

**CITY OF BLOOMFIELD, NEW MEXICO
ORDINANCE NO. 461**

AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE CITY OF BLOOMFIELD AS BORROWER/GRANTEE AND THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY AS LENDERS/GRANTORS; AMENDING THE SCOPE OF THE PROJECT FINANCED BY THE WATER PROJECT FUND LOAN/GRANT AGREEMENT; APPROVING THE FORM AND TERMS OF AND OTHER DETAILS CONCERNING THE FIRST AMENDMENT TO WATER PROJECT FUND LOAN/GRANT AGREEMENT; AMENDING ORDINANCE NO. 435 TO CONFORM TO THE PROVISIONS OF THIS ORDINANCE; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE AMENDMENT TO THE WATER PROJECT FUND LOAN/GRANT AGREEMENT.

WHEREAS, the Borrower/Grantee is a legally and regularly created, established, organized and existing municipality under the general laws of the State of New Mexico (the "State") and more specifically, the Municipal Code, §§ 3-1-1 through 3-66-11 NMSA 1978, as amended and supplemented; and

WHEREAS, the Governing Body adopted Ordinance No. 435 on March 29, 2010 (the "Original Ordinance") authorizing the Borrower/Grantee to execute a Loan/Grant Agreement to accept a grant in the amount of eight hundred eighty thousand dollars (\$880,000) and enter into a loan in the amount of two hundred twenty thousand dollars (\$220,000) from the New Mexico Water Trust Board ("WTB") and the New Mexico Finance Authority (the "Finance Authority") (collectively, the "Lenders/Grantors") and for the Project defined in the Original Ordinance (the "Original Project"); and

WHEREAS, the Borrower/Grantee and the Lenders/Grantors entered into the Loan/Grant Agreement on April 30, 2010 pursuant to NMSA 1978, §§ 72-4A-1 through 72-4A-10 (2001, as amended through 2011) and NMSA 1978, §§ 6-21-1 through 6-21-31 (1992, as amended through 2012). The payment of principal and interest on the Loan proceeds is payable from the Pledged Revenues described in the Original Ordinance (the "Loan/Grant"); and

WHEREAS, the Borrower/Grantee undertook the development of the Original Project and has completed the Original Project; and

WHEREAS, on January 9, 2013, and on January 25, 2013, the WTB and the Finance Authority, respectively, approved and consented to the request of the Borrower/Grantee to amend the Loan/Grant Agreement to revise the Original Project to authorize the Loan/Grant

proceeds to be used for the construction of a new 800,000 gallon, at grade welded steel storage tank adjacent to and matching the overflow elevation of the existing 300,000 gallon North Tank, to increase storage capacity in the North Service Area as part of the Borrower/Grantee's ongoing Agua Para Los Vecinos regional water project and an upgrade of the current meter reading system to automated meter reading, (the "Amended Project"); and

WHEREAS, the Governing Body has determined and hereby determines that the Amended Project may be financed with amounts borrowed under the Loan/Grant Agreement and that it is in the best interest of the Borrower/Grantee and its members that the Loan/Grant Agreement be amended and that the financing of the acquisition and completion of the Amended Project take place by executing and delivering an amendment to the Loan/Grant Agreement (the "Amendment"); and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the Secretary/Treasurer this Ordinance and the form of the Amendment; and

WHEREAS, the Governing Body hereby determines that the Amended Project is to be used for governmental purposes of the Borrower/Grantee; and

WHEREAS, the Governing Body intends by this Ordinance to authorize the execution and delivery of the Amendment for the purposes set forth herein; and

WHEREAS, all required authorizations, consents and approvals in connection with: (i) the use of the proceeds of the Amendment and the Loan/Grant Agreement to finance the Amended Project; and (ii) the authorization, execution and delivery of the Amendment which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BLOOMFIELD:

Section 1. Definitions. Capitalized terms used in this Ordinance shall, for all purposes, have the same meanings specified or defined in the Original Ordinance, unless the context clearly requires otherwise or otherwise defined herein.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of the Ordinance) by the Governing Body and officers of the Borrower/Grantee directed toward the Amended Project and the execution and delivery of the Amendment be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Amendment and the Amended Project; Amendment of Original Ordinance. The redefinition of the Original Project and the use of Loan/Grant proceeds for the Amended Project, through execution and delivery of the Amendment, are hereby authorized and ordered. The Amended Project is for the benefit and use of the Borrower/Grantee. The term "Project" as used in the Original Ordinance, this Ordinance and

Loan/Grant Agreement shall include the Original Project and the Amended Project, as defined in this Ordinance.

The definition of the term "Project" in Section 1 of the Original Ordinance and in Exhibit "A" to the Loan/Grant Agreement are amended to include the definition of "Amended Project" in this Ordinance.

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

A. The Amended Project is needed to meet the needs of the Borrower/Grantee and its members.

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

C. The Pledged Revenues may lawfully be pledged pursuant to the Act to secure the payment of amounts due under the Original Ordinance and this Ordinance and the Amendment does not change the terms of the payment of the amounts due under the Original Ordinance.

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

E. The Amended Project and the execution and delivery of the Amendment pursuant to the Act to provide funds for the financing of the Amended Project are necessary and in the interest of the public health, safety, morals and welfare of the members of the Borrower/Grantee.

F. The Borrower/Grantee will acquire and complete the Amended Project, in whole or in part, with the net proceeds of the Loan/Grant.

Section 5. Amendment - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least three-fourths majority of all members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the constituent public served by the Borrower/Grantee and acquiring the Amended Project, it is hereby declared necessary that the Borrower/Grantee, pursuant to the Act, execute and deliver the Amendment. The Borrower/Grantee shall use the proceeds of the Loan/Grant to finance the Amended Project and to pay the costs of issuance of the Amendment. The Amended Project will be owned by the Borrower/Grantee.

B. The Amendment shall be in substantially the form of the Amendment presented at the meeting of the Governing Body at which this Ordinance was adopted.

C. Except as expressly amended by the Amendment, the Loan/Grant Agreement shall remain effective in its entirety.

D. Except as expressly amended by this Ordinance, the Original Ordinance shall remain effective in its entirety.

Section 6. Approval of Amendment. The form of the Amendment as presented at the meeting of the Governing Body at which this Ordinance was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Amendment with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Borrower/Grantee on the Amendment and attest the same. The execution of the Amendment by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Amendment and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Amendment for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Amendment, including but not limited to, the publication of the summary of this Ordinance set out in Section 13 below (with such changes, additions and deletions as they may determine).

Section 8. Amendment of Ordinance. Prior to the date of the initial delivery of the Amendment to the Lenders/Grantors, the provisions of this Ordinance may be supplemented or amended by Ordinance of the Governing Body with respect to any changes that are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended without receipt by the Borrower/Grantee of any additional consideration, but only with the prior written consent of the Lenders/Grantors.

Section 9. Ordinance Irrepealable. After the Amendment has been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Amendment and the Loan/Grant Agreement shall be fully paid, canceled and discharged, as provided in the Original Ordinance.

Section 10. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 11. Repealer Clause. All other bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 12. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Borrower/Grantee kept for that purpose, authenticated by the signatures of the Mayor and City Clerk of the Borrower/Grantee, and this Ordinance shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Ordinance, this Ordinance shall be effective upon adoption of this Ordinance by the Governing Body.

Section 13. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Bloomfield
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 461 duly adopted and approved by the City Council of the City of Bloomfield on March 25, 2013. A complete copy of the Ordinance is available for public inspection and may be obtained by contacting the City Clerk at 915 North First Street, Bloomfield, New Mexico 87413.

The title of the Ordinance is:

**CITY OF BLOOMFIELD, NEW MEXICO
ORDINANCE NO. 461**

AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE CITY OF BLOOMFIELD AS BORROWER/GRANTEE AND THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY AS LENDERS/GRANTORS; AMENDING THE SCOPE OF THE PROJECT FINANCED BY THE WATER PROJECT FUND LOAN/GRANT AGREEMENT; APPROVING THE FORM AND TERMS OF AND OTHER DETAILS CONCERNING THE FIRST AMENDMENT TO WATER PROJECT FUND LOAN/GRANT AGREEMENT; AMENDING ORDINANCE NO. 435 TO CONFORM TO THE PROVISIONS OF THIS ORDINANCE; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN

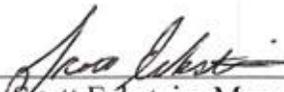
CONNECTION WITH THE EXECUTION AND DELIVERY OF THE
AMENDMENT TO THE WATER PROJECT FUND LOAN/GRANT
AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title. This Notice
constitutes compliance with NMSA 1978, § 6-14-6.

(End of Form of Summary for Publication)

PASSED, APPROVED AND ADOPTED THIS 25TH DAY OF MARCH, 2013.

CITY OF BLOOMFIELD, NEW MEXICO

By 
Scott Eckstein, Mayor

ATTEST:

By 
Jamie Turrentine, City Clerk



Governing Body Member Curtis Lynch then moved adoption of the foregoing Ordinance, duly seconded by Governing Body Member Matt Pennington.

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

Those Voting Aye:

Matt Pennington

Elwin Roark (by phone)

Curtis Lynch

Those Voting Nay:

None.

Those Absent:

Pat Lucero

Three (3) Members of the Governing Body having voted in favor of the motion, the Mayor declared the motion carried and the Ordinance adopted, whereupon the Mayor and City Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Ordinance, the meeting upon motion duly made, seconded and carried, was adjourned.

CITY OF BLOOMFIELD, NEW MEXICO

By 
Scott Eckstein, Mayor

ATTEST:

By 
Jamie Turrentine, City Clerk



EXHIBIT "A"

Notice of Meeting
and
Agenda

AFFIDAVIT OF PUBLICATION

Ad No. 68720

**STATE OF NEW MEXICO
County of San Juan:**

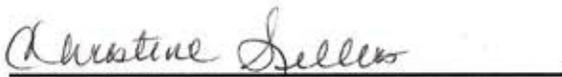
JOHN ELCHERT, being duly sworn says:
That HE is the PUBLISHER of THE DAILY TIMES, a daily newspaper of general circulation published in English at Farmington, said county and state, and that the hereto attached Legal Notice was published in a regular and entire issue of the said DAILY TIMES, a daily newspaper duly qualified for the purpose within the meaning of Chapter 167 of the 1937 Session Laws of the State of New Mexico for publication and appeared in the Internet at The Daily Times web site on the following day(s):

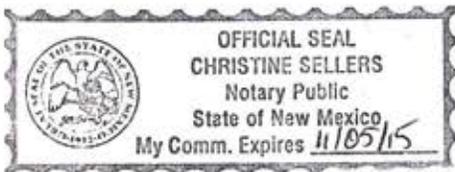
Thursday, March 07, 2013

And the cost of the publication is \$101.00



ON 3/14/13 JOHN ELCHERT
appeared before me, whom I know personally
to be the person who signed the above
document.





COPY OF PUBLICATION

CITY OF BLOOMFIELD, NEW MEXICO
Notice of Public Hearing

Notice is hereby given that at its regular meeting on March 25, 2013, commencing at the hour of 6:00 p.m., in the Municipal Offices, 915 North First Street, Bloomfield, New Mexico (the "City"), the City will conduct a public hearing to consider a proposed Ordinance, the title of which appears below. A complete copy of the Ordinance is available for public inspection during normal and regular business hours at the Office of the City Clerk, located at 915 North First Street, Bloomfield, New Mexico, 87413.

The title of the proposed Ordinance is:

CITY OF BLOOMFIELD, NEW MEXICO
ORDINANCE NO. 461

AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND AMONG THE CITY OF BLOOMFIELD AS BORROWER/GRANTEE AND THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY AS LENDERS/GRANTORS; AMENDING THE SCOPE OF THE PROJECT FINANCED BY THE WATER PROJECT FUND LOAN/GRANT AGREEMENT; APPROVING THE FORM AND TERMS OF AND OTHER DETAILS CONCERNING THE FIRST AMENDMENT TO WATER PROJECT FUND LOAN/GRANT AGREEMENT; AMENDING ORDINANCE NO. 435 TO CONFORM TO THE PROVISIONS OF THIS ORDINANCE; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE AMENDMENT TO THE WATER PROJECT FUND LOAN/GRANT AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

Publication of this notice constitutes compliance with NMSA 1978, § 3-17-3.

Legal No. 68720 published in The Daily Times on March 07, 2013.