall strategies and goals and ensure compliance with Title VI requirements.
- Review operational policies and procedures to ensure Title VI compliance.
- Monitor the service equities of planning data collection and analysis for potential impacts on social, economic, and/or ethnic groups.
- Ensure the planning organizational membership attempts to reflect the makeup of the population served. This would include periodically reporting the MPO/RPO racial, ethnic, and gender composition of public involvement organizations or groups.
- Ensure the opinions and views of all groups within their populations are solicited and considered in the planning of transportation projects.
- Monitor compliance with Environmental Justice issues to identify low-income and minority populations that may be impacted by transportation planning process.
- Evidence that input from minority groups/persons has been considered in the transportation planning process. Evidence could include but is not limited to the participation level and composition of participants in public information settings. Also reporting any follow-up and conclusions to issues communicated throughout the planning process.
- Monitor the gathering and utilization of demographic data used to identify and locate low-income and minority populations in order to investigate the possible benefits and detriments of transportation plans on these populations.
- Monitor compliance with Limited English Proficiency populations to improve access and comprehension of the transportation planning process for individuals comprising the LEP population.

Section VII. Title VI Related Training

The Village of Magdalena Title VI Coordinator shall ensure that staff is trained and familiar with Village related policies and procedures by: a periodic refresher session for management; periodic training/discussion sessions to provide opportunities to discuss practical situations and how Title VI requirements may be useful; use of FHWA Training Resources; or, NMDOT Office of Equal Opportunities for possible on-site Title VI training.

Section VIII. Limited English Proficiency (LEP) Plan

Executive Order 13166, titled Improving Access to Services for Persons with Limited English Proficiency, indicates that differing treatment based upon a person's inability to speak, read, write, or understand English is a type of national origin discrimination. Any agency receiving federal funds needs to develop a Limited English Proficiency (LEP) Plan. Recipients of federal funding should conduct a Four Factor Analysis to prevent discrimination of the basis on limited English Proficiency.

The Four Factor Analysis includes the following factors:

- **Number or Proportion of LEP Individuals:** This factor should describe your efforts to provide meaningful opportunities to your Limited English Proficient population. Your organization should ask "*What number or proportion of individuals will be excluded from benefits or services absent efforts to remove language barriers?*" In Magdalena, there are a significant number of primary Navajo and Spanish speakers.
- **Frequency of Contact with the Program:** If LEP persons must access your program/activity daily; the recipient has a greater responsibility to tailor their services to the needs of LEP persons. This factor should be data driven and decisions should be in direct correlation through whatever data gathering exercises your organization uses.
- **Nature and Importance of the Program:** The need LEP individuals have access to benefits and services amplifies with programs where the denial or delay of access may have life or death implications. Recipients should identify programs of this type of importance and describe the process to ensure LEP persons are not denied or delayed in the service or benefit of that service.
- **Resources Available:** Your organization's may have limited resources may not have to take the same steps as a larger organization to provide LEP assistance in programs that have a limited number of LEP persons (e.g., where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to a person's day to day existence.) Claims of limited resources will need to be well-substantiated.

In addition, your organization should address the appropriate mix of written and oral

language assistance. Your organization should identify the following:

- Documents should be translated
- Process to identify when oral translation is needed
- When services should be immediately available

Section IX. External Communication (Notification to Public Beneficiaries)

The Village should provide information to members of the public detailing its Title VI obligation and notify members of the public of the protections against discrimination afforded to them by Title VI. To that end, this Policy will be placed on the Village website, posted at Village Hall, and made accessible to copy.

The contents of the notification shall include: 1) statement that the Village operated the Federal Program(s) without regard to race, color, national origin, sex, age, or disability; 2) identify procedures to be followed by members of the public to request additional information regarding the Village's Title VI obligation; and, 3) identify procedures to be followed by members of the public to file a discrimination complaint against the Village.

Section X. Data Collection

Describe your organization process for collecting and analyzing data on the race, color, national origin, and sex of participants and beneficiaries of your organizations programs and activities. Examples include tracking the race/ethnicity of residents relocated through your organization's right of way program, tracking the race/ethnicity of members of the public participation in public meetings, and collecting U.S. Census data on population by your organization's projects.

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting Data)
Planning (public meetings)	Census and asking attendees who sign in to voluntarily provide Title VI information	To track whether census data matches actual participation

Section XI. Notice of Rights

The following is posted on the Village of Magdalena website:

The Village of Magdalena operates its programs and services without regard to race, color, national origin, sex, age, and disability. Anyone who believes they have been excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any Village of Magdalena program or activity because of their race, color, national origin, age, sex, or disability may file a discrimination complaint with the New Mexico Department of Transportation.

Appendix A

The Village of Magdalena, New Mexico (hereafter referred to as the "Recipient") HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

- 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);
- 49 C.F.R. Part 21 (entitled *non-discrimination, In Federally-Assisted Programs Of The Department of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Act, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measure necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the DOT, including the FHWA."

Specific Assurances

More specifically and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted programs and activities:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient shall insert the following notification in all solicitations for bids, Request For Proposals for work, or material subject to the Acts and the Regulations and made in connection with the Federal Aid Highway Program, and in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Village of Magdalena, New Mexico in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Act and Regulations.
4. The Recipient shall insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend the right to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties.
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired, or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the project, except where the Federal assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the officials to whom he/she delegates

specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

By signing this Assurance, The Village of Magdalena, New Mexico also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Village of Magdalena, New Mexico gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under Federal-Aid Highway Program. This ASSURANCE is binding on it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest and other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

By _____

Dated: _____

Richard Rumpf

Mayor of the Village of Magdalena

Appendix B

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time-to-time, (hereinafter referred to as the “Regulations”), which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by THE Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the New Mexico Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Village of Magdalena, New Mexico or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor’s non-compliance with the nondiscrimination provisions of this contract, the Village of Magdalena, New Mexico will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Village of Magdalena, New Mexico or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Village of Magdalena, New Mexico to enter into any litigation to protect the interests of the Village of Magdalena, New Mexico. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix C

Covenant Running with the Land Assurance

The following clauses shall be included in deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the State of New Mexico will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the State of New Mexico all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(Habendum Clause)

TO HAVE AND TO HOLD said lands and interests therein unto the State of New Mexico and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the State of New Mexico, its successors and assigns.

The State of New Mexico, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]* (2) that the State of New Mexico will use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department shall have a right to enter or re-enter said lands and facilities on said land, and the above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its

assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such clause is necessary in order to Make clear the purposes of Title VI of the Civil Rights Act of 1964.)

Appendix D

Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of New Mexico, pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) and never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the State of New Mexico and its assigns.*

(* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

Appendix E

Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of New Mexico pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to the deeds, in the event of breach of any of the above Non-discrimination covenants, the State of New Mexico will there upon revert to and vest in and become the absolute property of the State of New Mexico and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Appendix F

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- 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, (29 U.S.C. § 324 *et seq.*), (prohibits 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);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the 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 program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures 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;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure

compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your program (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (U.S.C. 1681 *et seq.*)

PASSED, APPROVED and **ADOPTED** by the Village of Magdalena Board of Trustees of on August 10, 2020.

Approved:

Richard Rumpf, Mayor

Attested:

Deborah Abingdon
Village Clerk/Treasurer

New Mexico Department of Transportation

By:
Title:

Date: