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State of New Mexico
OFFICE OF THE STATE AUDITOR

VIA EMAIL AND U.S. MAIL

January 30, 2017

The Honorable Sam Cobb
City Commissioners
City of Hobbs
200 E. Broadway
Hobbs, New Mexico 88240

Re: City of Hobbs

Dear Mayor and Commissioners:

The Office of the State Auditor (“OSA”) received various concerns regarding the City of Hobbs (“City”). This information was routed to the OSA Special Investigations Division (“SID”) for review. These concerns were received after our previous letter, dated October 17, 2016, was sent to the City highlighting opportunities for improved governance with respect to procurement practices.

The OSA received information indicating the Mayor has a financial interest in the form of a \$60,000 home loan to City Manager J.J. Murphy, which could raise a potential conflict with respect to employment decisions. Fact-finding procedures revealed that Mr. Murphy entered into the loan agreement with the Mayor’s father, S.G. Cobb, doing business as the Cobb Family LP (“Business”). According to the New Mexico Secretary of State, until recently, the Mayor was the Registered Agent and Vice President of the Business and served as a member of its board of directors. With the passing of S.G. Cobb on November 28, 2016, it is our understanding that the Mayor became the sole owner and board member of the Business.

In accordance with the City’s Code of Ethics (Resolution No. 5329), City officials who have a private interest in a matter pending before or within the governmental body shall disclose the interest. A direct financial interest results in automatic disqualification from participating on the matter, while an indirect interest may result in a disqualification based on the majority vote of the Commission or through voluntary recusal. The Mayor participated in employment matters involving Mr. Murphy while also serving as the Vice President and board member of a business holding a loan with Mr. Murphy. However, nothing in the Commission’s meeting minutes pertaining to the discussion and approval of Mr. Murphy’s compensation or other terms of employment indicate that the Mayor disclosed the Business’ interests with Mr. Murphy.

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Furthermore, City officials, including the Mayor and Commissioners, are required to file annual financial disclosures that include a listing of business interests. As part of our fact-finding procedures, we requested that the City provide any disclosures that it has on file since 2013. However, the City Clerk responded that the City did not possess any such records. As such, it does not appear that City officials are complying with the annual disclosure requirements provided for in the City's Code of Ethics.

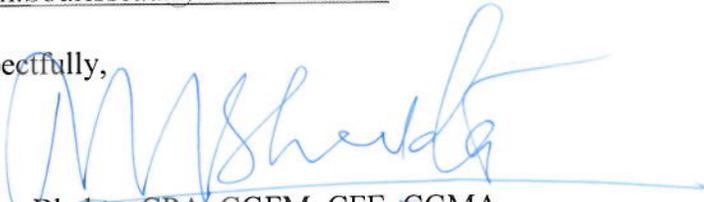
In addition, during the course of the City's Fiscal Year 2016 financial and compliance audit, the City informed its auditor of purchases made during the year totaling \$40,502.17 with vendors owned by two Commissioners, which resulted in finding 2016-005. The City's procurement code clearly prohibits elected officials or employees from providing goods or services to the City as does the Governmental Conduct Act, NMSA 1978, Section 10-16-13.2. We appreciate the City bringing these transactions to the attention of its auditors.

As stated in the City's Code of Ethics, the proper administration of government requires "that government decisions and policy be made in the best interest of the people" and that "the public have confidence in the integrity of its government." Avoiding actual conflict of interest as well as the appearance of conflict of interest by City officials is key to fulfilling this mandate. The City should take immediate steps to ensure adherence to its Code of Ethics, including compliance with annual disclosure requirements, and appropriate training with respect to procurement practices.

Furthermore, any outstanding undisclosed conflicts of interest should be discussed in open meeting and voted on in accordance with the City Code of Ethics. Since it appears that the City officials may not have complied with disclosure requirements in the past, and the Commission may not have acted with respect to recusals or disqualifications that may have been appropriate under the circumstances, there may be other areas of noncompliance. The Commission should review its past disclosure practices and determine whether additional remedial actions are necessary.

Thank you for your attention to these matters. If you have any questions, please do not hesitate to contact Kevin Sourisseau, Special Investigations Division Director, at 505-476-3800 or Kevin.Sourisseau@osa.state.nm.us.

Respectfully,



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cc: J.J. Murphy, City Manager
Toby Spears, CPA, Finance Director
Benjamin Baker, CFE, Special Investigations Director, New Mexico Office of the Attorney General