

*Rolf Hechler
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Ingo Hoepfner
Commissioner*

*Angie Gonzales
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
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REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON WEDNESDAY, AUGUST 14, 2024; TO START AT 9:00 A.M.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

Hon. Rolf Hechler, Mayor
Hon. Amanda Forrister, Mayor Pro-Tem
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Ingo Hoepfner, Commissioner

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

C. PRESENTATIONS

1. Presentation of City of Truth or Consequences Employee Service Anniversary Awards. City Manager Gonzales and Department Supervisor

D. PUBLIC COMMENT (3 Minute Rule Applies)

E. REPORTS

1. City Manager
 - a. Water Update: Arnie Castaneda, Water/Wastewater Director
2. City Commission
3. City Attorney

F. CONSENT CALENDAR

1. City Commission Regular Minutes, July 10, 2024
2. City Commission Regular Minutes, July 24, 2024
3. July 2024 Accounts Payable
4. Take Home Vehicle Form

G. PUBLIC HEARINGS (5 Minute Rule Applies)

1. Public Hearing/Discussion/Action: Ordinance 766 Amending the City of Truth or Consequences Municipal Code of Ordinances, Amending Chapter 11 Pertaining to Solid Waste. Assistant City Manager Alvarez
2. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 767 Authorizing the Execution and delivery of a loan agreement and intercept agreement by and between the City of T or C, and the New Mexico Finance Authority, evidencing a special limited obligation of the governmental unit to pay a principal amount not to exceed \$2,000,000, together with interest thereon for the purpose to acquire, construct, renovate, furnish, equip, beautify and improve a public safety building for the benefit of the city and its residents. Chris Muirhead, Modrall Sperling
3. Public Hearing/Discussion/Action: Final Adoption of Ordinance 768, Amending Sec. 3-98 of the Municipal Code of Ordinances pertaining to safekeeping of animals by the animal shelter. OJ Hechler, Community Services Director

H. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Resolution 05 24/25 Establishing Solid Waste and Recycling Service and Collection Center Rates for The City of Truth or Consequences. Assistant City Manager Alvarez
2. Discussion/Action: Resolution No. 11 24/25 Amendment to City Park Rental fees. OJ Hechler, Community Services Director
3. Discussion/Action: Resolution 12 24/25 Approval of the State of New Mexico Environment Department Capital Appropriation Project Water Distribution Line Grant Agreement and Authorizing the Assignment of Authorized Officers and Agents. Assistant City Manager Alvarez

I. NEW BUSINESS

1. Discussion/Action: Revised Parcel Survey for Property Appraisal. Assistant City Manager Alvarez
2. Discussion/Action: Approval of FY25 Clean and Beautiful Grant. OJ Hechler, Community Services Director
3. Discussion/Action: Extending the swimming pool season beyond Labor Day to a date yet to be determined. OJ Hechler, Community Services Director
4. Discussion/Update: City of T or C Comprehensive Plan Revision Update. Assistant City Manager Alvarez
5. Discussion/Action: Aging & Long-term Services Department (ALTSD) Junior Bill Appropriations Agreement. Assistant City Manager Alvarez
6. Discussion/Action: Acceptance of USDA Letter of Conditions WSPI-2 (Water System Performance Improvements 2) Project and Authorization for Predevelopment Financing. Assistant City Manager Alvarez
7. Discussion/Action: GRO Special Appropriation Intergovernmental Services Agreement with South Central Council of Governments as Fiscal Agent. City Manager Gonzales
8. Discussion/Action: Approval of Purchase Requisitions over \$20,000. City Manager Gonzales
9. Discussion/Action: Review, Approve and/or Allocate Funds for Sierra County Rock & Gem Society (SCRAGS) Application #1 for 2025 Sierra Co. Rock & Gem Show. Tammy Gardner, Executive Assistant

I. NEW BUSINESS Continued...

10. Discussion/Action: Review, Approve and/or Allocate Funds for Geronimo Trail Scenic Byway Application #3 for the National Park Journal. Tammy Gardner, Executive Assistant
11. Discussion/Action: Review, Approve and/or Allocate Funds for Veterans Memorial & Museum Application #3 for a Billboard Rental. Tammy Gardner, Executive Assistant
12. Discussion/Action: Review, Approve and/or Allocate Funds for MainStreet Application #1 for the 2025 Desert Ultra. Tammy Gardner, Executive Assistant

J. ADJOURNMENT

The meeting will be broadcast live through KCHS on 101.9 FM.

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 hearing or meeting please contact the City Clerk's Office, at 505 Sims Street, Truth or Consequences, New Mexico 87901, phone (575) 894-6673 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the City Clerk's Office if a summary or other type of accessible format is needed.

NEXT REGULAR CITY COMMISSION MEETING AUGUST 28, 2024



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: C.1

SUBJECT: Presentation of Service Anniversary Awards.
DEPARTMENT: Finance
DATE SUBMITTED: August 6, 2024
SUBMITTED BY: Alona Niebergall
WHO WILL PRESENT THE ITEM: City Manager Gonzales and department supervisor

Summary/Background:

Employee Anniversary: Hechler, OJ – 7 YEARS
Employee Anniversary: Niebergall, Alona – 4 YEAR
Employee Anniversary: Bowles, Jessica – 3 YEARS
Employee Anniversary: Loera, Rene – 5 YEARS
Employee Anniversary: Nunez, Phillip – 1 YEAR

Employee Anniversary: O'Hanlon, Pat – 31 YEARS
Employee Anniversary: Montoya, William – 14 YEARS
Employee Anniversary: Martinez, Katy – 4 YEARS
Employee Anniversary: Marin, Rafael – 8 YEARS

Recommendation:

None. Presentation Only.

Attachments:

-
- -

Fiscal Impact (Finance): No

Legal Review (City Attorney): No

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. . Ordinance No. .

Continued To: . Referred To: .

Approved Denied Other: [Click here to enter text.](#)

File Name: CC Agendas 8-14-24



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: F.1

SUBJECT: City Commission Regular Minutes, July 10, 2024
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: August 6, 2024
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Minutes approval.

Recommendation:

Approve the minutes.

Attachments:

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-

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

None.

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JULY 10, 2024

A. CALL TO ORDER:

The meeting was called to order by Mayor Rolf Hechler at 9:00 a.m., who presided and Angela A. Torres, City Clerk-Treasurer, acted as Secretary of the meeting.

B. INTRODUCTION:

1. ROLL CALL:

Upon calling the roll, the following Commissioners were reported present.

Hon. Rolf Hechler, Mayor
Hon. Amanda Forrister, Mayor Pro-Tem
Hon. Destiny Mitchell, Commissioner was absent
Hon. Merry Jo Fahl, Commissioner via telephone
Hon. Ingo Hoepfner, Commissioner

Also Present: Angie Gonzales, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
Arnie Castaneda, Water/Wastewater Director
Luis Tavizon, Chief of Police

There being a quorum present, the Commission proceeded with the business at hand.

2. SILENT MEDITATION:

Mayor Hechler called for fifteen seconds of silent meditation. He asked that everyone keep the community of Ruidoso in their thoughts and prayers.

3. PLEDGE OF ALLEGIANCE:

Mayor Hechler led the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Forrister made a motion to approve the agenda with the following changes, Items C1 (Presentations) and E 1-3 (Reports) are to be moved after New Business, and items F1, H5, and H7 will be removed from the agenda. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

C. PRESENTATIONS:

1. Presentation of City of Truth or Consequences Employee Service Anniversary Awards:

The item was moved after New Business.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Tara Manning addressed the Commission with comments related to:

- Jordan's Way will be here on Tuesday, July 16th from 10:00 a.m. to 1:00 p.m. for our live Facebook event. We secured our dunk tank. In the years past we raised the \$10,000 to dunk Chief, and we were also getting pies thrown in our face. We are going to be doing a slime bucket challenge, and all sorts of good stuff so please stay tuned and help us raise money. If we don't raise \$3,000 then I'll have to shave my head.

Christy Sallee addressed the Commission with comments related to:

- I am here to request an extension on my variance for my mobile home. The variance was approved almost a year ago, but I was not able to afford to get the land developed, so I am asking for more time because I have someone who is going to buy the trailer. I already got approval from the trailer owner to establish a new contract as long as she gets her variance approved. Her variance is on the 17th of July. Once she gets that approval, then we can do the contract for her. She already has movers established and she has a quote for the trailer to be set for her once it is moved to her property in Williamsburg. I am asking for an extension up until August 20th.

E. REPORTS:

The item was moved after New Business and Presentations.

F. PUBLIC HEARINGS (5 Minute Rule Applies)

1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 766 amending Chapter 11 pertaining to Solid Waste.

This item was removed from the agenda.

G. CONSENT CALENDAR:

- 1. June 2024 Accounts Payable**
- 2. Take Home Vehicle Forms**

Mayor Pro-Tem Forrister moved to approve the Consent Calendar as submitted. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 01 24/25 Open Meeting Act Resolution.

City Clerk Torres: This is the first Resolution that we do each fiscal year. The only changes we made pertained to the posting locations. We updated the location for the County Admin office, and we changed the Post Office location from Mainstreet to the Post Office on Date Street.

Mayor Hechler: It sounds like the hours we are keeping are working. I've been on the Commission when we've had both evening and morning meetings, and it seems like these are working the best for everyone.

Commissioner Hoepfner moved to approve Resolution No. 01 24/25 Open Meeting Act Resolution. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 02 24/25 South Central Council of Governments Annual Dues.

City Manager Gonzales: This is an annual resolution for the South Central Council of Governments (SCCOG) Annual Dues. This resolution states what our membership fee is, and that we are a member of the South Central Council of Governments.

Mayor Hechler thanked Ms. Rael and the South Central Council of Governments (SCCOG) support over the last year. He has been a lot more involved with SCCOG this year and he understands a lot more about what you all do. You are a great advocate for our community as well as others and we appreciate the relationship.

Angela Rael, South Central Council of Governments: Thank you. Even if different things come up that you aren't used to asking the SCCOG about, we can either help you directly or find the resources to be able to connect you to the right people. We appreciate your membership very much and we value you as a member of the South Central Council of Governments (SCCOG).

Mayor Pro-Tem Forrister moved to approve Resolution No. 02 24/25 South Central Council of Governments Annual Dues. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution 03 24/25 Authorizing Acceptance of Colonias Infrastructure Fund Project No. 6442-CIF; WWTP Bar Screen Replacement from The New Mexico Finance Authority.

Assistant City Manager Alvarez: This item and the next one are grants that are offered through the New Mexico Finance Authority. The city submits a notice of intent to NMFA for the Colonias or Water Trust Board applications. That does not require a commission action. NMFA reviews it to ensure that we are eligible to apply, and then they open up the application process, and at that time we come to the City Commission with a resolution to approve us to apply for that funding and submit an application. This is the second step. Once we submit the application and we are approved for funding, they give us a notice of award and the commission has to accept the award by resolution and there are some steps that we have to go through. There are items that we have to submit to NMFA, and once those are all submitted, they do their process through their authorities, and their board, and then we will come back to the commission a 3rd time on this with the loan and grant agreement that the commission will have to review and accept. This particular award is for the WWTP Bar Screen Replacement. It is a 10% loan in the amount of \$30,540 and a 90% grant in the amount of \$274,860 with a cash match requirement of \$30,540. This will cover the design only for the Bar Screen.

Mayor Pro-Tem Forrister moved to approve Resolution 03 24/25 Authorizing Acceptance of Colonias Infrastructure Fund Project No. 6442-CIF; WWTP Bar Screen Replacement from The New Mexico Finance Authority. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Resolution 04 24/25 Authorizing Acceptance of Colonias Infrastructure Fund Project No. 6441-CIF; Waterline Replacement from the New Mexico Finance Authority.

Assistant City Manager Alvarez: We were lucky enough to receive two awards from Colonias. This one is for the Waterline Replacement, and it was for a 10% loan in the amount of \$440,000 with a 90% grant in the amount of \$3,960,000 and a cash match in the amount of \$440,000.

Mayor Hechler: If we get all of the funding for this project, it probably won't happen until the end of next year, so folks please be patient with us.

Mayor Pro-Tem Forrister moved to approve Resolution 04 24/25 Authorizing Acceptance of Colonias Infrastructure Fund Project No. 6441-CIF; Waterline Replacement from The New Mexico Finance Authority. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Resolution 05 24/25 Establishing Solid Waste and Recycling Service and Collection Center Rates for The City of Truth or Consequences.

This item was Tabled.

6. Discussion/Action: Resolution 06 24/25 Infrastructure Capital Improvement (ICIP) Plan.

Assistant City Manager Alvarez: At the last meeting you reviewed and ranked your priority projects, so I am presenting a draft of the 2026-2030 ICIP with the projects, hopefully in the order that you recommended. I am requesting that you review the list. We can make any last-minute changes if we need to. This has to be accepted by resolution today, so if we can accept if pending the requested changes. It has to be submitted no later than Friday. This was required to be submitted a month and a half earlier than the normal schedule.

Commissioner Fahl: ~~This list seems shorter than the one from last year. Is that because we combined some of the items?~~

Assistant City Manager Alvarez: Yes, you all had suggested that we combine some of our split projects like city hall or facility improvements. There were also some items listed that had been funded so those were removed as well. There were also a couple of new additions on there.

Mayor Hechler: Arrowhead wasn't listed on the ICIP. What are our plans for Arrowhead?

Assistant City Manager Alvarez: The plan moving forward on that is the bond money that we have. Our Streets Manager is getting quotes to do that in-house. The finalization will be sometime this year, but it will all depend on Bartoo's schedule, but it is something he is going to move on sooner rather than later.

Mayor Hechler: I also noticed that Gold Street was removed from the list. I wanted that on the list a long time ago, mainly because it is a major thoroughfare to the hospital off of 3rd Street and it is in pretty bad shape. Can that be put in with another packet, or is that outside of our traffic study? What is happening with that?

Assistant City Manager Alvarez: It could be added. We removed streets that we don't have as our top priority for waterline replacement because we didn't want to go through and put in a brand-new road when we haven't done the waterlines.

Mayor Hechler: That makes perfect sense so thank you for that.

Assistant City Manager Alvarez: I had to replace the resolution that we had in the agenda packet. My computer didn't save the correct one and DFA updated their resolution template, so everything mentioned on the agenda and the agenda request form all refer to the right thing. It was just the resolution that was included in the packet that was incorrect.

Mayor Pro-Tem Forrister moved to approve Resolution 06 24/25 Infrastructure Capital Improvement (ICIP) Plan. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Resolution No. 07 24/25 Budget Adjustment Request.

The item was removed from the agenda.

8. Discussion/Action: Resolution 08 24/25 Participation in Local Government Road Fund Program and Request for Match Waiver Administered By New Mexico Department of Transportation.

Assistant City Manager Alvarez: At your last meeting you accepted the award offer from the New Mexico Department of Transportation Map funding for \$138,667. This is for Pershing and Second Street where we replaced the waterline in the MSD project. This is a \$104,000 grant with a \$34,667 cash match. The New Mexico Department of Transportation is now accepting request for match waivers, so that is what this resolution is for. It's to request a waver for the cash match of \$34,667.

Mayor Pro-Tem Forrister moved to approve Resolution 08 24/25 Participation in Local Government Road Fund Program and Request for Match Waiver Administered by New Mexico Department of Transportation. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Commissioner Fahl was excused from the remainder of the meeting.

I. NEW BUSINESS:

1. Discussion/Update: Water Update.

Arnie Castaneda, Water/Wastewater Director gave a water update presentation. (presentation attached hereto and made a part hereof).

Assistant City Manager Alvarez noted that our funded water replacement projects also include the fire hydrant replacements.

2. Discussion/Action: 1401 Platinum request for extension on variance revocation.

Assistant City Manager Alvarez: You heard from the property owner. The Planning & Zoning Commission recommended revoking the variance at 1401 Platinum at their June 12th meeting. We brought this to you on the 26th because the applicant is requesting an extension because I believe July 15th is the deadline of when she needed to have it removed before we would start the property abatement process. The commission denied the extension at the last meeting because she was unable to attend the meeting, so she requested to come back before you to request the extension.

Mayor Hechler: We did hear from her earlier today. I think you requested August 20th. I think anytime we have dialog with people that we are dealing with in these variances, it is important to us, and we are willing to work with folks, so we appreciate you giving us the dialog with a date of when you will have this alleviated.

City Attorney Rubin: Ms. Salle, in our packet there was a letter that was sent to you on June 11th and it identified you as a contact person and Mr. Bryan as the owner. Do you have authority to make an agreement on behalf of the owner?

Christy Sallee, applicant: As far as I know I do. He has really helped me with all of this. He was letting me buy the property, and still is if I chose to so I don't think he is too concerned with anything that happens with it.

Assistant City Manager Alvarez: He was in attendance at the Planning & Zoning Meeting during the request for the variance to allow the mobile home on the property.

City Attorney Rubin: Are we in agreement right now that the mobile home is in violation. Is that correct?

Christy Sallee, applicant: Yes.

City Attorney Rubin: So, the basis for you asking for an extension is because you may be buying the property?

Christy Sallee, applicant: No. I have another lady who is going to buy the trailer and you can't sell what you don't own, so I spoke to the mobile home owner and he said as long as she gets her variance approved for it to be moved to Williamsburg, he will go ahead and get another contract written up, so she would not be taking over my payments, she would have her own contract for it.

City Attorney Rubin: So, you think all of this will happen before the 20th of August?

Christy Sallee, applicant: We've already started this process and we are just waiting for her variance to get approved on July 17th so she can move it to Williamsburg. After that we can proceed with whatever follows.

City Attorney Rubin: Thank you, Ms. Sallee. Commissioners, I would say if you wanted to do the extension that's fine. I think I just want to have on record that if August 20th comes and goes and nothing is done, we have on record that the party agrees that there is a violation so they can go in and do whatever they need to do with that and come back to the City Commission.

Mayor Hechler: Ms. Sallee, you are confident that you will have a resolution to this problem by August 20th?

Christy Sallee, applicant: Yes.

Assistant City Manager Alvarez: So, if we grant the extension, and that date comes and goes, and nothing has been done, do I come back to the Commission with our normal property abatement?

City Attorney Rubin: Yes, we would have to draw up a resolution and bring it back to you at that point.

Mayor Hechler: I just want to thank the Planning & Zoning Committee for taking the stance that they did. We are not usurping their power, we are working with one of our citizens to try and get this thing done. I appreciate their efforts and I am in favor of granting the extension.

Mayor Pro-Tem Forrister moved to approve the 1401 Platinum request for extension on variance revocation until August 20th. Commissioner Hoeppe seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Approval of Contract with Coppler Law Firm for the 2024-25 fiscal year.

City Manager Gonzales: This is our annual contract with the Coppler Law Firm.

Mayor Pro-Tem Forrister moved to approve the Contract with Coppler Law Firm for the 2024-25 fiscal year. Commissioner Hoeppe seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

**4. Discussion/Action: Approval of Purchase Requisitions over \$20,000.
City Manager Gonzales**

City Manager Gonzales reviewed the Purchase Requisitions over \$20,000 provided in the packet.

Commissioner Hoepfner moved to approve the Purchase Requisitions over \$20,000. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

The commission proceeded back to C1. Presentation, and E1-3 Reports.

C. PRESENTATIONS:

1. Presentation of City of Truth or Consequences Employee Service Anniversary Awards:

City Manager Gonzales and Chief Tavizon presented an Employee Service Anniversary Award to Margaret Clanton for 13 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award on behalf of Patrick Lovell for 6 years of service with the City of Truth or Consequences.

City Manager Gonzales and Tara Manning, Animal Shelter Manager presented an Employee Service Anniversary Award to Mark Hopkins for 4 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Ray Slade for 2 years of service with the City of Truth or Consequences.

E. REPORTS:

City Manager Gonzales reported the following:

- She thanked the staff for sitting through the entire meeting.
- It seems like McAdoo Street is cursed. They poured the concrete for the curb yesterday, and I think it is under water right now. We seem to take a centimeter forward and we go a mile backwards. I am hoping that we will be able to move another centimeter forward next week and we can move forward.

- It has been an extremely busy end of the fiscal year. We are getting the FY 24/25 final budget ready to be presented to you on the 24th. The staff closed out the fiscal year and we started up the new fiscal year.
- I watched the rainfall last night on Marie Street and it sure was coming down. This little town with all of these valleys and arroyos going into it, we sure do get flooded. The Streets Department is out there right now cleaning the roads and draining the downtown area. We are trying to do what we can, but there is just so much that needs to be done.

City Commission Reports:

Commissioner Hoepfner reported the following:

- Recycling is very important where I grew up in Germany, and I hope that we can find some middle ground here for everybody. I hope that the departments here can get some funding to keep it alive because we try our best to educate people about how important revenue is for the city when we do recycling. The blue containers are not trashcans. They are for recycling cardboard, and when we put trash in those bins, we can't recycle the cardboard and sell it and that is hurting the cost of recycling as well as the city.
- When I became a Commissioner, I spoke with the Sierra County Manager, and she told us that they are working on getting a shuttle back from Elephant Butte to Williamsburg. I haven't heard anything from that, but I have spoken to multiple small businesses in the downtown area, and they hoped that we could get the shuttle started so we can get some of the people from Elephant Butte to come and visit us. I think we should maybe look into establishing a shuttle bus system here and collaborate with everyone. I think that would help everybody because a lot of people from T or C would like to visit the lake and vice versa.

Mayor Pro-Tem Forrister reported the following:

- I've been noticing a lot of people on Facebook still hounding on waterlines and why are we not fixing them, we have money. They do not understand that it is a process, and it takes time so they have to be patient because we are doing the best that we can. I wish more people would show up and come and listen to these things because if they did, then they would be well informed that we are trying to get the ball rolling. I also hear a lot of complaints about us taking plans for the ballfield when we should be fixing our water. People just don't understand that those are two separate pots of money. I just heard the other day someone saying something about us buying a building and not using that for waterlines, again, it's two different pots of money. I just want to keep the public informed that we are doing what we can, and there are different pots of money for different things, so when we buy a building downtown, it is not the water money that we are using.

Mayor Hechler reported the following:

- On June 26th we were supposed to have a meeting with Senator Brantley and Secretary Kenney, but Secretary Kenney was not able to make that meeting. Senator Brantley got a little fire in her eye, and she said we are not done with this, so the next day we collaborated quite a bit on this thing, and she asked me to send the program that we developed for Secretary Kenney to Michael Bowers who is the Collaboration Coordinator for the New Mexico Environmental Department. That was with the idea that he was going to talk with Secretary Kenney. We basically made the argument that between project funding and bidding, we were short of funds and had to cut out some components of the original project. How the process works is we get funded for \$9 million, then we go out to bid and the project comes in at \$12 million, so then we have cut out components and we don't get what we went to get funding for in the first place. This has happened to us several times, so the argument that we made to Mr. Bowers and Secretary Kenney is that there is such a huge lag in between the time we are funded and when we get quotes, that many of the projects aren't able to be finished all the way and we wanted some help with that. They are looking into that right now. I don't have a timeframe on it. Hopefully we'll hear from them soon. I'll follow up with that as soon as I can, but I think that is an important proponent of what we are trying to achieve so in the future we can get fully funded.
- On July 2nd I attended a ribbon cutting for the roundabouts and made a short speech. Cabinet Secretary Serna was there. The district 1 Engineer Chavarria was also there. It was a very nice ceremony, and I am pleased to say that all of the weeds were chopped before we actually had the ceremony. We are not completely done yet. I have a call into them for the landscaping part of that segment because I know that the city is going to take that part of it over, but we need a walk through with the landscaping department and our streets department manager so when we do take it over, we'll know where everything is.
- On July 3rd I attended a function at the Fire Department. We have a new Fire Truck. Paul Tooley was able to get for our volunteers. It's a brand-new pumper truck, and that truck is being transferred to Williamsburg, so Deb Stubblefield was there. She and I were able to meet there and help dedicate that firetruck and get it to Williamsburg to keep our community safe.
- We had a South Central Council of Governments meeting a couple of weeks ago. We had a speaker there who spoke on the federal side for economic development administration, and there are some funding opportunities there that we are going to look into. We'll let you know what those are once we figure out what we want to do. It was a very worthwhile meeting, and we will look into that.
- Emily Hartshorne is a legislative assistant to the honorable Gabe Vasquez. She has gone ahead and forwarded our Clancy Street project to the house appropriations committee. We submitted for it, and I got a letter asking what I thought about the project, and I was asked to give a statement, so I did that. I was then told that we didn't get funded, and now we are being told that it was sent to the legislature, and we may be funded. This has to go through the system and it is at the federal level now, so the house has to approve the budget and

CITY COMMISSION JULY 10, 2024 REGULAR MEETING MINUTES

then the senate has to approve the budget, and the president has to sign off on it, so it will be a while before we know, but we are not dead in the water, and the Clancy Street project may happen anyway.

- The last time we had public comment Robin Matson came in about 3rd street sidewalk issues. That sidewalk on 3rd Street is a highway department situation. I think we would have had it fixed by now if it was a city thing, but since it is a highway department thing, we notified them and they are going to look into the situation, and hopefully they will get it rectified down the road. We can't go in there and fix it because of liability concerns. If we did something and someone got hurt on it, it would be our hind end on the line. This way we are going through the appropriate measures to get that sidewalk repaired with the Department of Transportation and hopefully we'll get through that and get some results for Ms. Matson.

City Attorney Rubin had no reports.

J. ADJOURNMENT:

Mayor Hechler adjourned the meeting at 10:19 a.m.

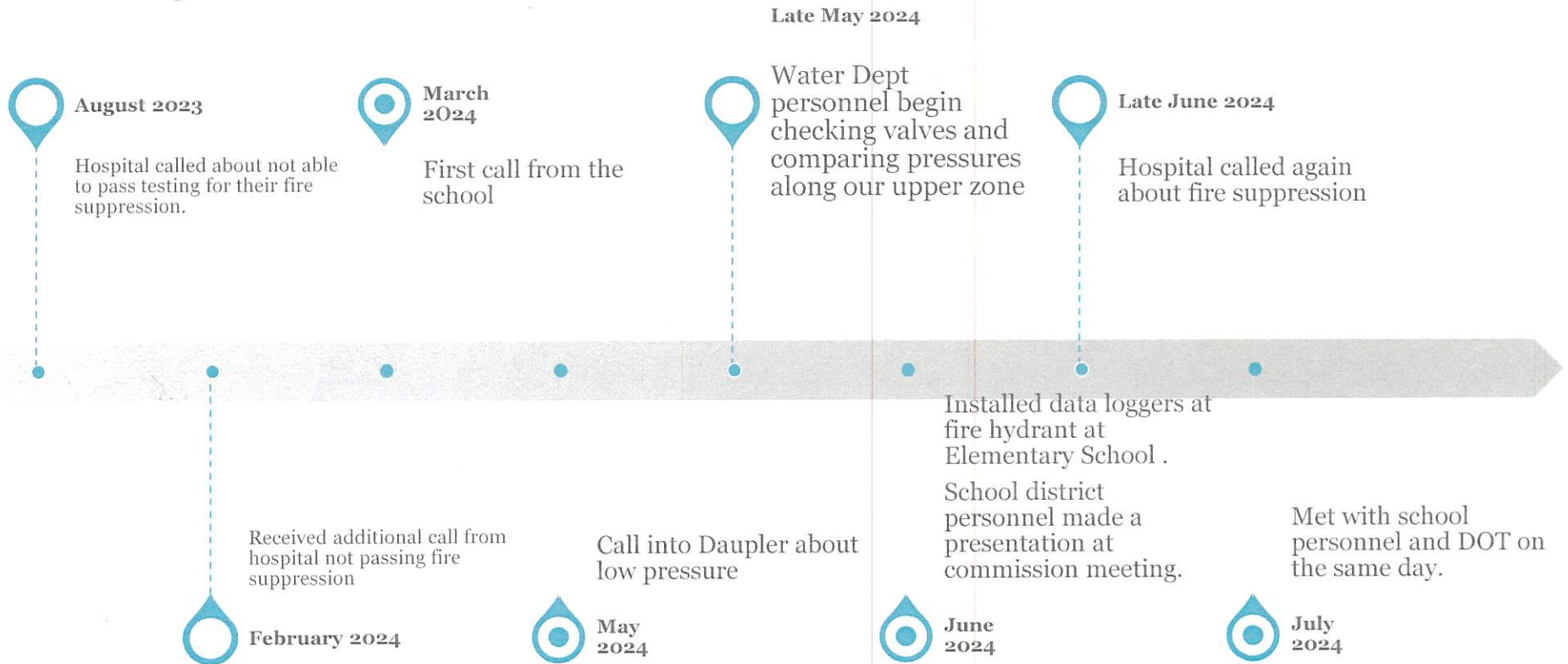
Passed and Approved this 14th day of August, 2024.

Rolf Hechler, Mayor

ATTEST:

Angela A. Torres, CMC, City Clerk

Project Milestones



August 2023

Sierra Vista Hospital made the first documented call in August of 2023 (we received a call as early as May 2023) , about not being able to pass the test for their fire suppression system

Our crew went out to investigate. They talked to the Maintenance personnel and explained that our pressures were adequate.

February 2024

After this call we installed 2 pressure gauges and read them on a daily basis.

Hydrant Meters Reading

APRIL, 2024

DAY	HOSPITAL MAIN	HOSPITAL EMERGENCY	ELEMENTARY SCHOOL	INITIALS	COMMENTS
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15	60	60		PL	
16	50	50		TH	
17	45	45		TH	
18	45	45		TH	
19	45	45		TH	
20	45	45		TH	
21					
22					
23	48	48		TH	
24	45	45		TH	
25	45	45		TH	
26	45	45		TH	
27	45	45		TH	
28					
29					
30	45	45		TH	

March 2024

A call was made to the office on March 1st, 2024. This was to ask about water being off at the elementary school. After investigation we learned that the contractors working on the Round-About project had turned off the water to that area. Water was later restored.

May 2024

On May 15th, 2024 we received a call via Daupler, our dispatch system. This call was for low water pressure. A crew went out and found there was adequate water pressure at the nearest fire hydrant.

On May 23rd, 2024 another call was made to Daupler and the City Manager's office. This was again for low water pressure. A crew went to investigate and found adequate pressure again.

In late May we began checking valves and comparing pressures in our upper zone. We later obtained a list of isolation valves from our engineer and all valves checked out. Our data showed a consistent pressure of 38-45psi along the school area.

NMED RECOMMENDED STANDARDS FOR WATER FACILITIES

8.2.2 Water Pressure

- c. The system should be designed to maintain a minimum pressure of 20 psig at ground level at all service connections and fire hydrants under all conditions of flow, including the following conditions:
 1. User Maximum Hour Demand, and
 2. User Average Day Demand plus the Design Fire Flow Demand.

June 2024

After the call on May 23rd 2024 the water department order 2 data collecting hydrant pressure gauges. They took 2 weeks to arrive however and were installed on June 17th 2024.

This gauges show a consistent pressure of between 38-45PSI.

On June 21st 2024, the water department crew went out to test 5 different hydrants in and around the Round-Abouts. They also identified and checked valves to make sure they were all open. Everything pointed to a stable pressure and valves were fully open.



Psi Readings at

Smith and Silver 35.5 PSI

Smith st 31.5 PSI

Testons 51.5 PSI

First Round-a-bout 53 PSI

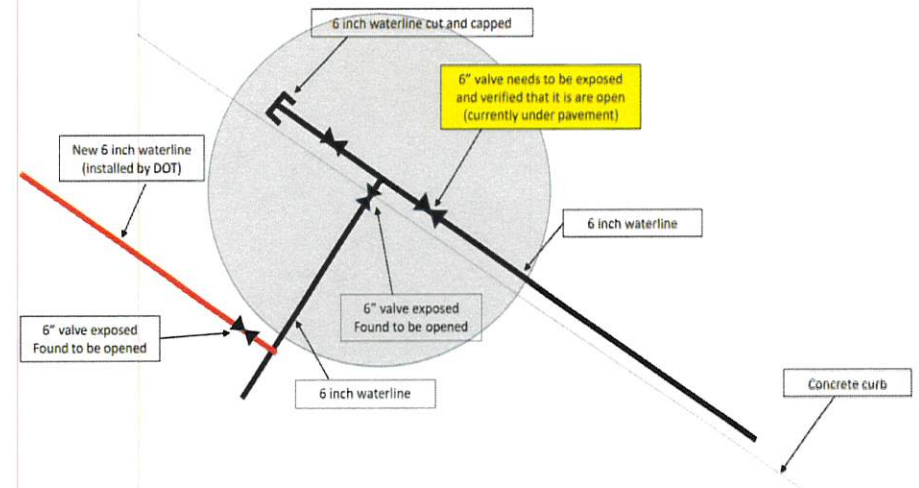
Walmart Fire hydrant 42.5 PSI

July 2024

On July 8th 2024, a meeting was scheduled at the Elementary school. Attended by Mayor Rolf Hechler, Arnulfo Castaneda Water/ Wastewater director, and Chad Spitzer Facilities Director of Tor C school. We checked our gauge outside school property that was showing 40.6 psi, inside school property their gauges were showing 20 psi. At that time the city was delivering 40 psi to the school.

City Staff also met with DOT and their contractors to discuss the water valves at the roundabouts. We knew that at least one valve was missing from our maps. DOT and their contractors along with some of the Water Department found and uncovered the missing valve. All the valves were found to be open.

There is a third valve that is missing and buried by the DOT contractors



July 2024

July 9th 2024, water crew removed, inspected and cleaned the meter at the Elementary School. The meter was found to be in proper working condition.



Findings for city water system

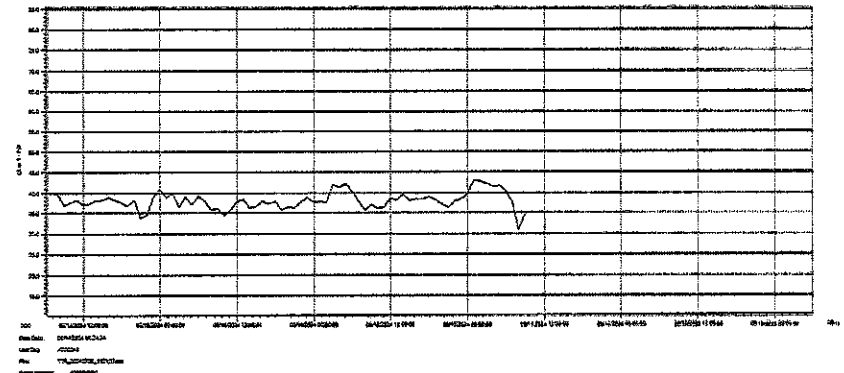
All isolation valves that could have a negative impact on area pressures we found to be working in proper order. We found no closed valves. Other than the one that is missing.

All pressures were consistent along North Date, Smith and Silver streets. Pressures were between 40 -50 psi along North Date and 40-45 psi along Smith and Silver streets. These are normal operating pressures for a healthy water system.

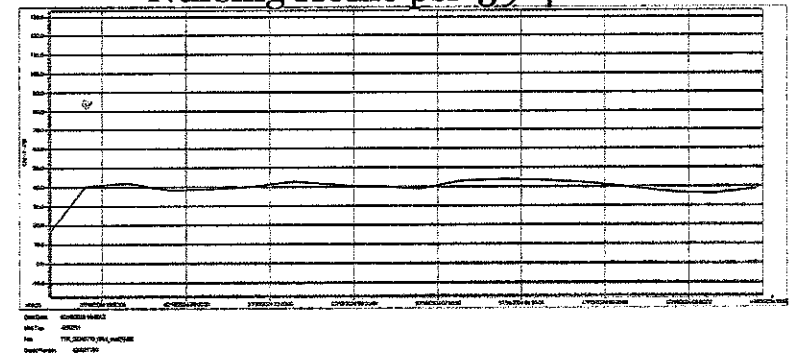
We have continued to check pressures in the area and have made them a daily routine. Pressures have been consistent for the last few months.

A local contractor excavated the area where DOT contractors did the tie in and the connection is fine.

Elem School psi 38-42



Nursing Home psi 39-42



Pending Solutions

1. We have reached out to our water engineers for assistance with the pressure issue and are awaiting their consultation.
2. We have scheduled a third party to inspect the backflow preventor at the Elementary school, as well as their private system for any obvious issues.
3. We will ask for a full report of their fundings.
4. Additional data loggers have been installed along the main line to continue monitoring static pressures.

Hydrant Meters Reading

APRIL ,2024

DAY	HOSPITAL MAIN	HOSPITAL EMERGENCY	ELEMENTARY SCHOOL	INITIALS	COMMENTS
1					
2					
3					
4					
5					
6					
7					
8					
9					
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11					
12					
13					
14					
15	60	60		PL	
16	50	50		TH	
17	45	45		TH	
18	45	45		TH	
19	45	45		TH	
20	45	45		TH	
21					
22					
23	48	48		TH	
24	45	45		TH	
25	45	45		TH	
26	45	45		TH	
27	45	45		TH	
28					
29					
30	45	45		TH	

Hydrant Meters Reading

MAY ,2024

DAY	HOSPITAL MAIN	HOSPITAL EMERGENCY	ELEMENTARY SCHOOL	INITIALS	COMMENTS
1					
2	45	45		TH	
3	45	45		TH	
4	40	40		TH	
5	40	40		PL	
6					
7	45	45		TH	
8	45	45		TH	
9	45	45		TH	
10					
11	45	45		TH	
12					
13					
14	45	45		TH	
15	45	45		TH	
16	45	45		TH	
17	45	45		TH	
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19					
20	45	45		TH	
21					
22					
23					
24					
25					
26					
27					
28	45	45		TH	
29	45	45		TH	
30	45	45		TH	

Hydrant Meters Reading

JUNE, 2024

DAY	HOSPITAL MAIN	HOSPITAL EMERGENCY	ELEMENTARY SCHOOL	INITIALS	COMMENTS
1					
2					
3	45	45		TH	
4	45	45		TH	
5	45	45		TH	
6	45	45		TH	
7	45	45		TH	
8					
9	45	40	30	AC	
10	45	45		TH	
11	45	45		TH	
12	45	45		TH	
13	45	45		TH	
14			38.2		
15	40	40	38.9	TH	
16			39.7		
17			42.9		
18	45	45	40.5	TH	
19	45	45	38.3	TH	
20	45	45	41.2	TH	
21	45	45		TH	
22	45	45		TH	
23					
24					
25	45	45	39.5	TH	
26	45	45	38.2	TH	
27	45	45	42.3	TH	
28	45	45	43.5	TH	
29					
30					

Hydrant Meters Reading

JULY, 2024

DAY	HOSPITAL MAIN	HOSPITAL EMERGENCY	ELEMENTARY SCHOOL	NURSING HOME	INITIALS	COMMENTS
1	50	50			TH	
2						
3	50	50	40		TH	
4						
5	45	45	40		TH	
6	45	45	40		TH	
7						
8	40	40	40		PL	
9	45	45	40		TH	
10	45	45	38		TH	
11	45	45	38		TH	
12	45	45	38		TH	
13						
14	45	45	40		TH	
15	45	45	42		TH	
16	45	45	35		TH	
17	45	45	40		TH	
18	45	45	40		TH	
19	40	40	35	35	PL	
20	40	40		40	PL	SCHOOL METER WAS PULLED FOR REPAIRS
21	50	45		44.3	TH	
22	50	45		44.8	TH	
23	50	45		46.5	TH	
24						
25						
26						
27						
28						
29						
30						



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: F.2

SUBJECT: City Commission Regular Minutes, July 24, 2024
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: August 6, 2024
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Minutes approval.

Recommendation:

Approve the minutes.

Attachments:

- -
-

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

None.

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JULY 24, 2024

A. CALL TO ORDER:

The meeting was called to order by Mayor Rolf Hechler at 9:00 a.m., who presided and Angela A. Torres, City Clerk-Treasurer, acted as Secretary of the meeting.

B. INTRODUCTION:

1. ROLL CALL:

Upon calling the roll, the following Commissioners were reported present.

Hon. Rolf Hechler, Mayor
Hon. Amanda Forrister, Mayor Pro-Tem
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Ingo Hoepfner, Commissioner

Also Present: Angie Gonzales, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
Arnie Castaneda, Water/Wastewater Director
Luis Tavizon, Chief of Police
OJ Hechler, Community Services Director

There being a quorum present, the Commission proceeded with the business at hand.

2. SILENT MEDITATION:

Mayor Hechler called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Hechler called for Commissioner Hoepfner to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Forrister moved to approve the agenda with the following changes, move item H2 after public comment, item H8 and defer the public hearing of Ordinance NO. 767 to the August 14th meeting. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

C. PUBLIC COMMENT (3 Minute Rule Applies):

Ron Pacourek addressed the Commission with comments related to:

- He lives on Riverside and when the dam is open and there is heavy rain, there is a soot build up. He wanted to know if there was anything the city could do as far as turning the dam down during the heavy rains so there is no flooding. He emailed photos.

Bruce Swingle addressed the Commission with comments related to:

- Mr. Swingle stated he would wait till H8.

George Henson addressed the Commission with comments related to:

- I feel that we have a cancer in the town, partly because we can't fix the water. Randy Ashbaugh was here a year ago and said that it's important to get it fixed.
- I'm going to correlate with the raises that Traci Alvarez got. It seems like it's the same time our water stopped getting fixed. So, your assistant manager needs to go, and your attorney needs to go. I had to try and be a lawyer myself several times and your Santa Fe lawyers were attacking me saying I would go bankrupt if I would.

Becca Eza addressed the Commission with comments related to:

- We had a successful business breakfast in July. We had about 15 people attend. We have another one coming up in October and we would love for you guys to come.
- We started planning for Fiesta. We had our first big meeting, and we are still looking for dedicated volunteers to take some large roles in directing committees.
- MainStreet, along with the city has received the clean and beautiful grant so congratulations. Especially to OJ and Kathy who are the main people writing that.
- The city will be setting picnic tables and benches and Blue Star and Evelyn Renfro Park and MainStreet is going to get some money to do another round of trashcan painting by local artists and artistic people.
- There will be a sign competition for earth day for the youth to create some kind of anti-litter campaign sign.
- I started working with some people from the state's MainStreet who are graphic designers, and who have worked on projects in Tukumcari and Taos. We are working on getting a steering committee together for some first steps for some new wayfinding signs for town. We will be looking for a couple of people from the city to be on that steering committee to help represent. Pretty soon we will be putting out a public survey and having public meetings to get input from the community.
- We are looking at maybe 6 to 8 months to having a nice proposal in place that can help us then get some grant money.
- I want to take off my MainStreet hat and just say something as a private citizen as someone who lives here because of access to trails and the outdoors. I just want to emphasize to you guys how important the Healing Waters Trail is as a local asset. I am a runner, and I run it several times a week, and I see other people using it. Not a ton, but there is always someone out there walking their dog or going

for a stroll or looking for rocks. So, I have heard that you guys are looking of to selling off some city properties to put them back on the tax rolls which absolutely makes sense, but please consider the importance of the Healing Waters Trail, and protecting the use, and protecting that trail when you look at what might be done with the land and also access to the river. I feel it's important for the quality of life.

Ron Fenn addressed the Commission with comments related to:

- I want to talk about item number 7 on H6. I do not understand why the police department is seeking a grant for a minimal purchase of \$11,000 which out of their \$30,000 a month GRT can more than easily buy radios if they are necessary. If you have not read that contract 30 pages or 26 pages, I hope that will table this issue or cancel it all together because it doesn't just have strings attached it has ropes not ropes nooses to hang you. This is months, years beyond the life of the equipment you are going to be buying. You are going to be doing quarterly reports to the federal government not only on those pieces of equipment but on other financial dealings with the police department. If you have not read that contract do not vote for that today. You will be creating a tremendous problem for the city and who knows we may have to add some more administrative personnel just to take care of it for \$11,000. Chief, it's your money why aren't you spending it? Why are you not having city codes enforced? I see code violations all over the city and nothing is done, and the code compliance officer says I am not certified. I don't know what kind of certification he needs but the sign code for one in the city is atrocious. The violations are everywhere. We have a sheriff's department, we have bars, and we have gun shops with illegal signs. We have illegal signs outside of the police department. Why isn't somebody paying attention to it. You want to look like a nice city, get rid of the illegal signs, and you will get much more benefit from the city than you will with this illegality.

Sid Bryan addressed the Commission with comments related to:

- I have a petition that I would like to read. This petition is to support the T or C City Commission in its potential purchase of the PNC building for the new home of the T or C police. We are in favor of this purchase and believe it will be beneficial to all of T or C. I didn't have much time to circulate but I got all the owners on Broadway and a lot on Main St. All of which I didn't have to say anything. They signed it at Mile Marker 7. We think we would be better off with the police in that location where it would be visible and certainly a lot cheaper than when they were going to go to the other location. We are all in favor of that. I will give you a copy of that.

An unknown resident addressed the Commission with comments related to:

- I've only lived here for 2 years but I have been coming for 5 and there are all kinds of leaks everywhere. I did see in the paper last week that there are 45-48 leaks that they are working on. I did talk to Arnie I hadn't done it before. I got his phone number. But do you guys also answer questions. Are there just not enough people to work to take care of all the problems? Also, I read in the paper several months ago, is it the state that declared an emergency?

This item H2 was moved after public comment.

H2. Presentation/Discussion/Action: Electronic Message Board.

David Johnson Facility Management: We do have a small presentation if you guys want to take a look about our sign.

David Edwards Superior Signs Representative: I brought my truck as a demonstration to show Watchfire Signs are one of the best and most reliable led signs in the industry. We are going to show you what we do. We are out of Illinois. That is where we create and manufacture the signs. We have different resolutions of our signs. I know a lot of people in cities and jurisdictions are afraid of digital signs saying they might interrupt the community. I will say this about Watchfire signs are one of the most code compliance signs in the industry. They actually lower the light levels down at nighttime and then pick themselves up in the evening. We have been doing this for a long time. If you have any questions regarding city code compliance with it we will be happy to talk with you about it. All the training required for it is free for you for the life the life of the sign. We usually see about 10 to 12 years out of our signs. We do have a demonstration outside for you to see.

Mayor Pro-Tem Forrister: Are we waiting on your partner because we can move you?

David Edwards Superior Signs Representative: He will be here if you have any questions for him. If not, we will be happy to show you the demonstration so you can see what a Watchfire Sign looks like we have several throughout the industry our service and support is probably one of the best. We will be here for you for the life of the sign. We have a lot of dark sky limits that we deal with in Arizona, that's where I'm from. I fully understand that if there is anybody in the audience today that has a concern or question about dark sky ordinances, we actually respect that. So, all of our signs have a dim down at nighttime for code compliance as well. Our goal here at Watchfire is to sell a sign that you will be able to get your money back with it, put up different ads, make ad revenue with some of the community events going on but also on the local business you want to promote you want to promote the local business especially in town out here. That's one way you can make your money back.

Mayor Hechler: One of the questions that came up outside from Dean Lamana was if we could operate this device with a handheld like a phone or what would you recommend?

David Edwards Superior Signs Representative: Our recommendation is to not use a phone but to use a table or a laptop. It is a cloud-based service one of the top security wise we have a GPS protocol for all our stuff. Your IT team for the city does not need to get involved in this either cause it all cloud based it is secured we have manager reign within the sign that you could set for managers who can get in a change the data that is on the sign, and we also have others who can be designers. Keep in mind this is all cloud based and you do it from anywhere.

CITY COMMISSION JULY 24, 2024 REGULAR MEETING MINUTES

Mayor Hechler: Can you have multiple users, or do you recommend just one?

David Edwards Superior Signs Representative: You can have multiple users and they are all secured by password. We also have security protection in a two-step verification. Our signs are built to last. We get 12 years out of them by that time usually you want to upgrade. Over the years 10 to 12 years, you're going to get your money's worth especially for the community.

Mayor Hechler: How often do you have software upgrades available?

David Edwards Superior Signs Representative: That's the nice thing about being cloud based there are no software upgrades we do that for you. If there is an issue with the sign you call out to Watchfire we will help you. We can remote into the sign and diagnose it. We will save you guys money in the long run instead of calling a side company out every time there is an issue. If there is an issue say a night a power surge and the sign shuts down call Watchfire we want to do that for you want us to reset the sign or talk with one of your technicians onsite you can actually ask us to flip the breaker get us back up and it will reset. That's what we would like to do for you, it will save a lot of money over time. If there is an issue our signs are built on 12x12 squares so if there is an issue with one of the panels over the years somebody has shot a panel out it's a single panel it's not a whole sign we are replacing. Nice thing about Watchfire if you look around town, I did see there are some digital signs. There is some that look really well that is a reason for that because Watchfire takes a lot of pride in their signs if we give you another panel it's going to match the sign that you currently have its not going to be pixelated where you see a bunch of clouds all over the place, we don't want that.

Mayor Hechler: So, the plan is if you didn't know is that we were going to use the City's portion of lodgers tax to pay for the sign if we wanted to acquire it. One other issue right now is that I just got another quote yesterday from another company, so we need to evaluate those. I don't know if you got it Dave or not so you and I should have our discussion and see what we want to do. Then we will have another presentation to the commission and our final decision. We will have to get into the nuts and bolts of it whether we want the 10 or the 16.

David Edwards Superior Signs Representative: The ones I would recommend especially for your location that I currently read about the 10 or the 8. I have a 6 in my truck that's my top of the line it all depends on how your budget is. I'm not here to sell you a sign I'm here to educate you so the 8 is right in between the 6 and the 10 that's a great one to go with. I think if you go with the 10 is great if that's what you want to go with. Just be very careful with the competitors out there because when they are usually in their first year, they usually have a side company, but I like I said I'm here to educate you and that's it.

Mayor Hechler: Is the sign that we are proposing is it 2 sided like the one out here or is it one sided.

David Edwards Superior Signs Representative: It's a double face.

CITY COMMISSION JULY 24, 2024 REGULAR MEETING MINUTES

Commissioner Fahl: I have a question about the pixels so, the one on the other side that's a 10 right but where you had us stand, I'm assuming you're going to put the sign out there where the civic center sign is? Right and so people are driving by that there where we were standing, they are going to be further away I don't see how they are going to be able to see it as well.

David Johnson Facility Management: they should be able to see it just fine because the sign is high not only that its closer to the road than this when we were standing out in front of it.

David Edwards Superior Signs Representative: What's the distance to the road from where the sign is at.

David Johnson Facility Management: I would say about 10ft.

David Edwards Superior Signs Representative: So, about 10ft so that's why we recommend either going to the 8. Depending on budget wise this is a great example that why I brought this truck out. You're going to buy something for the community to love and I'd hate for out in a 10 and so ok this is it, 10 is a great unit don't get me wrong but if it's that close might want to look at the next one which is an 8 best thing now is it would be worth it in the long run.

Commissioner Fahl: Right, because if we are going to fork that out and if people are walking, I mean both of those that distance that we were standing it's a little bit closer so if we are going to do this let's do the quality one.

David Edwards Superior Signs Representative: Keep in mind with budgets LED signs are not all equal out there so there will be a lot of price differences in LED signs. Watchfire and a couple of my competitors out there stand by our pricing because of what we do. So be careful if you see one that's \$10,000 off it's probably a reason for that it comes across in a box and everybody puts it together and everything else, just keep that in mind when comes down to budget. I fully understand Watchfire is not cheap I will say that and there is a reason for that. There are also other manufacturers that believe in the same statements as we do.

Commissioner Fahl: That's good that we get to pay for it out of lodger's tax but if we are going to do that. Let's do it right.

Mayor Hechler: You coordinate the electric to the sign, the placement and permit all those things? So, it's a ready project, turn keep project? If we wanted 2 signs, one on each end of town are they intergraded together? Can we operate them separately?

David Edwards Superior Signs Representative: Since its cloud based, I can put multiple signs around the city from once dashboard you can actually see each sign if you have a comment on one and you want to bring it over to the other you can put it on each sign its what we call different domain.

Mayor Pro-Tem Forrister: So, they can be intergraded and be the same or we could do separate things on them.

David Edwards Superior Signs Representative: Yes. The nice thing about our stuff too is that you can just drag and drop. One thing I say is have administrative rights and then people that are designers. If you are the only one that is the administrator, you have the content of that because you have people who are in and out of the chamber, I understand that. You want to make sure you fill them in. If at nighttime, you want to turn the signs off its one button maybe and midnight then go back on. It's up to you how you want to do that. There is a lot of functionality, but we are going to teach you guys. This is fully turnkey we help you with it we teach you. You get new people that come in you call us and we will do the training for you again you're never going to be left in the dark. If there is an issue you call Watchfire first, we will help you and then we call Pablo out we try to make it as seamless as possible.

Mayor Hechler moved to table this item to the next meeting so they can look at another bid that came in for the Electronic Message Board. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

D. REPORTS:

City Manager Gonzales reported the following:

- We were finishing up the budgets yesterday.
- Arnie is here to address the water concerns. I do want to say that we hear you, and we are trying. Yes, we have been in here talking about how wonderful it was that we have gotten all these millions of dollars, but just because we get it doesn't mean we have it. There is a process. If you think local government is bureaucratic, wait until what we have to deal with on bureaucrat side. We have to deal with state and federal. We have to make sure our financials are in order and we have to make sure our part of the reports are in order. There is lots of that stuff that we have to do from an \$11,000 JAG grant to a \$11 million dollar USDA grant. I just want to make sure we address it, and we are working on it, but it is going to take time.

City Commission Reports:

Commissioner Fahl reported the following:

- The Recreation & Tourism board meets quarterly, and they meet shortly before the second Tuesday. They have representation for Chloride, Hillsboro, Kingston, and they talk about things that are going on in the tourism world to keep us up to date. We always get emails from Kim Skinner who is the president, to what is going on in the hospitality and tourism world, and recreation is always very informative.

CITY COMMISSION JULY 24, 2024 REGULAR MEETING MINUTES

- I'm excited about the work that the Black Range Ranger District and Forrest Service is doing. Years ago, the forest had actual trail crews, and they went out horseback for 2 weeks at a time and worked on those trails. The funding for trails kept going away. The trails have been in terrible shape for probably 20 years because they just don't have the money or the people to work on them. The money that came from the black fire and the rehab. Jim Apodaca is the recreation specialist for the Black Range Ranger District, and he told us that they have already done 20 miles of trail improvements, and they have a lot more they are going to be able to get to. A professor that went to the Ladder and stayed at Hermosa for several years is retired, and he created and non-profit and worked on an agreement with the Ladder Ranch, and he purchased that Hermosa town site. That organization hosts young kids all the time for education and for conservation. They partnered with the Forest Service, and they house people, and work on trails out of there. That's going to be a really big asset for our community, and for recreation in our county.
- The Turtleback Trail group meets every other month, and they met this month. We had the Recreation Specialist from the BLM office in Las Cruces attend by phone this time. That's the first time he has participated. They are a key component in the big development of that plan because we want to open up the land on the other side of the river on public land, so that we can actually develop specific trails for hiking and biking. Some of us have been here a long time. Bruce probably remembers when we did how many versions of the tri county plan with the BLM. It's been going on for 25 years probably, and when federal agencies have to re-do their management plans, they are supposed to do them every 10 years well they have been working on this plan for 25 years but they are getting close to getting it done. They are going to come back out again for public comment. What I would like the city to think about doing and you know do your research with how the formatting that it would be good for the city Deb is going to have the Village of Williamsburg do it also, to send letters to the BLM soon within the next couple of months to ask them to look at doing more trail development while they are finalizing their tri county plan. It's not going to cost us anything but for them to think about it I think that would be a really good thing.
- The Jornada RC&D is going to apply for a recreation plus trails grant for signage on interpretive panels on the other side of the river for the Turtleback trail if a rural area it's a 2 to 1 match and it could be in-kind, and the education committee has that lined up and we are going to apply for that this fall. The dam owner's coalition meeting is going to meet in northern New Mexico in late April early May hopefully not during fiesta week, but we are hoping to have it in Taos because they have a big dam on the reservation, but the community is in charge of it so that's pretty complex so put that in the back of your mind maybe some of you can go.

Commissioner Mitchell: Are they not doing one in October?

Commissioner Fahl: The dam owners had meetings usually in the spring and then covid ended they wanted to have them right away, but we are going to stay away from the fall

because there is a lot of engineers that attend these conferences and there is a whole bunch of them in the fall.

Commissioner Hoepfner reported the following:

- I hope that here soon we can sit together with the New Mexico Department of Transportation and talk about Main Street and Broadway, and find a solution for drainage, so we don't have standing water. Especially during the heavy rains. I'm also pro-outdoor recreation, and I see our county as an outdoor recreation place to be for New Mexico and I think that when the state is developing, we should try our best to maintain and expand even our healing waters.
- I'm also standing for the for the police station and its location as a business owner.

Commissioner Mitchell reported the following:

- We are planning our 75th anniversary for Fiesta, and we are wanting to make it bigger, better and longer and we still need volunteers. The next meeting will be on August 20th at the MainStreet office if anyone is interested.
- We will begin free swimming lessons in August. I ended up getting over 40 kids signed up. I also have a mommy/baby class which has 20 people in it.
- The swim team went to state, and they did well. We will have the awards party this weekend.
- We have the RC&D meeting tomorrow.
- National Night Out is on August 6th at the Albert Lyon Center.

Mayor Pro-Tem Forrister reported the following:

- We just wrapped up volleyball camp at the high school for kindergarten through 5th grade. We had about 26 kids attend and that was really fun.
- I want to give a shout out to the water and wastewater department. I believe you were there on 3rd street last night working on some stuff.
- August 3rd is going to be a busy weekend. We have a volleyball round robin, as well as the Winston Fiesta, in conjunction with the Peterson Memorial Rodeo.
- We need to get NMDOT down to Main Street to figure out what is going on with the drainage.

Mayor Hechler reported the following:

- On the river issues, I did call the local BOR representative and asked him to give a presentation in the near future, but just in a nutshell, by the time they get the information to shut down the dam, it takes 3 or 4 hours for the water to actually recede, so it's not going to do anything. The other night the rain caused the arroyos to flood to the side equal to the river in town, and when that happens the river fills up quickly, and even if you turn the dam off it would have no effect. We do need an emergency action plan of some sort. We will talk about those things in the future.
- I want to thank Sid Bryan and Susie Buhler for coming and speaking on behalf of Ordinance 767 even though we tabled it. We tabled it not for our reasons. The state had some wording in their documentation that needed to be changed and

they requested us to table it, and we did. With that in mind, I hope the community supports this move to the building. This building is different than the armory. When you factor in the cost of this building, it's a third of the cost that the armory would have been. When you talk about the armory, it's \$4.5 million then almost \$7 million dollars by the time you pay it off. The total for the PNC building is going to be \$2 million or real close to that. If we borrow \$1.68 million, and I'm not advocating that we borrow the whole \$1.68 million. I want to borrow the least amount possible to get the building up and running for our police department. I think the chief is in line with that, so we are going to work that end. It's good that the police department will remain downtown as requested by many of our citizens and they signed the petitions for that. I thank them for doing that for us. The cost of new construction for a new building and we talked about putting a new building where the municipal court is. Its \$200,000 to \$250,000 per square foot a new building would be between \$1.4 million and \$1.75 million from the ground up and that's not furnishing with technologies, security, furniture and things like that that not furnishing, so we are talking about \$2.5 million dollars, and we are talking about 2 years down the road. That is not an immediate solution. The PNC bank is under \$2 million, and it can be done, and it can be moved into within 6 to 8 months. This gets us out of an old mortuary which has issues all of its own and they are well documented issues. This building solves the problem of relocating the police department at the best cost. It's the best location, and it's under the best terms. I'm really hoping the community stands up for us in this regard.

- Last week I met with Jay Armijo and Angela Rael of the South Central Council of Governments, and I'm really pleased to see Gary Whitehead is now working there. We all know Gary Whitehead as a former county manager, and he has been in our community for a long time. I went there specifically to do a couple things. We have been successful in getting money for our community in the form of water. A long list of things that come along often require us to go out for a loan, and we have several of these things out. For instance, with the \$1.6 million loan that we had to take out, we had to take out a \$440,000 loan. I'm asking the City Manager to show us a spreadsheet and build all those things up to see how much money we got flowing out the door, and how much money we got flowing in the door to see if we can continue to keep asking for money because it's getting to be a problem for us. I wanted to ask the South Central Council of Governments to jump in and advocate for us. I know we're not the only community. I'm sure a lot of small communities have the same problems that we have. We have also sent the information to our lobbyist. I think it's important that she gets on board with us in that regard, and we start fighting for our small communities and we see if we can either forgive our matches, or not require us to have these matches so we don't slow down trying to get money for our community and fix the problems that we have. I think that's going to be an important initiative for us and we need to work on that.
- The other things I wanted to talk about are funding for things like the recreation center, maybe the Lee Belle Johnson Center to fix our water. There is a specific grant under the EDA. It's a government program where they fund \$1.2 million. I asked Jay and his crew to talk to the program manager for this fund, and ask

them which would be the best one for us to apply for, and that was for the recreation center, the Lee Belle Johnson Center. Knowing that we are a distressed community, and that's one of the criteria under this grant, I think we have a good chance of applying for that money, and we will work on trying to get that.

- We know our elementary school is suffering from low water pressure, but we don't know the genesis of that. We know that our hospital has some issues with low water pressure, and it's had those issues for a while. Here is a timeline of what we have been doing to try and get ahead of it and get help. The start of that when I wrote an email to Mr. Bowers with the Environment Department on June 27th of last year with that, we sent a presentation about the water issues and the highlights of concern regarding the disparity. One of the things was the disparity that we have between the award money that we get for to fix the water for \$12 million to fix a certain project then we got the bid, and the bid is coming in at \$16 million or \$15 million there is a disparity there. So, we end up shaving up portions of those projects and we don't get the things done that we need to get done. I want to make sure that our Governor and our Governor's secretary know what those disparities are, and how it worked. We had a meeting scheduled for July 22nd. Senator Brantley was there, and Secretary Kenney was not able to attend so we had to table that. I generated some email in the presentation we had, and I sent them to Secretary Kenney and Mr. Bowers we have support to help us with that disparity that I just discussed, and we sent them actual illustrations of \$8 million to \$10 million in projects where we have those issues. They are well aware of what is going on and we have an opportunity here. Shortly after I became involved in the water pressure issues that we have with the elementary school and the hospital. We have the highway department and the construction engineers on site at the roundabouts to try and determine if the water pressure issues are a result of that construction, nothing was discovered. We opened and closed every valve. We believe they may have been, but we weren't sure. We met with the maintenance supervisor at the schools, and Arnie as well as some other people and we tried to see what the problem was. We believe we are delivering water pressure to the hydrants but from the hydrants to their facility there is an 18-to-20-pound drop. We don't know why we are trying to figure that out. The city has called Pure Ops, a private company out of Las Cruces, to help us diagnose the problem. They got hit with covid and strep, so they had to cancel the meeting. If you remember Rebecca Rue, she is the infrastructure specialist we met with earlier in the year. I sent an email to her and illustrated the issues we are having and asked for assistance. She directed me to the governor's office, and I talked with them. I provided the new information to the governor's office regarding the water pressure issues and that was sent to Secretary Kenney and Mr. Bowers. This resulted in a second meeting scheduled for this Friday at noon to discuss all those things that I have just related. I have invited Superintendent Burgin from the schools and the hospital CEO Cochran. They will either be there or have representation there, so we know that their story is going to be heard. Also attending will be Governor's Cabinet, Secretary Kenney, Deputy Lenamon, and Director John Rodrick. I had a long talk with John Rodrick

who seems to be well versed with these water issues and the integration between the city issues and these major community issues with the buildings like schools and hospitals and things like that. Hopefully we will get some answers and get ahead of this thing. Superintendent Burgin did say that they have emergency things in place to put portable washing stations at the elementary school so the kids can go to school they don't get to use the bathrooms. Right now they are having to physically change the water from the kitchen to the bathrooms and vice versa whichever one is going to be in use they can't wash the dishes if the bathroom are flushing and things like this. We have to get this rectified. Right now, we don't know if it's a city problem, if at school or hospital problem to me it's a community problem. Wherever the chips fall we are going to get it fixed. I've had these discussions with the superintendent and Frank and if the problem is on their side they will pay for it. If the problem is on our side obviously, we are going to pay for it, but we have to get through it.

City Attorney Rubin reported the following:

- I wanted to explain the reason why we tabled Ordinance No. 767. The problem wasn't really on our end. I talked to Chis Muirhead yesterday, and it will come back at the next meeting on August 14th. There may be some minor changes to what is currently in the packet, and I am hopeful that Mr. Muirhead will be here to clarify a few points for us.

E. CONSENT CALENDAR:

1. **City Commission Regular Minutes, June 26, 2024**
2. **City Commission Special Minutes, July 2, 2024**
3. **Acknowledge Public Utility Advisory Board Minutes, June 17, 2024**
4. **Acknowledge Public Arts Advisory Board Minutes, June 4, 2024**
5. **Subrecipient FY 23/24 4th Quarter Reports**
6. **Take Home Vehicle Form**

Commissioner Fahl moved to approve the Consent Calendar as submitted. Mayor Pro-Tem Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

F. ORDINANCES/RESOLUTIONS/ZONING:

1. **Discussion/Action: Resolution No. 08 24/25 approval of final 2023-24 Budget Adjustments.**

City Manager Gonzales: This is our budget adjustment resolution for the end of the fiscal year 23/24. At the end of the fiscal year, we have to go through and make sure that no funds are in the negative. We had to increase some expenses and revenues on the 294, 280, 509, 403 and 315 funds.

Mayor Pro-Tem Forrister moved to approve Resolution No. 08 24/25 approval of final 2023-24 Budget Adjustments. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 09 24/25 approval of FY 23/24 4th Quarter Report.

City Manager Gonzales reviewed Resolution No. 09 24/25 approval of FY 23/24 4th Quarter Report.

Commissioner Fahl moved to approve Resolution No. 09 24/25 approval of FY 23/24 4th Quarter Report. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution No. 10 24/25 to accept the final 2024-25 Budget.

City Manager Gonzales reviewed Resolution No. 10 24/25 to accept the final 2024-25 Budget.

Mayor Pro-Tem Forrister moved to approve Resolution No. 10 24/25 to accept the final 2024-25 Budget. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Amendment to Resolution 03 22/23 Animal Shelter Fees.

Tara Manning, Animal Shelter Manager: We are amending some of the wording on this resolution in order to benefit everyone. For example, in court cases, animals not picked up within 72 hours after court release shall become property of the animal shelter because we have had cases where people abuse that. Same with the mandatory quarantines. We are also no longer calling it a safekeep hold. It is now being called an incarceration hold or a hospitalization hold. The incarceration hold is up to five (5) calendar days. After five (5) days the animal may become the property of the shelter. A boarding fee will be applied after 72 hours. A medical hold will be up to ten (10) calendar days. After ten (10) days the animal may become the property of the shelter. A boarding fee will be applied after 72 hours.

Mayor Pro-Tem Forrister moved to approve Amendment to Resolution 03 22/23 Animal Shelter Fees. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Pro- Tem Forrister made a motion to move item H6 after item F4. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H6. (New Business) Discussion/Update: PD Update.

Chief of Police Tavizon: I want to start off by thanking you for your continued support. There is no way you could ever be accused of malfeasance. You are doing your due diligence to address issues that I brought up, and I appreciate that. As you are aware, my goal for the Police Department is to eventually become accredited with the Municipal League, and part of the accreditation is the building itself. My guest here today is Roberta Baca from the Office of the State Investigations. She also works with the Municipal League and the New Mexico Association of Chiefs of Police. She works on accrediting agencies. I was working on our policies and some of our software that we were doing, but I wanted the community to understand what it is about our current facility that is going to prevent us from future accreditation.

Roberta Baca, New Mexico Office of State Investigations: It's an honor to be here before you. We have an office in Albuquerque, and one in Santa Fe. I run the statewide Auto Theft Authority which is also a big deal in New Mexico. There are not just problems in Albuquerque. There are problems everywhere, and as we push out from Albuquerque, those problems become our smaller community's issues. And we are aware of that. I've been doing this job off and on for about 26 years, so I have a lot of experience. I am the president of the Standards Council, and we travel around the state looking at different Police Departments. Your Chief and law enforcement staff, and civilian staff should be commended. They've done a really great job. One of the things I think is very important to remember is that a Police Department that is accredited in today's day and age means that we adhere to a higher standard. It also means that if you are insured with the New Mexico Municipal League Risk Program, you get a discount for good behavior for Police Departments, so it cuts insurance premiums. One of the things I want to remind the community about is that you wouldn't pass accreditation today. I inspected your current building. You are aware of all of the other issues, but I think some of the things that the community doesn't think about are some of the things that citizens, or this council may have to pay for such as ADA fines, and OSHA compliance fines. There could also be some work compensation injuries that could occur with some of the issues you have with the building. I think the biggest one is the Civils Rights Compliance Act, and it doesn't just apply to Police Officers. People forget that it's any public body, or any public person. It's \$2 million per incident, but I want to remind the public that they have a pass from the attorney fees, because our legislators are mostly attorneys, and a lot of them are defense attorneys. We can say we are going to be capped at \$2 million per person, but you don't know what the attorney fees will be, and there's not a cap on those. What we're seeing

right now in the trend is close to \$3 million for attorney fees. You can have one incident that costs you \$2 million, and the attorneys are going to be paid about \$3 million. These are some of the costs that we don't put in the budget, because it doesn't occur to us until a major disaster or something else happens. I commend this body and your Police Chief, and the people that keep your streets safe every single day because they're taking these steps to really mitigate your risk. And that is a public service. I also want to remind the public that it's a "pay me now" or "pay me later" situation, and it really hurts for the "pay me later" situation because with a small council like this, and a budget that, I'm looking at perhaps \$5 million. Risk premiums would wipe a lot of issues out, be it water, sewer or other things, so we really want to mitigate our risks. I also want to thank you for being in support of a new building. We look forward to coming back out when you do get them moved, and really working with the Chief to get them accredited. Again, that applies to your risk premium. There are around 20 or 30 employees that are there, and you get a discount on all of them. You are also making an investment in a reduction in other types of premiums.

Commissioner Fahl: Thank you for coming in and trying to explain this to our community.

Mayor Hechler: Ms. Baca, do you have any examples of a community that had issues that we could potentially be facing, and what the result was?

Roberta Baca, New Mexico Office of State Investigations: There are smaller communities that are similar in size like Moriarity, and Edgewood, and their Police Departments have had some issues with their evidence rooms, where they have been sued for civil rights issues, safe keeping issues, and safety issues. Those losses have resulted in approximately a \$5 million to \$7 million settlement. Again, we have insurance for a reason, but the problem is that once the self-insurers pool dries up, the cost to buy a re-insurance risk premium policy is almost 15% to 16% higher in New Mexico, than they are in any other place in the nation because of the liabilities that we don't necessarily take care of. I think the citizens and people of this state really need take a look at what our risks are in government. The Police Department is probably, and unfortunately, one of the biggest. We want to keep them safe, and we want to keep your community safe. These dollars that we invest in the public safety realm are to do just that. Another example right now that they are facing is something that is going on in Las Cruces, and they are probably looking closer at a \$10 million or \$20 million settlement, and that does not include attorney fees. I am an attorney, and I have been for 26 years. It is a little disconcerting. A lot of my colleagues are charging anywhere from \$300 and \$500 an hour for these cases, and their paralegals and assistants are charging anywhere from \$75 to \$150 an hour. Which means, when you call your attorney and the receptionist answers the phone, they are charging you some amount of \$75 because they get to charge all of these fees. Again, when we look at caps of \$2 million, we are not looking at those attorney fees. They vary depending on how long a case will drag out, which is why sometimes we are settling cases. We are very quick to settle. I think it's going to be a very delicate balance moving forward into the future, and it's going to be something that we all have to deal with. It could be the City Clerk, it could be your legal office, or it could be any one of us. It's any public person now, so it could be any one of us that something is brought against. It doesn't

mean that the claim is viable, but a lot of the time, your city attorney will tell you let's settle this because litigation is really expensive. You're rolling the dice when you have 12 people on a jury, because they can wake up today and feel really great about city government, or they could wake up tomorrow and feel really bad about it, so it's really important to be mindful.

Mayor Hechler: Thank you. That illustrates to us that we need to mitigate all the risks that we can upfront when we can, and by doing some of those things, I think it not only helps us with our premiums, but it also reduces the risk of lawsuits, and that is important for us.

Roberta Baca, New Mexico Office of State Investigations: Internally, I think if people had to actually visit your police department and see that some of the roof is almost actually caving in, and they are probably going to have to move some desks around until you can get them moved because you don't want that falling in or anything else on anybody who internally works there either. Work comp claims are just as expensive as anything else. I think these are things we don't think about as everyday citizens, but I think that all of our citizens need to think about it because nobody wants to pay more taxes. We live in a very poor, rural state. We all live paycheck to paycheck, including myself. We are in public service for a reason, because we love it, and we're trying to serve the people where we live. I think the less that we pay, and the more we get to keep in our pocket is good for all of us. It's a win/win, and we really need to look at it like that.

Chief of Police Tavizon: I just wanted to bring up a concern that one of the citizens had earlier about one of the grants. When it comes to government work, we are required to answer for any kind of money that we get, whether it's just for our budget or anything else. This is free money that we are getting through a grant. We've already worked with this grant in the past. We were able to purchase 15 laptops for our officers' docking stations. I am familiar with these grants. I'm the one who does the monthly and quarterly reports. When you get in the groove of things, it's part of the routine, and I am quite capable of continuing to take these grants. These are smaller grants. It's just under \$12,000 for handheld radios for the officers. The ones we have are outdated. It has been the past practice to get loans for the equipment that is needed, but I am totally against getting a loan for anything that we can get for free. All we have to do is a little bit of paperwork for it. There is no cash match or nothing. We got close to \$60,000 last year in equipment from the same grant. This year there were a few more people who applied so the funding was a little bit less. I will always continue to look for funding out there for anything that is available for law enforcement or for community benefit. I'm sure there are grants out there that will get us a sign put up for the PNC Bank to advertise and slow people down. Whatever the case may be. The Officers are extremely busy again this month. We can't seem to get crashes under control. We've utilized the traffic safety grants that we get. Our officers have worked overtime in addition to their regular duties so they can address certain problem areas in our community. We sent an officer to the State Academy, and we are sending officers to First Line Supervisor training and investigation training.

Calls for Service in July:

- 238 Traffic Stops.
- 158 Citations/warnings (Including handwritten)
- 580 CFS calls.
- 80 ACO calls.
- 6 SCI (CYFD) calls.
- 2 DWI/DUI.
- 11 Arrests

Commissioner Mitchell: I wanted to remind everyone that the JAG grant is not something that is brand new. It is something we have received every year, and we are going to continue to utilize it for the benefit of our community.

Chief Tavizon: It may be just a little under \$12,000 but that's free money that I don't have to spend out of my budget. It's a smaller amount, but it will open it up to larger amounts down the road. Some of the other areas get bigger amounts. I got around \$97,000 for equipment right before I left Deming.

Mayor Pro-Tem Forrister: I would like to challenge those citizens that make those comments to come with us with some constructive ideas. If they can find money that is for free out there that we don't have to do any paperwork with, then please let us know where to find that.

Commissioner Fahl: Chief, I want to thank your Animal Control Officer and Code Enforcement. He is doing both jobs, and he is doing what he can. We understand that people are frustrated, but when you can't meet your staffing needs, there is only so much time in the day.

F5. (Ordinances, Resolutions, Zoning):

Discussion/Action: Publication of Ordinance 768, Amending Sec. 3-98 of the Municipal Code of Ordinances pertaining to safekeeping of animals by the animal shelter.

OJ Hechler, Community Services Director: We kind of hit on this a little bit earlier with Exhibit A of the Animal Shelter fees. We are removing the title of safekeep, and we are going to call it an incarceration hold or hospitalization hold. The length of time we came up with is a reasonable amount of time for an animal owner to get their animals from the shelter. If the animal owner cannot get their animals from the shelter, they are responsible for finding a designated party or organization to come for the animal. We have had some issues with the safekeeps because we don't know what we are doing with these animals so if they can make contact with the Animal Shelter, there may be circumstances where we can hold the animals up for longer with a boarding fee applied. I feel like this is very reasonable. Most responsible animal owners know that their animal is at the shelter, and they come and get their animals.

Mayor Pro-Tem Forrister: What do we do if they don't want their animal and it has been there for a long period of time. Do we go after them to pay the fees?

OJ Hechler, Community Services Director: We should. If you look at that last sentence, it says "*Owners who knowingly abandon or fail to arrange for pickup of their animal(s) at the Animal Shelter may be prosecuted under other sections within the Municipal Code*" so we may go after them. That is a possibility. We have everything logged. Tara does an amazing job entering everything into our IWorQ system and that saved us on a couple cases because we had everything logged. People don't know behind the scenes is that when that animal is there for 19 days, sometimes those animals turn or become feral or they get sick, or they have kennel stress. Things of that nature, so we also have to take into consideration what is best for the animal.

Mayor Hechler: Do you guys make efforts to contact them? You don't just rely on them to contact you? You also try to track them down, correct?

OJ Hechler, Community Services Director: Tara calls the hospitals, the jails, and she listens in on court hearings. She does all of this to make every attempt to find a way to make contact. The goal is always to get the animal back to its owner. We just need some sort of communication from them. One other issue that we fall into when they get out of jail is that most people don't have the money to pay the boarding fee when they get out of jail, so those are other things that we have to take into consideration. We changed some verbiage in here from "*may*" to "*shall*" because those are very important key words. What we are trying to do is grant a little bit more reasonable time for the animal owners to get their animals from the shelter. We've done better with the 72-hour rule than we have ever done bad. We want to get this in writing so we can have it posted at the shelter. There is one more sentence that I would like to point out, "*due to unforeseen circumstances*" to me that is something that is not planned. I want to make sure that was included as well.

Mayor Pro-Tem Forrister moved to approve Publication of Ordinance 768, Amending Sec. 3-98 of the Municipal Code of Ordinances pertaining to safekeeping of animals by the animal shelter. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Tara Manning, Animal Shelter Manager gave an update on the Jordan's Way event:

- It was supposed to be a 3-hour event, but an hour into the event the towers went down, they came back for 20 minutes and then it went down permanently. That was before I got slime(d) and before Chief got dunked. The Chief and the Mayor got locked in a dog kennel. The last time they came they separated us into teams. I was one team lead and Mark was the other one, and they did the same thing this year. I won the first year, but Mark won this year. The first year we raised \$4,800 and this year we raised a little over \$7,600.

Mayor Pro-Tem Forrister mentioned that Tara was named as one of those who make a difference in our community, and the shelter was mentioned as well in the article.

G. PUBLIC HEARINGS (5 Minute Rule Applies)

- 1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 767 Authorizing the Execution and delivery of a loan agreement and intercept agreement by and between the City of T or C, and the New Mexico Finance Authority, evidencing a special limited obligation of the governmental unit to pay a principal amount not to exceed \$2,000,000, together with interest thereon for the purpose to acquire, construct, renovate, furnish, equip, beautify and improve a public safety building for the benefit of the city and its residents.**

The item was deferred to the August 14th Meeting.

H. NEW BUSINESS:

- 1. Discussion/Action: Approval of Purchase Agreement for 210 Main and Authorization of continued city action.**

Assistant City Manager Alvarez: In your packet is the purchase agreement for the 210 Main and Authorization of continued city action. This is for us to purchase the PNC Bank.

City Manager Gonzales: The tax parcel is included. I think it is pretty well known what it is. I just wanted to bring it to you for your approval.

City Attorney Rubin: The title company is working on the title search right now. I should have that by the end of the day today.

Commissioner Fahl: I think that it is very important that we do this. We got an excellent amount for that, for what we are going to spend.

Mayor Pro-Tem Forrister: You did an excellent job, and we appreciate your hard work, Mayor.

Mayor Hechler: Well, we had an opportunity, and I couldn't pass it up. I didn't have the authority on my own, so thank you folks for jumping in.

City Manager Gonzales thanked Commissioner Hoepfner for his help as well.

Commissioner Mitchell moved to approve the Purchase Agreement for 210 Main and Authorize continued city action. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Presentation/Discussion/Action: Electronic Message Board.

This item was moved after public comment.

3. Discussion/Action: Approval of Purchase Requisitions over \$20,000.

City Manager Gonzales reviewed the Purchase Requisitions over \$20,000 provided in the packet.

Mayor Pro-Tem Forrister moved to approve the Purchase Requisitions over \$20,000. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Amendment to the Letter of Agreement between the Truth or Consequences Animal Shelter and Sierra County Animal Rescue Society.

OJ Hechler, Community Services Director: we've been in this agreement for a couple of years, and we are actually growing a little bit with our partnership. It used to say up to one time per week and we are going to change that to a minimum of one time per week. We are actually doing this a couple of times a week now. This partnership means so much to our community because we are spearheading a long-term solution to our animals, especially with the cats. SCARS traps kittens, they have them fixed and they have their vaccinations done. They don't always have a place to put their animals, so we are charging them the owner surrender fee. That is what we have to do according to our setup, and this will allow us to also help find a placement for these animals.

Commissioner Mitchell moved to approve the amendment to the Letter of Agreement between the Truth or Consequences Animal Shelter and Sierra County Animal Rescue Society. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Update: Water Update.

Arnie Castaneda, Water/Wastewater Director presented a water update. (Presentation attached hereto and made a part hereof).

Mayor Hechler: As far as the school is concerned, I appreciate your efforts. I know it's been tough and we're stretching everybody to the limits trying to figure this out, but as I said earlier, this is a community problem. We've got to help them get through this thing. I guess what I'm concerned with is that we've done everything that we can on our end, but

our obligation is to deliver at least 40 lbs. of pressure to their property, but what is really mystifying to me is that between the hydrant and their facility, there is 30 yards, and the water pressure drops 20 lbs., and we don't understand that. It may be debris in the system. I don't know if it is or not. There is no way to flush their systems, so that's why I reached out to the governor's office. They'll be coming down on Friday, and they are bringing their specialist. Hopefully we'll be able to come up with a solution. If there is an issue with the water pressure, and it's on us to provide more pressure, then we will have to figure that out. Our first tranche of money is \$4.4 million that we're getting from the governor's office. I'm going to request that DFA release that early to us. We'll have to change some engineering things on our end to try and figure out a way to get adequate pressure or water to the school, and to the hospital. I think that should be a priority for us.

6. Discussion/Update: PD Update.

This item was moved up on the agenda.

7. Discussion/Action: Accept 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) Award.

Chief of Police Tavizon: I got a notice of funding for the JAG Grant. There are two different JAG Grants that are available. They are both federal, but one is filtered through the state and the other one is directly through the feds. This one is through the state. I asked for funding to purchase some radar units. They are around \$3,500 apiece. We also need new handheld radios. They wanted to focus on public safety. When you submit your application, you have to list what you are wanting to buy, you can't just request money and use it for whatever you want. You have to stay within the parameters. We were approved for a little under \$12,000 for 15 handheld radios. If this is approved and signed, then we will send it up to the cabinet secretary and they will release those funds.

Mayor Pro-Tem Forrister moved to accept the 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) Award. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Revised Parcel Survey for Property Appraisal.

This item was tabled.

9. Discussion/Action: Reed Rocket Minimum Offer Acceptance.

Assistant City Manager Alvarez: After the Public Arts Board recommendation and Commission approval on the potential sale of the Reed Rocket. The request was to find out how much it was worth as scrap metal. Scrap metal prices are extremely low right now so it would actually be less than \$50 so we are requesting that the Commission come up with a minimum bid offer, so we don't under value the Reed Rocket and post it for sale and accept offers no less than the amount you come up with.

Commissioner Fahl: How much did the city pay for it?

Assistant City Manager Alvarez: We paid for it both through the city and the Sierra County Arts Council. The records that I've been able to locate show that the final payment that the city made was close to \$3,000. I want to say the total was somewhere around \$6,000 or \$7,000. Some of that was for storage, and some were for changes that Mainstreet had requested at the time.

Mayor Hechler: So, the history is that we weren't able to put it up in a public space because of insurance requirements. It had some moving parts and people were concerned with pinch points and things of that nature, so the state wasn't comfortable with us putting it up anywhere on city property, so it's been in storage since then. The objective now is, that we believe that someone from the arts community or likewise will be able to purchase this piece of art, and when they do that, we'll put it up on private property where it can still be displayed, and the city won't have any liability. That's the plan, so we need to establish a minimum value of it so we're not giving it away, and hopefully we'll be able to sell it to a person who is going to be able to put it back to use, and it will come back to our community at some point.

Assistant City Manager Alvarez: Once we advertise it for sale, any offers that come in will come to the Commission for acceptance of the offer. If it is your will, once you come up with a minimum bid, anybody that makes offers will be requested to come to you so you can ask them any questions that you want before making a decision to accept an offer.

Commissioner Fahl: If it was worth \$6,000 then we should at least get \$1,000 for it.

Mayor Hechler: We're hoping a local artist buys it and we are able to put it out for display.

Commissioner Fahl: I just don't want us to give it away. The community \$6,000 into it, so I think selling it for \$100 is crazy.

Commissioner Mitchell: Is any of the money that we sell it for going back to the Arts Council?

Assistant City Manager Alvarez: I think we would have to do our due diligence to see if we can find the records to find out where the cost came from because I think it was a

combination overall of the Sierra Arts Board, the City Public Arts Board and the city's general fund, if I remember correctly.

Commissioner Mitchell: If we are going to end up splitting it with money going back to the Arts Council, and we set a minimum bid at \$2,000 then that is a guarantee that we at least get some compensation for both organizations.

Mayor Pro-Tem Forrister: I get what you all are saying, but we are probably looking at somebody who is wanting to purchase it that can't afford it at that cost.

Mayor Hechler: I would be very surprised if we got any kind of bid over a couple hundred dollars. I've already received some calls from our community members that they have a vested interest. Our previous Mayor Steve Green was kind of worried about it, and he wanted us to donate it to Spaceport, if they would accept it because we want it to be visible so it can be displayed in our community somewhere. If we don't accept the minimum bid, then it's going to stay in storage for another 5 years.

Commissioner Fahl: Well, I want it to be \$1,000. I'm just going to throw that out there, so we can debate the amount.

Mayor Hechler: When we get the bids in then we can make that decision.

Commissioner Fahl: Yes, but we have to set a minimum bid. I think the minimum bid should be \$1,000.

Mayor Hechler: Ms. Alvarez: Do you have any indication that our bid is going to be more than \$100?

Assistant City Manager Alvarez: No. The ones that have come in, and even the artist when he came in wanted us to sell it for \$1.00 because he had somebody who potentially would be interested in purchasing it, like the art park that is over by the Police Department. We can't give it to them, and we can't give it back to him, so he asked if we could put it up for sale at \$1.00.

Mayor Hechler: So, we have to establish a minimum value for it.

Mayor Pro-Tem Forrister: Why don't we just set a low minimum and just see what happens.

Mayor Hechler: We can suggest a minimum bid of \$1,000, but we can take all bids.

Mayor Pro-Tem Forrister made a motion to allow the offer amount of \$1,000 but all offers will be reviewed for the Reed Rocket Sculpture. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: Approval of the Records Inventory List for destruction.

City Clerk Torres: This item is to approve the records destruction of 28 additional boxes for the Municipal Court. In your packet is the list of records and we recommend approval.

Commissioner Fahl made a motion to approve the Records Inventory List for destruction. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

I. ADJOURNMENT:

Mayor Hechler adjourned the meeting at 12:02 p.m.

Passed and Approved this 14th day of August, 2024.

Rolf Hechler, Mayor

ATTEST:

Angela A. Torres, CMC, City Clerk

Good morning here are some more pictures of my neighbors two doors up the river shoving *silt* off their deck.

The other picture is *silt* covering my sidewalk and it over an inch deep.

The point is that *silt* has been building up for years. I have lived here for 25 years and have not seen the Rio Grande ever been channeled.

The river is running higher than normal also; is it because they are letting more water out and or the *silt* build up over the years.

This can be a danger to our community, as our representatives what will you do to protect us and our natural resource (Rio Grande) river?

This is out my window and what it looks like when it a heavy rain here in Tor C.

It has been scary to see the river come up and almost in my yard.

I have asked this question years ago with no response from the city commissioners,

is there any Procedure or Protocall by the city in place in reference to the Dam

in case of an emergency? How can we the people who live on the Grande River

and in Tor C be protected from our river from overflowing when the river

is running and raining? What can the city and commissioners do to protect our community from this happening?..... Like what happened in Las Vegas NM.

Thanks

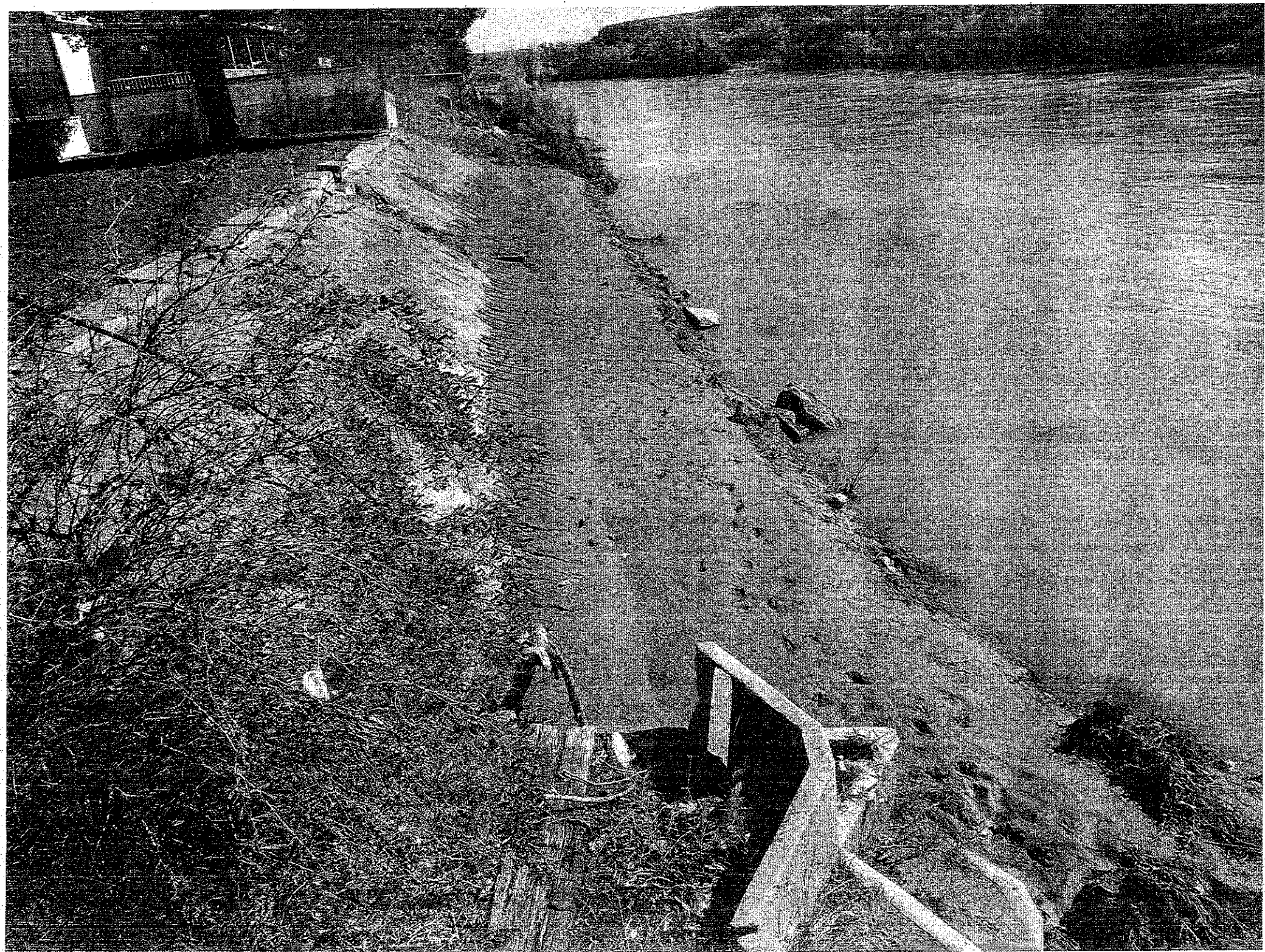
Ron Pacourek

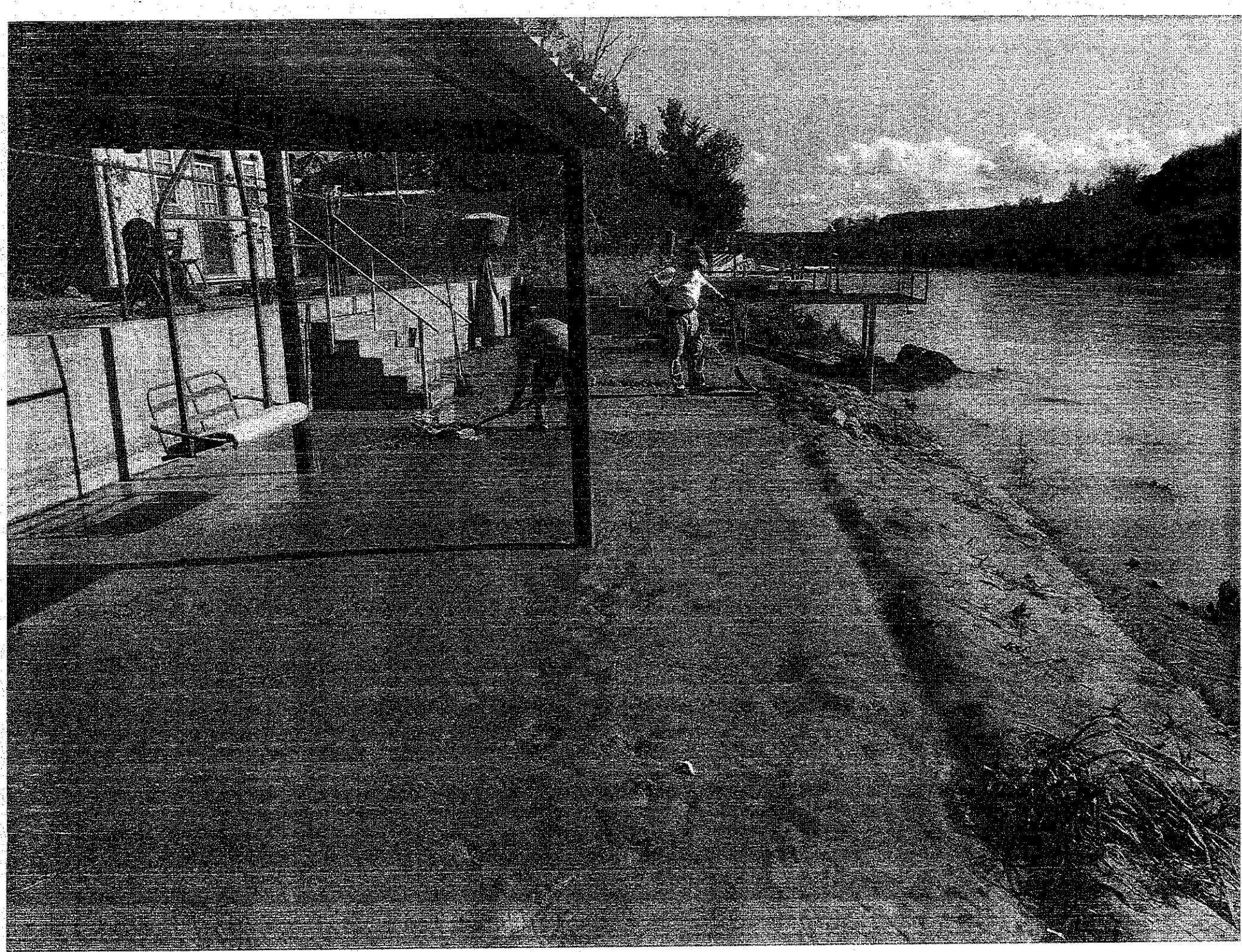
575-740-4747

ps I have videos of it raining, but my internet provider said the files are too big to send.

I will send more pictures by themself.

Any questions please don't hesitate to contact me.





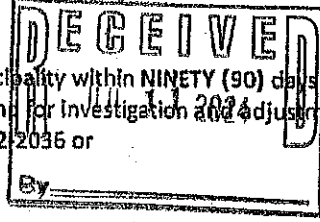
Saturday, July 20, 2024

Petition to support the T or C City Commission in its potential purchase of the PNC Building for the new home of the T or C police. We the undersigned are in favor of this purchase and believe it would be beneficial to all of T or C

Subjectto

NAME	BUSINESS
Sidney S. Bryan	Pelican spa 306 pershing
Barbara Stroud	ATOUCH of Yesterday 409 Broadway
Allison Norton	"Forget about It" 407 Broadway
Victoria Taylor	Rebel Roadrunner 413 Broadway
CAROL LARSON	Somewhere in Time 419 Broadway
Hugo Ferland	Greatfull Grill
Tiffany Ferland	Mile Marker 7 Coffee
JAMES AUTEN	UNITED PROTECTS ALLIANCE
Winter L. Jafry	VIC'S 405 BROADWAY
DENNIS C. STOCKEL <i>Dennis C. Stockel</i>	REALTOR - SEA PROPERTIES
Ronda L. Miller	Resident T or C
SUSAN E. BUHLER	303 GALLERY MAIN ST.
Walter E. Behr	1500 E. LIVERMORE DR

NOTICE OF TORT CLAIM



In order to submit your claim, you must complete this form and submit it to the Mayor of the Municipality within NINETY (90) days of the occurrence. The Municipality will then forward your claim to the New Mexico Self-Insurers' Fund for investigation and adjustment. You may expect to be contacted by a Fund representative regarding your claim. Please call (800) 432-2036 or (505)982-5573 if you have questions.

To Municipality of Truth or Consequence

Claimant: George A. Hanson DOB: _____ SSN: _____

Address: 731 Wyoming City: T-C Zip: 87901

Home Phone: (575) 744-9972 Cell: () - () Work: () - ()

Date of Occurrence: 6/10/24 Time of Occurrence: PRINT OF NEWS PAPER AM or PM (Circle One)

Location of Occurrence: MAYORS OFFICE JUNE 20 - 2024

Please describe what happened: (continue on blank sheet if necessary) SIERRA SENTINEL /
A Slander + Carpevious Injurious / PRINT;
Claim of JUNK - Not Valued by anyone
Rubbish Claim - Not useable as Built
REFUSE NOT to be Taken for Recycle
Theft of over 50,000 LBS.

Witness Name: _____ Contact #: () - ()

Witness Name: _____ Contact #: () - ()

Please list all persons and/or property for which you are claiming damages:

1. <u>George A. Hanson</u>	\$ <u>40,000</u>
2. <u>10 year Slander of Home owner</u>	\$ <u>100,000</u>
3. <u>Malpractice of Administration</u>	\$ <u>40,000</u>
4. <u>Lodge Hassels</u>	\$ _____
TOTAL AMOUNT OF CLAIM	\$ <u>180,000</u>

Please attach all estimates, bills, or other information to support the amount of your claim.

George Hanson Signature George A. Hanson Printed Name 7.18.24 Date

*This information is required by the federal government. No payment can be made without this information.

THIS SIDE FOR MUNICIPAL OFFICIAL USE ONLY.

Notice of Tort Received By _____
Name Title

Date: ____/____/____ Time: _____ AM/PM (Circle One)

Persons having knowledge of the circumstances surrounding this claim:

Name: _____ Phone: (____) _____
Name: _____ Phone: (____) _____
Name: _____ Phone: (____) _____
Name: _____ Phone: (____) _____

Attached are the following reports, statements or other documentation which support our understanding of the facts relating to this claim:

- 1. _____
- 2. _____
- 3. _____
- 4. _____

Please describe any other information which you feel is pertinent to this claim: _____

Submitted by: _____
Signature Print Name

Title: _____ Phone: (____) _____

Upon receipt of this claim, please provide the above information and *immediately* send to:

New Mexico Self-Insurers' Fund
P.O. Box 846
Santa Fe, NM 87504
(800) 432-2036 or (505) 982-5573
Fax (505) 820-0670

July 10 2024

Re

State of New Mexico
County of Sierra
Seventh Judicial District Court

Re. motion dismiss filed Santa fe date 6 / 24

; case D721/ CV/2024 /00070.

FILED
7th JUDICIAL DISTRICT COURT
Sierra County
7/11/2024 11:49 AM
MARY MORA
CLERK OF THE COURT
Elizabeth A Sheele

A response to exhibits tendered

I am able to give evidence and have witness and also can show all effort and energy .
possible from a pro sey and extremely damaged homeowner.

All available fight and exhaustive contacts over more than a reasonable defenses

my case has more than legal ease the lack and capricious , constitutional truth can follow ,

as a senior with a lack of power to resist , my need, continues for the court at LONG LAST
to bring city code to a standard that does not cause and constitute cruel and unusual ,
interference of all concepts to a freedom , and good home .

George A Henson
Respect

George A Henson

July 11, 2024

- # 5 ELECT Saw
- 10 UMBRELLA Large 8 LAMP (standing)
- 4 Stone Polishers 30 LBS CABINET hardware
- 4 Wake Boards 7. Cooler Motors - Tested
- 7 1/2 COMPLETE Fish Pole's
- Gas Power washer 5. Tri Pod stands
- 3 1/2 ELECT AIRLESS PAINT 2 ELECT PAINT SPRAY
- 3 1/2 10 Bicycle 40 wheels 6. Masts (4 Flag Pole)
- 10 Special wheels truck, QUICK
- 6 ELECT heater 5 Elec. A.C. 200 FT INDUSTRY ELECT CO
- 4 Small Gas Boat Motor
- 10 Paddle & oar (KNIVES special) New Batt E
- 15 Tarp 10 Easy UP shade 2 automoti DRIK Bat Charge
- 2 Large BARRI of ~~Rope~~ Rope 4 FULL Fish LURE BOX
- 15 machine stands - Table
- 15 Dip nets, 10 Saw's 10 Shovel -
- 6 Recycle Bins 4 heavy ~~top~~ TRUCKS 4 Antave
- 500.00 Post X LUMBER 3 Batt Charger's
- 2,000 \$ Double Pane window Stone age Arrowhead Collection
- 500 \$ storm Door. 5
- 200 \$ Solar Hot water collector 7 sets
- 500 \$ Photo ELECT collector. Stainless cookwear
- 200 \$ step ladders.
- 7 steel & Plastic Gas tanks
- 4 Roll out Awning
- 30 Gal. Latex House Paint
- 5 gal. Special oil 2 stock Paint thin

Tul. 7 2012 George A. Hanson



Water and Wastewater update

July 2024

Water Leaks

- Current number of leaks is at 45.
- Leaks fixed in the last 3 months-34
- Vac truck was out for repair for approximately 1 month.

We are working on purchasing a hydro-excavator (approved thru the budget process) that will allow us to have working crews.



Elementary School

- Pressure at the Elementary school is consistently 38-45 psi. Normal operating pressure is 40-50 psi, pressure at the school is currently within range.
- City water system is providing adequate pressure to the school. We witnessed a 20psi pressure drop within the school grounds.
- We have met with district personnel and have discussed all the options with them.
- All the valves that feed the school are open and functioning properly including the valves at the round about. We met with DOT and the roundabout utility contractor onsite and located all the valves. All valves were open.
- An average of 40 PSI is more than the standard of 20 PSI.

Wastewater update

- Both Williamsburg lift stations have been having issues. Both had problems at different times in the last two weeks. We had to obtain assistance from several companies to repair pumps and pump out sewer.
- Pumps for the Vac Station were ordered in March, we were told they would arrive in June, then July and now they are pushing it to August. We will continue to work with city management and possibly city attorney to expedite the shipment.
- Clancy lift station's bar screen is currently inoperable. Currently trouble shooting and working towards repair.
- Crews are working towards installing a rebuilt blower/mixer at the treatment plant. This equipment keeps the treatment process aerated and mixed for proper treatment.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: F.3

SUBJECT: July 2024 Accounts Payable
DEPARTMENT: Finance
DATE SUBMITTED: August 2, 2024
SUBMITTED BY: Silke Kapela, Accounts Payable
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

According to Sec. 2-28 of the Municipal Code related to Publication of expenditures:
Each month there may be published a summary of expenditures made during the preceding calendar month, which shall include a list of the total expenditures during the month, the amount spent in connection with each budgetary item, and a summary of all receipts; provided, however, that the publication mentioned in this section shall be made only at the discretion of the Commission if it shall deem such publication necessary in the public interest.

Recommendation:

Approve the Accounts Payable summary for July 2024

Attachments:

- End of Month Accounts Payable Report by Fund

Fiscal Impact (Finance): Yes

All Funds Summary is a total of \$ 1,346,195.01

Legal Review (City Attorney): N/A

N/A

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: Silke Kapela, Account Payable

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. N/A Ordinance No. N/A

Continued To: - Referred To: -

Approved Denied Other: [Click here to enter text.](#)

File Name: CC Agendas 8-14-2024

Accounts Payable Transfer Sheet - 2024 - 2025 FY
 Post Date Ending: 7/5, 7/12, 7/18, 7/26,

Fund	Fund Description	Fund Totals				GRAND TOTAL TRANSFERS	Fund Numbers
		7/5/2024	7/12/2024	7/18/2024	7/26/2024		
101	General	\$62,578.08	\$56,999.77	\$29,817.66	\$72,908.29	\$222,303.80	101
201	Local Government Corrections	\$2,420.00				\$2,420.00	201
209	State Fire	\$419.88	\$754.70	\$1,547.27	\$314.26	\$3,036.11	209
211	Law Enforcement Protection		\$980.11	\$836.87	\$2,640.03	\$4,457.01	211
214	Lodger's Tax	\$17,010.02				\$17,010.02	214
216	Street Renovation	\$19,419.72	\$1,385.90		\$802.75	\$21,608.37	216
217	Municipal Recreation					\$0.00	217
260	Fiscal Recovery Funds				\$6,048.90	\$6,048.90	260
294	State Library			\$317.34	\$268.69	\$586.03	294
295	Municipal Pool	\$1,803.72		\$48.82	\$4,125.09	\$5,977.63	295
296	PD-GRT Fund			\$426.75	\$134.99	\$561.74	296
298	PD-Donations					\$0.00	298
302	Electrical Construction					\$0.00	302
303	Veterans Memorial				\$236.09	\$236.09	303
304	SJOA - Grants					\$0.00	304
305	Capital Improvement General					\$0.00	305
306	Capital Improvement Joint Utility					\$0.00	306
307	Golf Course Improvements					\$0.00	307
308	USDA -Sweeper					\$0.00	308
309	USDA-Wastewater					\$0.00	309
310	R&R-Emergency					\$0.00	310
311	R&R-Sewer					\$0.00	311
312	R&R-Airport					\$0.00	312
313	R&R-Water					\$0.00	313
314	CDBG - Grant					\$0.00	314
315	CI Reserve- Non Capital Equipment				\$34,767.72	\$34,767.72	315
316	Emergency Reserve					\$0.00	316
320	USDA Water System Improvements					\$0.00	320
321	Water System Improvements				\$216,165.11	\$216,165.11	321
360	NMFA Projects					\$0.00	360
370	Water Trust Board Projects	\$19,427.31				\$19,427.31	370
380	Community Development					\$0.00	380
403	Pledge State Tax		\$22,748.77			\$22,748.77	403
501	Cemetery			\$1,062.33		\$1,062.33	501
502	Utility Office	\$6,416.33		\$390.57	\$15,508.50	\$22,315.40	502
503	Electric Dept	\$24,119.61	\$363,261.43	\$76,195.13	\$1,851.88	\$465,428.05	503
504	Water Dept	\$35,436.44	\$8,271.97	\$810.29	\$6,553.40	\$51,072.10	504
505	Solid Waste	\$13,433.65	\$64,780.90	\$29,026.20	\$12,568.97	\$119,809.72	505
506	WasteWater	\$23,517.02	\$10,982.54	\$10,503.15	\$6,272.98	\$51,275.69	506
507	Solid Waste Landfill/Collection					\$0.00	507
508	Golf Course	\$126.72		\$4,553.53	\$1,064.97	\$5,745.22	508
509	Municipal Airport		\$25,595.41	\$80.41	\$8,434.28	\$34,110.10	509
600	Internal Service Fund		\$267.00	\$73.23	\$17,681.56	\$18,021.79	600
	Grand Total-Accounts Payable	\$226,128.50	\$556,028.50	\$155,689.55	\$408,348.46	\$1,346,195.01	



Truth or Consequences

AP EOM REPORT

By Fund

Payment Dates 7/1/2024 - 7/31/2024

PAYABLE APPROVAL

I hereby approve the Issuance of these payments.

FINANCE DIRECTOR OR DESIGNEE

DATE:

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
Fund: 101 - General					
TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	ADMIN ANNUAL SUBSCRIPTI...	101-1004-43815	11,307.04
TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	PD ANNUAL SUBSCRIPTION FEE..	101-1007-43815	11,307.04
TYLER TECHNOLOGIES, INC.	025-470592	07/05/2024	TRAINING - FIXED ASSETS	101-1004-42720	346.80
KIMBERLY HOFFMAN	07012024	07/05/2024	DEPOSIT REFUND - RALPH ED...	101-1099-34348	25.00
TURTLEBACK PEST CONTROL I...	101530	07/05/2024	TURTLEBACK PEST CONTROL S...	101-1014-43403	1,074.00
MIKE TORRES DBA CD TECHN...	1026	07/05/2024	IT SERVICE GENERAL FUND OP...	101-1018-48598	8,632.82
POLICARPIO V BUSTAMANTE -...	106.24	07/05/2024	OPEN PO-LANDSCAPING SERV...	101-1009-47415	900.00
STANTEC CONSULTING SERVI...	2250405	07/05/2024	EVALUATION & DEVELOPMEN...	101-1010-48598	7,163.81
STANTEC CONSULTING SERVI...	2250585	07/05/2024	DEVELOPMENT REVIEW LOVES...	101-1010-48598	2,129.10
STANTEC CONSULTING SERVI...	2251757	07/05/2024	SILVER CITY NMGRT @ 8.0%	101-1010-48598	81.14
STANTEC CONSULTING SERVI...	2251757	07/05/2024	DEVELOPMENT REVIEW	101-1010-48598	1,000.00
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	ANIMAL SHELTER OPEN PO FY...	101-1018-43780	29.04
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	NM WORKFORCE CONNECTI...	101-1018-43780	32.01
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	GENERAL OPEN PO FY24/25	101-1018-43780	423.55
TRANS UNION RISK & ALTERN...	485949-202406-1	07/05/2024	TLO SERVICES FOR 4 MONTHS...	101-1007-43815	131.00
JAIME F. RUBIN LLC	7124	07/05/2024	GRT	101-1000-43597	4,212.43
MPG SERVICES LLC	7954	07/05/2024	REPAIR A/C AT BALL FIELDS P...	101-1014-43403	146.50
VERIZON WIRELESS	996852497	07/05/2024	PD	101-1007-43775	205.65
VERIZON WIRELESS	996852497	07/05/2024	ANIMAL CONTROL OPEN PO F...	101-1008-43775	123.39
CITY UTILITIES	C-D 7-5-2024	07/05/2024	GENERAL FUND CYCLE C&D O...	101-1018-43780	8,797.07
LASTING PAWS PET MEMORIA...	LC10391-I-0052	07/05/2024	ANIMAL CREMATION	101-1006-48598	1,425.20
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1001-41226	154.87
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1003-41226	167.25
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1004-41226	250.32
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1006-41226	126.65
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1007-41226	1,196.25
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1008-41226	40.20
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1009-41226	107.36
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1010-41226	98.69
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1011-41226	319.51
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1012-41226	124.32
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1013-41226	77.30
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1014-41226	214.22
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	101-1016-41226	208.55
SCRDA	07009024	07/12/2024	SCRDA BILL FOR FY 24-25	101-1007-48599	45,568.25
WEX BANK	07012024	07/12/2024	WEX FUEL FOR ANIMAL CONT...	101-1008-43316	89.12
WEX BANK	07012024-ACO	07/12/2024	WEX FUEL FOR ANIMAL CONT...	101-1008-43316	78.12
WEX BANK	07012024-PD	07/12/2024	FUEL USAGE MAY/ JUNE 2024...	101-1007-43316	5,979.92
WILLIAM I. BUHLER	071024	07/12/2024	FISH POND WATER RIGHTS FY ...	101-1009-43770	450.00
SUN VALLEY INC	175454-6, 175460-6, 175540-6...	07/12/2024	OPEN P.O. FOR THE MONTH O...	101-1014-44607	180.22
NM MUNICIPAL LEAGUE	17621	07/12/2024	NMLZO SEMI-ANNUAL WORK...	101-1008-42720	200.00
BAKER & TAYLOR INC	20383557922, 2038357923, 2...	07/12/2024	LIBRARY MATERIALS FOR PUBL...	101-1016-44830	106.36
SIERRA COUNTY SENTINEL	2643	07/12/2024	HELP WANTED ADS - FY24-25 -...	101-1004-43740	386.08
ALARM CONTROL TECHNOLOG...	34628, 34629	07/12/2024	FIRE ALARM MONITORING OP...	101-1014-47410	53.82
NU-WAY LAUNDRY & CLEANE...	39476	07/12/2024	CARPET SERVICES OPEN P.O. ...	101-1014-44607	98.10
SIERRA VISTA HOSPITAL / SIER...	41000055	07/12/2024	COLLECTION DRUG TEST FEE ...	101-1004-48599	50.00

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Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
BRADY INDUSTRIES, LLC	9031218	07/12/2024	TOILET TISSUE/CASE	101-1014-44607	814.84
BRADY INDUSTRIES, LLC	9031218	07/12/2024	CENTER PULL HAND TOWELS	101-1014-44607	603.25
ARENAS VALLEY ANIMAL CLIN...	90981, 91157, 91593	07/12/2024	VET SERVICES	101-1006-48598	536.88
QUEST DIAGNOSTICS, INC.	9210496112	07/12/2024	SCREENING & MRO FEE FY 24...	101-1004-48599	346.20
WEX BANK	98064332-FL	07/12/2024	OPEN PO FOR FUEL MARCH-J...	101-1012-43316	540.67
WEX BANK	98064332-FM	07/12/2024	WEX BANK FUEL CARD OPEN P...	101-1014-43316	852.94
INTERNATIONAL ASSOCIATION...	M24-C683824	07/12/2024	MEMBERSHIP RENEWAL	101-1007-42720	65.00
TERESA VARELA	07152024	07/17/2024	DEPOSIT REFUND FOR RALPH ...	101-1099-34348	25.00
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	CITY MANAGER XEROX EQUI...	101-1003-43465	177.74
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	POLICE XEROX EQUIPMENT C...	101-1007-43465	431.01
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	FLEET XEROX EQUIPMENT ON...	101-1012-43465	64.69
WILSON & COMPANY INC ENG...	127662	07/18/2024	ON CALL GRANT MANAGEME...	101-1010-48598	1,794.38
AMAZON CAPITAL SERVICES I...	1NTY-Q71C-W4H9	07/18/2024	UNIFORM SHIRTS	101-1006-42620	746.56
AMAZON CAPITAL SERVICES I...	1NTY-Q71C-W4H9	07/18/2024	LABELS	101-1006-44606	12.98
AMAZON CAPITAL SERVICES I...	1NTY-Q71C-W4H9	07/18/2024	SHELTER SUPPLIES	101-1006-44607	151.11
THE CAR WASH	5	07/18/2024	CAR WASH VOUCHERS FOR PD...	101-1007-47420	1,008.00
XEROX CORP	5972805	07/18/2024	CLERKS OFFICE OPEN PO FY24...	101-1001-43465	244.11
XEROX CORP	5972805	07/18/2024	CITY MANAGER OPEN PO FY2...	101-1003-43465	352.75
XEROX CORP	5972805	07/18/2024	FINANCE OFFICE OPEN PO FY...	101-1004-43465	292.93
XEROX CORP	5972805	07/18/2024	POLICE DEPT OPEN PO FY24/25	101-1007-43465	585.86
XEROX CORP	5972805	07/18/2024	PARKS DEPT OPEN PO FY24/25	101-1009-43465	244.11
XEROX CORP	5972805	07/18/2024	FACILITIES DEPT OPEN PO FY2...	101-1014-43465	73.23
MORRIS APPRAISAL SERVICE I...	71224	07/18/2024	Property Appraisal 210 Main S...	101-1010-48598	3,245.63
CITY UTILITIES	7152024	07/18/2024	GENERAL FUND OPEN PO FY2...	101-1018-43780	12.60
NM MUNICIPAL LEAGUE	8153	07/18/2024	ANNUAL MEMBERSHIP 7/1/24...	101-1000-43770	10,875.00
KATHRYN ELLIOTT DBA CIVILIT...	92	07/18/2024	GOVERNMENT RELATIONS	101-1000-43598	3,238.13
CITY UTILITIES	A87182024	07/18/2024	GENERAL FUND CYCLE A&B O...	101-1018-43780	6,241.84
A-N-J CARPET AND TILE CLEAN...	00011124	07/26/2024	CARPET CLEANING FOR PD	101-1007-48598	212.12
GALLS PARENT HOLDINGS, LLC...	028455338	07/26/2024	JAG CONTINGENCY FUNDING ...	101-1007-44613	148.88
GALLS PARENT HOLDINGS, LLC...	028455338	07/26/2024	JAG CONTINGENCY FUNDING ...	101-1007-80845	66.57
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	101-1006-47420	38.37
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	101-1009-47420	52.50
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	101-1010-47420	36.35
SIERRA VISTA HOSPITAL / SIER...	06/30/24	07/26/2024	GRT DISTRIBUTION FY 2024 - ...	101-1017-48599	37,984.96
NM SELF INSURERS FUND	06302024	07/26/2024	LIABILITY DEDUCTIBLE CLAIM ...	101-1007-46732	1,566.48
WINDSTREAM CORPORATION	07182024	07/26/2024	CITY MANAGER OPEN PO FY2...	101-1003-43775	90.27
TDS	07182024	07/26/2024	GENERAL OPEN PO FY24/25	101-1018-43780	3,951.14
ANIMAL CARE EQUIPMENT & ...	126916	07/26/2024	FIELD SUPPLIES FOR ANIMAL ...	101-1008-44607	767.81
WILSON & COMPANY INC ENG...	128059	07/26/2024	ON CALL GRANT MANAGEME...	101-1010-48598	2,528.11
REED'S TIRE CENTER	14585	07/26/2024	265/70R17	101-1013-47420	680.00
REED'S TIRE CENTER	14602	07/26/2024	265 70/17	101-1009-47420	680.00
REED'S TIRE CENTER	14651	07/26/2024	265 70R17	101-1007-47420	170.00
AMAZON CAPITAL SERVICES I...	1RXV-DQP-W4TG	07/26/2024	SHELTER SUPPLIES	101-1006-44607	30.54
STANTEC CONSULTING SERVI...	2213912	07/26/2024	DEVELOPMENT REVIEW 611 ...	101-1010-48598	5,245.00
STANTEC CONSULTING SERVI...	2213912	07/26/2024	SILVER CITY NMGR @ 8.237...	101-1010-48598	425.50
STANTEC CONSULTING SERVI...	2213912-2	07/26/2024	DEVELOPMENT REVIEW LOVES...	101-1010-48598	4,258.20
EWING IRRIGATION	22872106	07/26/2024	I25-04-R HUNTER 1 ULTRA 4IN...	101-1009-44607	928.00
EWING IRRIGATION	22872106	07/26/2024	I25-04-SS HUNTER 1 ULTRA 4IN	101-1009-44607	1,022.55
EWING IRRIGATION	22872106	07/26/2024	120-04-SS HUNTER 3/4 ULTRA...	101-1009-44607	801.55
EWING IRRIGATION	22872106	07/26/2024	COMMERCIAL RND POINT SH...	101-1009-44607	114.60
EWING IRRIGATION	22872106	07/26/2024	LEAF RAKE ALUM HANDLE	101-1009-44607	67.97
EWING IRRIGATION	22872106	07/26/2024	SS50 STEEL BOW RAKE ALUM ...	101-1009-44607	166.20
SIERRA COUNTY SENTINEL	2692, 2696	07/26/2024	LEGAL AD'S FOR RFP'S FOR M...	101-1004-43740	227.02
ALBUQUERQUE PUBLISHING ...	29180, 61030, 61210	07/26/2024	LEGAL AD'S FOR RFP'S FOR M...	101-1004-43740	550.54
OFFICE DEPOT	374752221001, 37475399400...	07/26/2024	OFFICE SUPPLIES	101-1007-44606	767.41
SILVERSKY, INC.	508304-SI	07/26/2024	GENERAL FUND OPEN PO FY2...	101-1018-43815	1,450.32
MPG SERVICES LLC	8042	07/26/2024	INSTALL A/C GOLF COURSE A...	101-1014-43403	1,161.47
VERIZON WIRELESS	9969100093	07/26/2024	CITY CLERK OPEN PO FY24/25	101-1001-43775	279.29
VERIZON WIRELESS	9969100093	07/26/2024	CITY MANAGER OPEN PO FY2...	101-1003-43775	259.03
VERIZON WIRELESS	9969100093	07/26/2024	FINANCE OPEN PO FY24/25	101-1004-43775	251.81

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Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
VERIZON WIRELESS	9969100093	07/26/2024	ANIMAL SHELTER OPEN PO FY...	101-1006-43775	110.50
VERIZON WIRELESS	9969100093	07/26/2024	POLICE DEPT OPEN PO FY24/25	101-1007-43775	1,961.69
VERIZON WIRELESS	9969100093	07/26/2024	ANIMAL CONTROL OPEN PO F...	101-1008-43775	126.50
VERIZON WIRELESS	9969100093	07/26/2024	PARKS DEPT OPEN PO FY24/25	101-1009-43775	145.83
VERIZON WIRELESS	9969100093	07/26/2024	COMMUNITY DEVELOPEMENT...	101-1010-43775	69.35
VERIZON WIRELESS	9969100093	07/26/2024	STREETS DEPT OPEN PO FY24/...	101-1011-43775	152.28
VERIZON WIRELESS	9969100093	07/26/2024	FLEET DEPT OPEN PO FY24/25	101-1012-43775	86.49
VERIZON WIRELESS	9969100093	07/26/2024	FACILITIES DEPT OPEN PO FY2...	101-1014-43775	122.14
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1001-41226	156.36
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1003-41226	168.28
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1004-41226	250.32
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1006-41226	137.98
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1007-41226	1,244.08
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1008-41226	40.20
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1009-41226	101.30
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1010-41226	100.66
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1011-41226	321.58
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1012-41226	125.11
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1013-41226	77.30
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1014-41226	216.31
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	101-1016-41226	213.47
Fund 101 - General Total:					222,303.80

Fund: 201 - Corrections

SIERRA COUNTY TREASURER	07012024	07/05/2024	OPEN PO - CARE OF PRISONERS	201-1903-48710	2,420.00
Fund 201 - Corrections Total:					2,420.00

Fund: 209 - Fire

NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	FIRE SOUTH STATION OPEN P...	209-1603-43780	31.78
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	FIRE STATION OPEN PO FY24/...	209-1603-43780	40.27
CITY UTILITIES	C-D 7-5-2024	07/05/2024	FIRE DEPT CYCLE C&D OPEN ...	209-1603-43780	347.83
NATHAN MAULDIN	7324	07/11/2024	20% PER DIEM NM STATE FIR...	209-1603-42310	98.60
JAMIE SANDERS	7324	07/11/2024	20% PER DIEM NM STATE FIR...	209-1603-42310	98.60
BRAD SPENCER	7324	07/11/2024	20% PER DIEM NM STATE FIR...	209-1603-42310	167.77
MEGAHERTZ COMPUTER CON...	100685	07/12/2024	INTERNET SERVICE/NORTH FL...	209-1603-43775	54.19
PETER BACA	7324	07/12/2024	20% PER DIEM NM STATE FIR...	209-1603-42310	167.77
DEE BROWN	7324	07/12/2024	20% PER DIEM NM STATE FIR...	209-1603-42310	167.77
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	FIRE XEROX EQUIPMENT CON...	209-1603-43465	251.74
LYNN'S LANDSCAPE	1511	07/18/2024	OPEN PO FOR MONTHLY CLE...	209-1603-47415	471.43
XEROX CORP	5972805	07/18/2024	FIRE DEPT OPEN PO FY24/25	209-1603-43465	244.11
CITY UTILITIES	AB7182024	07/18/2024	FIRE DEPT CYCLE A&B OPEN P...	209-1603-43780	579.99
WINDSTREAM CORPORATION	07182024	07/26/2024	FIRE DEPT OPEN PO FY24/25	209-1603-43775	125.39
VERIZON WIRELESS	9969100093	07/26/2024	FIRE DEPT OPEN PO FY24/25	209-1603-43775	188.87
Fund 209 - Fire Total:					3,036.11

Fund: 211 - Law Enforce Prot

THE LINE LLC	2658, 2659	07/12/2024	UNIFORM ITEMS FOR OFFICERS	211-2003-44573	831.14
GUNHER'S LLC	722024	07/12/2024	FIREARMS EQUIPMENT FOR O...	211-2003-44607	148.97
NM DEPT OF PUBLIC SAFETY T...	2025-A006	07/18/2024	INSTRUCTOR CERTIFICATION ...	211-2003-42535	10.00
THE LINE LLC	2662	07/18/2024	OPEN PO FOR MISC. ITEMS NE...	211-2003-44573	826.87
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	211-2003-47420	275.97
SHANE JEFFERS	07242024	07/26/2024	REIMBURSEMENT FOR SHOOT...	211-2003-44607	87.32
AMAZON CAPITAL SERVICES I...	14X1-RDV4-V33M	07/26/2024	CAMERAS AND ACCESSORIES ...	211-2003-44607	1,899.50
ADVANCED COMMUNICATIO...	300995	07/26/2024	REPAIRS ON HANDHELD RADI...	211-2003-44615	377.24
Fund 211 - Law Enforce Prot Total:					4,457.01

Fund: 214 - Lodgers Tax

SUNNY 505	2370	07/05/2024	ADVERTISING AND MARKETI...	214-2503-47406	15,134.76
INTEGRATED ENVIRONMENTA...	334	07/05/2024	RENT/CAM CHARGES FOR CO...	214-2540-43466	1,875.26
Fund 214 - Lodgers Tax Total:					17,010.02

Fund: 216 - Muni Street

WILSON & COMPANY INC ENG...	127354	07/05/2024	PROFESSIONAL ENG PLANNIN...	216-7026-48598	19,419.72
WILSON & COMPANY INC ENG...	127634	07/12/2024	VISION ZERO SAFETY ACTION ...	216-7025-48598	226.01

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Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
B & H OIL CO.	BH7224	07/12/2024	RED DIESEL- OPEN PO FY 23/24	216-4503-43316	1,159.89
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	216-4503-47420	32.00
BOOT BARN	097790	07/26/2024	BOOTS FOR JOEY EVANS	216-4503-44615	200.00
AMAZON CAPITAL SERVICES I...	1XKC-9YLP-V6F6	07/26/2024	UNDERSEAT STORAGE BOX	216-4503-47420	179.00
AMAZON CAPITAL SERVICES I...	1XKC-9YLP-V6F6	07/26/2024	RUNNING BOARDS	216-4503-47420	199.00
MARLIN LEASING CORPORATI...	21346109	07/26/2024	STREET DEPT SHARP EQUIPM...	216-4503-43465	192.75
Fund 216 - Muni Street Total:					21,608.37
Fund: 260 - Fiscal Recovery Funds					
WILSON & COMPANY INC ENG...	127698	07/26/2024	PROFESSIONAL SERVICES FOR...	260-7031-48598	6,048.90
Fund 260 - Fiscal Recovery Funds Total:					6,048.90
Fund: 294 - State Library					
XEROX CORP	5972805	07/18/2024	LIBRARY OPEN PO FY24/25	294-5003-43465	317.34
TDS	08/03/2024	07/26/2024	INTERNET SERVICE LIBRARY O...	294-5003-60834	99.95
VERIZON WIRELESS	9969100093	07/26/2024	LIBRARY OPEN PO FY24/25	294-5003-43775	168.74
Fund 294 - State Library Total:					586.03
Fund: 295 - Muni Pool					
JESSICA ADKINS	06202024	07/05/2024	DEPOSIT REFUND - POOL PAR...	295-4803-34355	50.00
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	SWIMMING POOL OPEN PO F...	295-4803-43780	225.86
CITY UTILITIES	C-D 7-5-2024	07/05/2024	POOL CYCLE C&D OPEN PO F...	295-4803-43780	1,487.76
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	295-4803-41226	40.10
XEROX CORP	5972805	07/18/2024	POOL OPEN PO FY24/25	295-4803-43465	48.82
LINDA ADKINS	07182024	07/26/2024	POOL PARTY DEPOSIT REFUND	295-4803-34355	50.00
VERIZON WIRELESS	9969100093	07/26/2024	POOL OPEN PO FY24/25	295-4803-43775	109.99
THE FARLEY GROUP INC	J000432	07/26/2024	POOL TARP	295-4803-80845	3,925.00
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	295-4803-41226	40.10
Fund 295 - Muni Pool Total:					5,977.63
Fund: 296 - PD GRT					
BARTOO SAND & GRAVEL INC	M46636	07/18/2024	TOW SERVICE FOR ABANDON...	296-2403-48598	426.75
AMAZON CAPITAL SERVICES I...	80360	07/26/2024	WORK BOOTS FOR EVIDENCE ...	296-2403-44615	134.99
Fund 296 - PD GRT Total:					561.74
Fund: 303 - Vet Wall					
WINDSTREAM CORPORATION	07182024	07/26/2024	VETERANS WALL OPEN PO FY...	303-4703-43775	236.09
Fund 303 - Vet Wall Total:					236.09
Fund: 315 - CI Reserve					
ADVANCED BUILDING SOLUTI...	00054	07/26/2024	INSTALL EVAPORATIVE COOL ...	315-8004-43403	34,767.72
Fund 315 - CI Reserve Total:					34,767.72
Fund: 321 - WATER SYSTEM IMPROVEMENTS					
WILSON & COMPANY INC ENG...	120395, 121331, 122112, 122...	07/26/2024	WA SYSTEM PERFORMANCE I...	321-7017-80860	216,165.11
Fund 321 - WATER SYSTEM IMPROVEMENTS Total:					216,165.11
Fund: 370 - WATER TRUST BOARD PROJECTS					
WILSON & COMPANY INC ENG...	127601	07/05/2024	ENGINEERING SERVICES CANT...	370-7019-80847	19,427.31
Fund 370 - WATER TRUST BOARD PROJECTS Total:					19,427.31
Fund: 403 - Pledge State					
NEW MEXICO FINANCE AUTH...	063024	07/12/2024	INTEREST & ADMIN FEES FOR ...	403-1203-90925	124.70
NEW MEXICO FINANCE AUTH...	07012024	07/12/2024	NMFA LOAN PYMT TORC 18	403-1203-12918	690.58
NEW MEXICO FINANCE AUTH...	07012024	07/12/2024	NMFA LOAN PYMT TORC 19	403-1203-12919	7,598.75
NEW MEXICO FINANCE AUTH...	07012024	07/12/2024	NMFA LOAN PYMT PPRF-5652	403-1203-12952	14,334.74
Fund 403 - Pledge State Total:					22,748.77
Fund: 501 - Cemetary					
CITY UTILITIES	AB7182024	07/18/2024	CEMETERY CYCLE A&B OPEN ...	501-1803-43780	1,062.33
Fund 501 - Cemetary Total:					1,062.33
Fund: 502 - Util Office - Pool					
TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	UTILITY BILLING ANNUAL SUB...	502-3601-43815	4,090.70
CITY UTILITIES	C-D 7-5-2024	07/05/2024	UTILITY BILLING OFFICE CYCLE..	502-3601-43780	407.90
SPECTRUM NEW MEXICO LLC ...	IC-24-856	07/05/2024	10,000 #10 WINDOW & 10,0...	502-3601-43740	1,724.91
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	502-3601-41226	192.82
XEROX CORP	5972805	07/18/2024	UTILITY BILLING OPEN PO FY2...	502-3601-43465	390.57

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Payment Dates: 7/1/2024 - 7/31/2024

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
POSTMASTER	07242024	07/26/2024	POSTAGE CITY MAIL FY 24/25	502-3601-43735	15,000.00
PITNEY BOWES INC.	8000-9090-0951-4238-61124	07/26/2024	PITNEY BOWES FY 24/25	502-3601-43465	119.20
VERIZON WIRELESS	9969100093	07/26/2024	UTILITY BILLING OPEN PO FY2...	502-3601-43775	192.62
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	502-3601-41226	196.68

Fund 502 - Util Office - Pool Total: 22,315.40

Fund: 503 - Electric

TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	ELECTRIC DEPT ANNUAL SUBS...	503-3702-43815	18,006.22
MIKE TORRES DBA CD TECHN...	1026	07/05/2024	IT SERVICE ELECTRIC DEPT OP...	503-3702-48598	664.07
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43780	29.04
CITY UTILITIES	C-D 7-5-2024	07/05/2024	ELECTRIC DEPT CYCLE C&D O...	503-3702-43780	5,016.48
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	503-3702-41226	403.80
TRI-STATE GENERATION & TR...	304712	07/12/2024	POWER SERVICE- OPEN PO FY...	503-3702-50795	34,473.30
ALTEC INDUSTRIES INC	51466131	07/12/2024	REPLACE O RING ON OUTRIG...	503-3702-47420	178.48
SIERRA ELECTRIC CO-OP INC	7022024, 07082024	07/12/2024	MIMS CITY LIGHTS- OPEN PO ...	503-3702-43780	562.35
SIERRA ELECTRIC CO-OP INC	7022024, 07082024	07/12/2024	POWER SERVICES-OPEN PO FY...	503-3702-50795	328,047.30
CURTIS W THOMAS DBA TRAI...	00268109	07/18/2024	CDL TRAINING- JESUS NAVAR...	503-3702-42720	7,600.00
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	ELECTRIC XEROX EQUIPMENT ...	503-3702-43465	94.81
MARTO ENERGY	071224-01	07/18/2024	POLE REPLACEMENT- MC DO...	503-3702-47415	18,423.75
NEW MEXICO ONE CALL INC	153010415	07/18/2024	QUARTERLY ALLOCATION US...	503-3702-43770	491.95
QUILL CORPORATION	3942663, 39446753	07/18/2024	OFFICE SUPPLIES- ELECTRIC	503-3702-44606	191.60
XEROX CORP	5972805	07/18/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43465	122.05
CITY UTILITIES	7152024	07/18/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43780	6.30
LANDIS+GYR TECHNOLOGY INC	90396263	07/18/2024	SaaS MONTHLY FLAT FEE- OP...	503-3702-43770	1,630.00
VERIZON WIRELESS	9968162887	07/18/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43775	58.91
CITY UTILITIES	AB7182024	07/18/2024	ELECTRIC DEPT CYCLE A&B OP...	503-3702-43780	227.73
WESTERN AREA POWER ADM...	JJPB1798A0624	07/18/2024	BASE DEMAND & BASE ENER...	503-3702-50795	47,348.03
TDS	07182024	07/26/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43780	434.82
ALTEC INDUSTRIES INC	12618094	07/26/2024	VEHICLE MAINTANCE, 09616...	503-3702-47420	246.07
SAFETY FLARE, INC.	135727	07/26/2024	RECHARGE FIRE EXTINGUISHE...	503-3702-44607	27.47
REED'S TIRE CENTER	14640	07/26/2024	VEHICLE MAINTENANCE, 124...	503-3702-47420	230.25
AMAZON CAPITAL SERVICES I...	1CLP-RXR3-Y44Q	07/26/2024	SAFETY BOOTS- CHRIS REES	503-3702-44615	194.99
SILVERSKY, INC.	508304-SI	07/26/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43815	111.57
VERIZON WIRELESS	9969100093	07/26/2024	ELECTRIC DEPT OPEN PO FY24...	503-3702-43775	193.38
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	503-3702-41226	413.33

Fund 503 - Electric Total: 465,428.05

Fund: 504 - Water

TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	WATER DEPT ANNUAL TYLER ...	504-3803-43815	13,540.10
MIKE TORRES DBA CD TECHN...	1026	07/05/2024	IT SERVICE WATER DEPT OPEN...	504-3803-48598	664.06
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	WATER DEPT OPEN PO FY24/...	504-3803-43780	31.47
SMITHCO CONSTRUCTION INC	595-24-004	07/05/2024	EMERGENCY RIVESIDE VALVE ...	504-3803-47415	7,618.84
CITY UTILITIES	C-D 7-5-2024	07/05/2024	WATER DEPT CYCLE C&D OP...	504-3803-43780	12,727.21
BOOT BARN	INV00370608	07/05/2024	PANTS FOR JAMIE FOREMAN -...	504-3803-42620	215.94
BOOT BARN	INV00370609	07/05/2024	BOOTS FOR LOUS RUDDER	504-3803-44615	200.00
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	504-3803-41226	438.82
DAUPLER INC	000846	07/12/2024	DAUPLER RESPONSE & CALLO...	504-3803-48598	4,950.00
FERGUSON US HOLDINGS INC	0543136	07/12/2024	WATER AND SEWER TAP PART...	504-3803-44607	787.74
TAXATION AND REVENUE	063024	07/12/2024	WATER CONSERVATION FEE FY...	504-3803-43797	1,591.81
SIERRA COUNTY SENTINEL	2650	07/12/2024	WTR- CCR-NEWSPAPER	504-3803-43740	812.81
B & H OIL CO.	56639, 56644	07/12/2024	OPEN PO FY 24-25 FUEL WTR ...	504-3803-43316	129.61
SUN VALLEY INC	175490, 175507, 175740, 175...	07/18/2024	WW/W- OPEN PO FOR MAY & ...	504-3803-44607	77.23
BAKER UTILITY SUPPLY CORP	322096	07/18/2024	8 WRAP CLAMP	504-3803-44607	173.40
CITY UTILITIES	AB7182024	07/18/2024	WATER DEPT CYCLE A&B OPEN...	504-3803-43780	556.04
FERGUSON US HOLDINGS INC	SC21194	07/18/2024	FINANCE CHARGES FOR FY 20...	504-3803-44607	3.62
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	504-3803-47420	472.65
TDS	07182024	07/26/2024	WATER DEPT OPEN PO FY24/...	504-3803-43780	434.82
AMAZON CAPITAL SERVICES I...	1GN9-376P-QXND	07/26/2024	WORK GLOVES	504-3803-44615	90.55
AMAZON CAPITAL SERVICES I...	1TQ4-7YXL-Y49K, 1JXL-3H11-...	07/26/2024	LOCKING MULTITOOLO, FRIGER...	504-3803-44607	512.35
AMAZON CAPITAL SERVICES I...	1XJ7-FDH6-QW3P	07/26/2024	OFFICE SUPPLIES	504-3803-44606	185.09
SILVERSKY, INC.	508304-SI	07/26/2024	WATER DEPT OPEN PO FY24/...	504-3803-43815	111.56
BULLOCKS, INC.	5820, 7307, 3151, 6289, 1833,...	07/26/2024	OPEN PO MAY & JUNE	504-3803-44607	84.41

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Payment Dates: 7/1/2024 - 7/31/2024

Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
SMITHCO CONSTRUCTION INC	595-24-005	07/26/2024	TAP ON MORGAN	504-3803-47415	392.58
ESRI INC.	94758455	07/26/2024	ONLINE SUBSCRIPTION FOR A...	504-3803-43770	3,278.35
VERIZON WIRELESS	9969100093	07/26/2024	WATER DEPT OPEN PO FY24/...	504-3803-43775	262.35
USA BLUEBOOK	INV00425267, INV00421723, ...	07/26/2024	SAFETY GLASSES	504-3803-44615	77.55
BAKER UTILITY SUPPLY CORP	INV323834	07/26/2024	WATER TAP PARTS FOR MOR...	504-3803-44607	211.20
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	504-3803-41226	439.94

Fund 504 - Water Total: 51,072.10

Fund: 505 - Solid Waste

TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	SANITATION ANNUAL SUBSCR...	505-3904-43815	11,307.04
MIKE TORRES DBA CD TECHN...	1026	07/05/2024	IT SERVICE SANITATION DEPT ...	505-3904-48598	664.06
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	RECYCLE CENTER OPEN PO FY...	505-3904-43780	29.54
NEW MEXICO GAS COMPANY ...	25JUN2024	07/05/2024	VACUUM STATION OPEN PO F...	505-3904-43780	31.47
CITY UTILITIES	C-D 7-5-2024	07/05/2024	SANITATION DEPT CYCLE C&D...	505-3904-43780	823.55
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	505-3904-41226	577.99
CITY OF LAS CRUCES	102681	07/12/2024	SCSWA WASTE DISPOSAL	505-3904-45601	57,668.38
AUTOZONE STORES, LLC	2529258122	07/12/2024	SP-DEF SHOP PRO DEF	505-3904-44607	232.56
JACKSON COMPACTION	30763	07/12/2024	DIAGNOSTICS/REPAIRS, LABOR...	505-3904-47420	981.85
WEX BANK	98064332	07/12/2024	WEX- DIESEL & GASOLINE	505-3904-43316	3,986.97
RJ BORDER INTERNATIONAL T...	R400031987.01	07/12/2024	SWITCH/DIAG	505-3904-47420	1,911.14
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	SOLID WASTE XEROX EQUIPM...	505-3904-43465	30.18
AMAZON CAPITAL SERVICES I...	1VGN-7ML1-QTJM	07/18/2024	CLEANING FIELD SUPPLIES	505-3904-44607	184.14
XEROX CORP	5972805	07/18/2024	SOLID WASTE OPEN PO FY24/...	505-3904-43465	122.05
CITY UTILITIES	7152024	07/18/2024	SANITATION DEPT OPEN PO F...	505-3904-45601	21,992.04
RJ BORDER INTERNATIONAL T...	R400031971.01	07/18/2024	REPAIRS ON 62818	505-3904-47420	6,697.79
PARKHILL SMITH & COOPER	04118823.00-7	07/26/2024	REGISTRATION RENEWAL	505-3904-48599	3,381.30
PARKHILL SMITH & COOPER	04342124.00-1	07/26/2024	TECHNICAL SUPPORT SERVICE...	505-3904-48599	6,498.44
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	505-3904-47420	510.42
TDS	07182024	07/26/2024	SANITATION OPEN PO FY24/25	505-3904-43780	434.82
SILVERSKY, INC.	508304-SI	07/26/2024	SOLID WASTE DEPT OPEN PO ...	505-3904-43815	111.56
RED WING SHOES OF LAS CRU...	5804	07/26/2024	SAFETY BOOTS- MATHEW HILL	505-3904-44615	200.00
RED WING SHOES OF LAS CRU...	5804	07/26/2024	SAFETY BOOTS - ANDRES A AL...	505-3904-44615	179.99
RED WING SHOES OF LAS CRU...	5804	07/26/2024	SAFETY BOOTS- GARY CARRE...	505-3904-44615	200.00
RED WING SHOES OF LAS CRU...	5804	07/26/2024	SAFETY BOOTS- VICTOR GARC...	505-3904-44615	200.00
CNA SURETY	9-10-2024	07/26/2024	RENEWAL BOND # 62153207 ...	505-3904-43770	100.00
VERIZON WIRELESS	9969100093	07/26/2024	SANITATION OPEN PO FY24/25	505-3904-43775	166.58
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	505-3904-41226	585.86

Fund 505 - Solid Waste Total: 119,809.72

Fund: 506 - WWTP

TYLER TECHNOLOGIES, INC.	025-467207	07/05/2024	WASTE WATER DEPT ANNUAL...	506-4005-43815	11,307.04
MIKE TORRES DBA CD TECHN...	1026	07/05/2024	IT SERVICE WASTE WATER OP...	506-4005-48598	664.06
CITY UTILITIES	C-D 7-5-2024	07/05/2024	WASTE WATER DEPT CYCLE C...	506-4005-43780	11,393.66
NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	506-4005-41226	152.26
DAUPLER INC	000846	07/12/2024	DAUPLER RESPONSE & CALLO...	506-4005-48598	4,950.00
FERGUSON US HOLDINGS INC	0543136	07/12/2024	WATER AND SEWER TAP PART...	506-4005-44607	196.94
VILLAGE OF WILLIAMSBURG	063024	07/12/2024	SEWER RECEIPTS FY 2024 - 20...	506-4005-48798	4,458.26
TERI I CATES DBA TLC PEST C...	32442	07/12/2024	PEST CONTROL	506-4005-47425	86.70
B & H OIL CO.	56633, 56634, 56645, 56650	07/12/2024	OPEN PO FOR DIESEL,OIL AND...	506-4005-43316	255.27
EUROFINS ENVIRONMENTAL ...	8850004167	07/12/2024	TEST FOR LIQUID WASTE DU...	506-4005-44605	204.49
EUROFINS ENVIRONMENTAL ...	8850004464, 8850004309, 88...	07/12/2024	EPA 200.8 METALS/200.7 ME...	506-4005-48598	245.00
EUROFINS ENVIRONMENTAL ...	8850004464, 8850004309, 88...	07/12/2024	TAX ON LABOR 7.875%	506-4005-48598	53.54
EUROFINS ENVIRONMENTAL ...	8850004464, 8850004309, 88...	07/12/2024	EPA METHOD 624 VOCS	506-4005-48598	100.00
EUROFINS ENVIRONMENTAL ...	8850004464, 8850004309, 88...	07/12/2024	SMS210B-BOD	506-4005-48598	120.00
EUROFINS ENVIRONMENTAL ...	8850004464, 8850004309, 88...	07/12/2024	EPA METHOD 625 SVOCs	506-4005-48598	225.00
EUROFINS ENVIRONMENTAL ...	8850004464, 8850004309, 88...	07/12/2024	BOTTLE CHARGE	506-4005-48598	12.00
EUROFINS ENVIRONMENTAL ...	8850004583	07/12/2024	EPA 200.8 METALS/200.7 ME...	506-4005-48598	70.00
EUROFINS ENVIRONMENTAL ...	8850004583	07/12/2024	TAX ON LABOR 7.875%	506-4005-48598	5.34
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	WASTEWATER XEROX EQUIP...	506-4005-43465	158.20
AMAZON CAPITAL SERVICES I...	14HQ-PF1W-PRC7	07/18/2024	SIGNS	506-4005-44607	83.34
SUN VALLEY INC	175490, 175507, 175740, 175...	07/18/2024	WW/W- OPEN PO FOR MAY & ...	506-4005-44607	77.22
AMAZON CAPITAL SERVICES I...	1VJQ-7VCK-7HD3	07/18/2024	OFFICE SUPPLIES	506-4005-44606	78.78

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Vendor Name	Payable Number	Post Date	Description (Item)	Account Number	Amount
XEROX CORP	5972805	07/18/2024	WASTE WATER OPEN PO FY24...	506-4005-43465	292.93
CITY UTILITIES	7152024	07/18/2024	WASTE WATER DEPT OPEN PO...	506-4005-43780	1,046.43
CITY UTILITIES	AB7182024	07/18/2024	WASTE WATER DEPT CYCLE A...	506-4005-43780	1,306.87
TALON SEPTIC & POTTY SERVI...	I1669, I1670	07/18/2024	EMERGENCY PUMP OUT OF S...	506-4005-48598	7,459.38
INTERNAL SERVICE FUND	06/01/2024-06/30/2024	07/26/2024	SERVICE/MAINT FOR DEPT VE...	506-4005-47420	70.65
TDS	07182024	07/26/2024	WASTE WATER OPEN PO FY24...	506-4005-43780	434.82
AMAZON CAPITAL SERVICES I...	1GN9-376P-QXND	07/26/2024	WORK GLOVES	506-4005-44615	90.56
AMAZON CAPITAL SERVICES I...	1TQ4-7YXL-Y49K, 1JXL-3H11-...	07/26/2024	LOCKING MULTITOO, FRIGER...	506-4005-44607	512.35
AMAZON CAPITAL SERVICES I...	1XJ7-FDH6-QW3P	07/26/2024	OFFICE SUPPLIES	506-4005-44606	185.09
SILVERSKY, INC.	508304-SI	07/26/2024	WASTE WATER DEPT OPEN PO...	506-4005-43815	111.56
BULLOCKS, INC.	5820, 7307, 3151, 6289, 1833,...	07/26/2024	OPEN PO MAY & JUNE	506-4005-44607	84.42
ESRI INC.	94758455	07/26/2024	ONLINE SUBSCRIPTION FOR A...	506-4005-43770	3,278.34
VERIZON WIRELESS	9969100093	07/26/2024	WASTE WATER DEPT OPEN PO...	506-4005-43775	407.38
TALON SEPTIC & POTTY SERVI...	I1659	07/26/2024	RODEO ARENA PUMP OUT	506-4005-48598	868.00
USA BLUEBOOK	INV00425267, INV00421723, ...	07/26/2024	SAFETY GLASSES	506-4005-44615	77.55
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	506-4005-41226	152.26
Fund 506 - WWTP Total:					51,275.69

Fund: 508 - Golf Course

NM RETIREE HEALTH CARE	PPE 2024-06-28	07/05/2024	PPE 2024-06-28	508-4303-41226	126.72
EASY PICKER GOLF PRODUCTS	0207757-N	07/18/2024	FLAG POLES, NUMBERED FLA...	508-4303-44607	477.60
MASEK ROCKY MOUNTAIN GO...	02-87255	07/18/2024	GOLF CART LEASE FY 24-25 M...	508-4303-43465	979.28
AMAZON CAPITAL SERVICES I...	17H9-GKVV-LR3Y	07/18/2024	A/C WINDOW UNIT FOR PRO ...	508-4303-44613	458.79
XEROX CORP	5972805	07/18/2024	GOLF COURSE OPEN PO FY24/...	508-4303-43465	244.11
CITY UTILITIES	AB7182024	07/18/2024	GOLF COURSE CYCLE A&B OP...	508-4303-43780	2,393.75
TDS	07182024	07/26/2024	GOLF COURSE OPEN PO FY24/...	508-4303-43780	434.82
AMAZON CAPITAL SERVICES I...	1G6H-HR9Q-L7PM	07/26/2024	RANGE BALLS	508-4303-44607	152.60
AMAZON CAPITAL SERVICES I...	1QGQ-3MW6-RKL4	07/26/2024	BUSS LOW-PEAK FUSE LPJ-100...	508-4303-44607	160.00
AMAZON CAPITAL SERVICES I...	1YXP-GNFW-YNPN	07/26/2024	CUSTOM IMPRINTED GOLF BA...	508-4303-44607	108.96
VERIZON WIRELESS	9969100093	07/26/2024	GOLF COURSE OPEN PO FY24/...	508-4303-43775	80.60
NM RETIREE HEALTH CARE	PPE 2024-07-12	07/26/2024	PPE 2024-07-12	508-4303-41226	127.99
Fund 508 - Golf Course Total:					5,745.22

Fund: 509 - Muni Airport

CHAD ROSACKER DBA TECH 45..	1111R	07/12/2024	MONTHLY MANAGEMENT FEE...	509-4403-48598	17,772.24
CHAD ROSACKER DBA TECH 45..	1112	07/12/2024	MONTHLY MANAGEMENT FEE...	509-4403-48598	7,000.00
SIERRA ELECTRIC CO-OP INC	2154-7224	07/12/2024	OPEN PO FOR UTILITIES AT Ai...	509-4403-43780	823.17
XEROX CORP - OLD	021646316, 021646315, 0216...	07/18/2024	AIRPORT XEROX EQUIPMENT ...	509-4403-43465	31.58
XEROX CORP	5972805	07/18/2024	AIRPORT OPEN PO FY24/25	509-4403-43465	48.83
WINDSTREAM CORPORATION	07182024	07/26/2024	AIRPORT OPEN PO FY24/25	509-4403-43775	443.85
VERIZON WIRELESS	9969100093	07/26/2024	AIRPORT OPEN PO FY24/25	509-4403-43775	124.18
LUCAS FRANCKE DBA REAL ST...	FINAL DRAW	07/26/2024	DOOR REPAIR FOR STORAGE ...	509-4403-43403	7,866.25
Fund 509 - Muni Airport Total:					34,110.10

Fund: 600 - Internal Serv

RJ BORDER INTERNATIONAL T...	X400110523.01	07/12/2024	LUCAS OIL FUEL TREATMENT	600-7003-43316	267.00
XEROX CORP	5972805	07/18/2024	FLEET DEPT OPEN PO FY24/25	600-7003-43465	73.23
JOSE LUIS SIMENTAL SR	12449	07/26/2024	DUAL AC RECOVERY MACHINE	600-7003-80845	12,594.70
RJ BORDER INTERNATIONAL T...	X400110353.01	07/26/2024	SHOP SUPPLIES	600-7003-44607	3,504.74
RJ BORDER INTERNATIONAL T...	X400110501.01	07/26/2024	BULK ORDER OF FILTERS/BAT...	600-7003-44607	1,360.96
RJ BORDER INTERNATIONAL T...	X400110570.01	07/26/2024	MGA 49430	600-7003-44607	150.18
RJ BORDER INTERNATIONAL T...	X400110942.01	07/26/2024	HARDWARE BRAKE KIT	600-7003-44607	70.98
Fund 600 - Internal Serv Total:					18,021.79

Grand Total: 1,346,195.01

Report Summary

Fund Summary

Fund	Payment Amount
101 - General	222,303.80
201 - Corrections	2,420.00
209 - Fire	3,036.11
211 - Law Enforce Prot	4,457.01
214 - Lodgers Tax	17,010.02
216 - Muni Street	21,608.37
260 - Fiscal Recovery Funds	6,048.90
294 - State Library	586.03
295 - Muni Pool	5,977.63
296 - PD GRT	561.74
303 - Vet Wall	236.09
315 - CI Reserve	34,767.72
321 - WATER SYSTEM IMPROVEMENTS	216,165.11
370 - WATER TRUST BOARD PROJECTS	19,427.31
403 - Pledge State	22,748.77
501 - Cemetary	1,062.33
502 - Util Office - Pool	22,315.40
503 - Electric	465,428.05
504 - Water	51,072.10
505 - Solid Waste	119,809.72
506 - WWTP	51,275.69
508 - Golf Course	5,745.22
509 - Muni Airport	34,110.10
600 - Internal Serv	18,021.79
Grand Total:	1,346,195.01

Account Summary

Account Number	Account Name	Payment Amount
101-1000-43597	ATTORNEY FEES-GOVER...	4,212.43
101-1000-43598	PROFESSIONAL SERV-G...	3,238.13
101-1000-43770	SUBSCRIPTION & DUES	10,875.00
101-1001-41226	RETIREE INSURANCE	311.23
101-1001-43465	RENT OF EQUIPMENT	244.11
101-1001-43775	TELEPHONE	279.29
101-1003-41226	RETIREE INSURANCE	335.53
101-1003-43465	RENT OF EQUIPMENT	530.49
101-1003-43775	TELEPHONE	349.30
101-1004-41226	RETIREE INSURANCE	500.64
101-1004-42720	EMPLOYEE TRAINING-A...	346.80
101-1004-43465	RENT OF EQUIPMENT	292.93
101-1004-43740	PRINTING/PUBLISHING	1,163.64
101-1004-43775	TELEPHONE	251.81
101-1004-43815	SOFTWARE LIC/SOFTWA...	11,307.04
101-1004-48599	OTHER CONTRACTUAL S...	396.20
101-1006-41226	RETIREE INSURANCE	264.63
101-1006-42620	UNIFORMS LINEN-ANIM...	746.56
101-1006-43775	TELEPHONE	110.50
101-1006-44606	OFFICE SUPPLIES	12.98
101-1006-44607	FIELD SUPPLIES	181.65
101-1006-47420	MAINTENANCE VEH/EQU..	38.37
101-1006-48598	PROFESSIONAL SERVICES	1,962.08
101-1007-41226	RETIREE INSURANCE	2,440.33
101-1007-42720	EMPLOYEE TRAINING-P...	65.00
101-1007-43316	GAS & OIL	5,979.92
101-1007-43465	RENT OF EQUIPMENT	1,016.87
101-1007-43775	TELEPHONE	2,167.34
101-1007-43815	SOFTWARE	11,438.04

Account Summary

Account Number	Account Name	Payment Amount
101-1007-44606	OFFICE SUPPLIES	767.41
101-1007-44613	NON-CAPITAL ITEMS	148.88
101-1007-46732	GENERAL LIABILITY INSU...	1,566.48
101-1007-47420	MAINTENANCE VEHICLE...	1,178.00
101-1007-48598	PROFESSIONAL SERVICES	212.12
101-1007-48599	OTHER CONTRACTUAL S...	45,568.25
101-1007-80845	CAPITAL IMPROVEMENT...	66.57
101-1008-41226	RETIREE INSURANCE	80.40
101-1008-42720	EMPLOYEE TRAINING-C...	200.00
101-1008-43316	GAS & OIL	167.24
101-1008-43775	TELEPHONE	249.89
101-1008-44607	FIELD SUPP-CODE ENF/...	767.81
101-1009-41226	RETIREE INSURANCE	208.66
101-1009-43465	RENT OF EQUIPMENT	244.11
101-1009-43770	SUBSCRIPTION & DUES	450.00
101-1009-43775	TELEPHONE	145.83
101-1009-44607	FIELD SUPPLIES-MUNI R...	3,100.87
101-1009-47415	MAINTENANCE--REPAIRS..	900.00
101-1009-47420	MAINTENANCE VEHICLE...	732.50
101-1010-41226	RETIREE INSURANCE	199.35
101-1010-43775	TELEPHONE	69.35
101-1010-47420	MAINTENANCE-VEHICLE...	36.35
101-1010-48598	PROFESSIONAL SERVICES	27,870.87
101-1011-41226	RETIREE INSURANCE	641.09
101-1011-43775	TELEPHONE	152.28
101-1012-41226	RETIREE INSURANCE	249.43
101-1012-43316	GAS & OIL	540.67
101-1012-43465	RENT OF EQUIPMENT	64.69
101-1012-43775	TELEPHONE	86.49
101-1013-41226	RETIREE INSURANCE	154.60
101-1013-47420	MAINTENANCE VEHICLE...	680.00
101-1014-41226	RETIREE INSURANCE	430.53
101-1014-43316	GAS & OIL	852.94
101-1014-43403	REGULAR BUILDING MA...	2,381.97
101-1014-43465	RENT OF EQUIPMENT	73.23
101-1014-43775	TELEPHONE	122.14
101-1014-44607	FIELD SUPPLIES-FACILITY...	1,696.41
101-1014-47410	MAINTENANCE CONTRA...	53.82
101-1016-41226	RETIREE INSURANCE	422.02
101-1016-44830	CITY BOOK PURCHASING...	106.36
101-1017-48599	OTHER CONTRACTUAL S...	37,984.96
101-1018-43780	UTILITIES	19,487.25
101-1018-43815	SOFTWARE LIC/SOFTWA...	1,450.32
101-1018-48598	PROFESSIONAL SERVICES	8,632.82
101-1099-34348	RENT OF PUBLIC FACILIT...	50.00
201-1903-48710	CARE OF PRISONERS-CO...	2,420.00
209-1603-42310	PER DIEM-STATE FIRE F...	700.51
209-1603-43465	RENT OF EQUIPMENT	495.85
209-1603-43775	TELEPHONE	368.45
209-1603-43780	UTILITIES	999.87
209-1603-47415	MAINTENANCE--REPAIRS..	471.43
211-2003-42535	EMPLOYEE TRAINING	10.00
211-2003-44573	UNIFORM & EQUIPMENT	1,658.01
211-2003-44607	FIELD SUPPLIES	2,135.79
211-2003-44615	SAFETY EQUIPMENT	377.24
211-2003-47420	MAINTENANCE-VEHICLE...	275.97
214-2503-47406	PROMOTIONAL/ADVERT...	15,134.76
214-2540-43466	RENT OF LAND/BUILDING	1,875.26

Account Summary

Account Number	Account Name	Payment Amount
216-4503-43316	GAS & OIL	1,159.89
216-4503-43465	RENT OF EQUIPMENT	192.75
216-4503-44615	SAFETY EQUIPMENT	200.00
216-4503-47420	MAINT.VEHICLE/FURN/...	410.00
216-7025-48598	Professional Serv/Contra...	226.01
216-7026-48598	Professional Serv/Contra...	19,419.72
260-7031-48598	Professional Serv/Contra...	6,048.90
294-5003-43465	RENT OF EQUIPMENT	317.34
294-5003-43775	TELEPHONE	168.74
294-5003-60834	STATE LIBRARY GRANT-S...	99.95
295-4803-34355	POOL DEPOSIT/RENTAL	100.00
295-4803-41226	RETIREE INSURANCE	80.20
295-4803-43465	RENT OF EQUIPMENT	48.82
295-4803-43775	TELEPHONE	109.99
295-4803-43780	UTILITIES-MUNI POOL	1,713.62
295-4803-80845	CAPITAL IMPROVEMENT...	3,925.00
296-2403-44615	SAFETY EQUIPMENT	134.99
296-2403-48598	PROFESSIONAL SERVICES	426.75
303-4703-43775	TELEPHONE	236.09
315-8004-43403	REGULAR BUILDING MA...	34,767.72
321-7017-80860	INFRASTRUCTURE	216,165.11
370-7019-80847	ROADWAYS AND BRIDG...	19,427.31
403-1203-12918	CWPA PPRF-2613 TORC ...	690.58
403-1203-12919	CWPA PPRF-2737 TORC ...	7,598.75
403-1203-12952	PPRF-5652 ELECTRIC TR...	14,334.74
403-1203-90925	COMMITMENTS & OTHE...	124.70
501-1803-43780	UTILITIES	1,062.33
502-3601-41226	RETIREE INSURANCE	389.50
502-3601-43465	RENT OF EQUIPMENT	509.77
502-3601-43735	POSTAGE & MAIL SERVI...	15,000.00
502-3601-43740	PRINTING/PUBLISHING	1,724.91
502-3601-43775	TELEPHONE	192.62
502-3601-43780	UTILITIES	407.90
502-3601-43815	SOFTWARE LIC/SOFTWA...	4,090.70
503-3702-41226	RETIREE INSURANCE	817.13
503-3702-42720	EMPLOYEE TRAINING-EL...	7,600.00
503-3702-43465	RENT OF EQUIPMENT	216.86
503-3702-43770	SUBSCRIPTION & DUES	2,121.95
503-3702-43775	TELEPHONE	252.29
503-3702-43780	UTILITIES	6,276.72
503-3702-43815	SOFTWARE LIC/SOFTWA...	18,117.79
503-3702-44606	OFFICE SUPPLIES	191.60
503-3702-44607	FIELD SUPPLIES	27.47
503-3702-44615	SAFETY EQUIPMENT	194.99
503-3702-47415	MAINTENANCE--REPAIRS..	18,423.75
503-3702-47420	MAINTENANCE-VEHICLE...	654.80
503-3702-48598	PROFESSIONAL SERVICES	664.07
503-3702-50795	WHOLESALE POWER CO...	409,868.63
504-3803-41226	RETIREE INSURANCE	878.76
504-3803-42620	UNIFORM/LINEN-WATER..	215.94
504-3803-43316	GAS & OIL	129.61
504-3803-43740	PRINTING/PUBLISHING	812.81
504-3803-43770	SUBSCRIPTION/DUES	3,278.35
504-3803-43775	TELEPHONE	262.35
504-3803-43780	UTILITIES	13,749.54
504-3803-43797	WATER CONSERVATION...	1,591.81
504-3803-43815	SOFTWARE LIC/SOFTWA...	13,651.66
504-3803-44606	OFFICE SUPPLIES	185.09

Account Summary

Account Number	Account Name	Payment Amount
504-3803-44607	FIELD SUPPLIES-WATER ...	1,849.95
504-3803-44615	SAFETY EQUIPMENT	368.10
504-3803-47415	MAINTENANCE-REPAIRS..	8,011.42
504-3803-47420	MAINTENANCE-VEHICLE...	472.65
504-3803-48598	PROFESSIONAL SERVICES	5,614.06
505-3904-41226	RETIREE INSURANCE	1,163.85
505-3904-43316	GAS & OIL	3,986.97
505-3904-43465	RENT OF EQUIPMENT	152.23
505-3904-43770	SUBSCRIPTION & DUES	100.00
505-3904-43775	TELEPHONE	166.58
505-3904-43780	UTILITIES	1,319.38
505-3904-43815	SOFTWARE LIC/SOFTWA...	11,418.60
505-3904-44607	FIELD SUPPLIES-SOLID ...	416.70
505-3904-44615	SAFETY EQUIPMENT	779.99
505-3904-45601	WASTE DISPOSAL	79,660.42
505-3904-47420	MAINTENANCE-VEHICLE...	10,101.20
505-3904-48598	PROFESSIONAL SERVICES	664.06
505-3904-48599	OTHER CONTRACTUAL S...	9,879.74
506-4005-41226	RETIREE INSURANCE	304.52
506-4005-43316	GAS & OIL	255.27
506-4005-43465	RENT OF EQUIPMENT	451.13
506-4005-43770	SUBSCRIPTION & DUES	3,278.34
506-4005-43775	TELEPHONE	407.38
506-4005-43780	UTILITIES	14,181.78
506-4005-43815	SOFTWARE LIC/SOFTWA...	11,418.60
506-4005-44605	CHEMICALS/LABORATO...	204.49
506-4005-44606	OFFICE SUPPLIES	263.87
506-4005-44607	FIELD SUPPLIES-WASTE...	954.27
506-4005-44615	SAFETY EQUIPMENT	168.11
506-4005-47420	MAINTENANCE-VEHICLE...	70.65
506-4005-47425	OTHER MAINTENANCE-...	86.70
506-4005-48598	PROFESSIONAL SERVICES	14,772.32
506-4005-48798	VILLAGE OF WILLIAMSB...	4,458.26
508-4303-41226	RETIREE INSURANCE	254.71
508-4303-43465	RENT OF EQUIPMENT	1,223.39
508-4303-43775	TELEPHONE	80.60
508-4303-43780	UTILITIES	2,828.57
508-4303-44607	FIELD SUPPLIES	899.16
508-4303-44613	NON-CAPITAL ITEMS	458.79
509-4403-43403	REGULAR BUILDING MA...	7,866.25
509-4403-43465	RENT OF EQUIPMENT	80.41
509-4403-43775	TELEPHONE	568.03
509-4403-43780	UTILITIES	823.17
509-4403-48598	PROFESSIONAL SERVICES	24,772.24
600-7003-43316	GAS & OIL	267.00
600-7003-43465	RENT OF EQUIPMENT	73.23
600-7003-44607	FIELD SUPPLIES	5,086.86
600-7003-80845	CAPITAL IMPROVEMENT...	12,594.70
	Grand Total:	1,346,195.01

Project Account Summary

Project Account Key	Payment Amount
None	1,346,195.01
Grand Total:	1,346,195.01



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: F.4

SUBJECT: Take Home Vehicle Form
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: August 7, 2024
SUBMITTED BY: Angela A. Torres
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

In accordance with Resolution No. 12 21/22, all take-home vehicle requests must be approved by the City Commission. The take-home vehicle request is for Phillip Nunez in the Parks Department. His commute is 20 miles.

Recommendation:

Approve take home vehicle form.

Attachments:

-

Fiscal Impact (Finance): N/A

-

Legal Review (City Attorney): N/A

-

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-2024



City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: G.1

SUBJECT: Public Hearing/Discussion/Action – Ordinance 766 Amending the City of Truth or Consequences Municipal Code of Ordinances, Amending Chapter 11 Pertaining to Solid Waste

DEPARTMENT: Community Development

DATE SUBMITTED: August 5, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez – Assistant City Manager

Summary/Background:

Staff has revised and updated Chapter 11 of the Municipal Code. The City Commission approved publication of Ordinance 766 at its meeting on 6-12-24. This is for public hearing and final adoption of Ordinance 766

Recommendation:

Approve Final Adoption Ord. 766

Attachments:

- Ordinance 766
- Public Hearing Notice

Fiscal Impact (Finance): N/A

Click here to enter text.

Legal Review (City Attorney): Yes

Click here to enter text.

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: Click here to enter text.

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. [Click here to enter text.](#)

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

Approved Denied Other: [Click here to enter text.](#)

File Name: CC agendas 8-14-24

CITY OF TRUTH OR CONSEQUENCES

ORDINANCE 766

AN ORDINANCE AMENDING THE CITY OF TRUTH OR CONSEQUENCES MUNICIPAL CODE OF ORDINANCES, AMENDING CHAPTER 11 PERTAINING TO SOLID WASTE

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:

Section one. That Chapter 11 of the Code of Ordinances of the City of Truth or Consequences be amended so that such Chapter shall read as follows:

CHAPTER 11 ~~SOLID WASTE MANAGEMENT~~ RECYCLING & WASTE COLLECTION CENTER

ARTICLE I. IN GENERAL

Sec. 11-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means and includes the City, its duly authorized agents, contractors, servants, employees, or licensees.

Refuse means any garbage, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, wastepaper, trash, rubbish, waste, or unwholesome material excepting, however, recognizable industrial byproducts.

(Code 1962, § 8-3-1)

Sec. 11-2. Police power exercised.

This chapter shall be deemed an exercise of the police power of the City acting in its governmental capacity for the protection and preservation of health, welfare, safety, and cleanliness; and all of its provisions shall be liberally construed for the accomplishment of that purpose. All persons having City water or electric connection shall also be liable for garbage collection fees, if garbage collection is available.

(Code 1962, § 8-3-2)

Sec. 11-3. City to haul refuse.

The City shall have the exclusive right to gather and collect refuse, and it shall be unlawful for any person, except as otherwise provided in this chapter, to collect or gather refuse.

(Code 1962, § 8-3-3)

Sec. 11-4. Permit—Required.

It shall be unlawful for any person other than the City to collect or convey through, over, or under any street or alley any refuse, for persons other than themselves, without first securing a permit from the City. The City Commission shall set the permit fee by Resolution.

(Code 1962, § 8-3-4; Ord. No. 593, § 1, 10-14-08)

Sec. 11-5. Same—Revocation.

Any person hauling refuse under a permit issued by the City shall dispose of such refuse in a safe and sanitary manner and shall obey the ordinances of the City and the laws of the State of New Mexico as well as the rules and regulations of the Governing Body of the City with regard to the storage and disposal of refuse. Failure to obey the noted ordinances, laws, or rules and regulations shall be grounds for revocation of the permit issued by the City.

(Code 1962, § 8-3-5)

Sec. 11-6. Containers—Requirements.

- (a) It shall be unlawful for any owner or occupant of any public or private premises to permit the accumulation upon such premises of any refuse except in covered containers approved by the City. ~~Such containers shall be constructed of metal in such a manner as to be strong, not easily corrodible, rodentproof, with two handles, a capacity of not more than 30 gallons, and with tight covers.~~ These containers shall be maintained in a sanitary condition at all times and shall be kept on a rack or in some location which will prevent the containers from being overturned by animals. City-furnished containers must be used where available and as designated by the City.
- ~~(b) At those locations where the City furnishes a container, the City-owned containers shall be the only ones used. No rocks, bricks, metal, except food and beverage containers, or other items of like consistency shall be deposited in the City-owned containers. A cleaning fee may be imposed if loose wet refuse is deposited in a City-owned container.~~
- (b) The City-owned containers shall be the only containers used. Construction demolition material, including scrap metal, rocks, bricks, organic yard debris, household furnishings, or large utility appliances, hazardous waste, special waste, burn barrels, ash waste, medical or infectious waste, sludge waste or livestock manure, dead animals, or mortality waste, asbestos pipes, or residues, automotive fluids, are NOT allowed in or around residential or commercial solid waste containers. Only regular household/business bagged garbage shall be deposited in the City-owned containers. A cleaning fee may be imposed if loose wet refuse is deposited in a city-owned container.**
- (c) All container lids will need to be closed. No items, bagged, bundled, or otherwise may be placed for pick up outside of the container.**

(Code 1962, § 8-3-6)

Sec. 11-7. Same—City handling; scavengers prohibited; penalty.

- (a) It shall be unlawful for any person other than the City to interfere in any manner with any receptacle intended for the purpose of receiving and holding refuse, to remove any such receptacle, or to remove anything from any such receptacle unless such item was deposited there accidentally by the person removing the item. Scavenger activities are prohibited, and in addition, it shall be unlawful for any person to climb into, disturb, or enter any such containers furnished by the City, except insofar as necessary to deposit refuse therein.
- (b) Any person who violates any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as follows:
 - (1) First offense\$ 25.00
 - (2) Second offense100.00
 - (3) Third and subsequent offenses200.00

Scavenger activities, including poking and hunting through refuse previously deposited in City-owned containers, shall be considered a separate offense for each such container so disturbed.

- (c) In addition to the foregoing misdemeanor fines, the City may collect a civil penalty for cleaning each garbage container disturbed by scavengers.

(Code 1962, § 8-3-7)

Sec. 11-8. Governing Body to make rules and regulations.

The Governing Body of the City shall have the power to make rules and regulations for the storage and disposal of refuse to effectuate and facilitate the provisions of this chapter.

(Code 1962, § 8-3-8)

Sec. 11-9. Accumulation of refuse prohibited.

It shall be unlawful for any person to deposit, collect, or accumulate or permit the deposit, collection, or accumulation of any refuse within the City.

(Code 1962, § 8-3-9)

Sec. 11-10. Collection fees.

Collection fees shall be set by the City Commission

The monthly fees shall be as follows:

- ~~(1) Residences: \$22.37~~
- ~~(2) Commercial establishments:~~

a.	Class I. Lodges (fraternal) without bars, churches, beauty shops, barber shops, T.V. shops, rock shops, jewelry stores, accounting, legal, medical, real estate, insurance, dental offices and miscellaneous small shops. Motels, hotels, and apartments with fewer than ten units and RV Parks with fewer than ten spaces.	\$44.85
b.	Class II. Lodges (fraternal) without bars, package stores without bars, service stations, garages, small grocery stores, body shops, small cafes, laundries, florists and small merchandising businesses. Motels, hotels, and apartments with ten to 20 units and RV Parks with ten to 20 spaces.	\$71.47
e.	Class III. Bars and package stores in conjunction with bars, medium sized store buildings, medium sized restaurants and cafes and governmental offices. Motels, hotels, and apartments with 21 to 30 units and RV Parks with 21 to 30 spaces.	\$104.69
d.	Class IV. Department stores, drug stores and banks. Motels, hotels, and apartments with 31 to 40 units and RV Parks with 31 to 40 spaces.	\$140.20
e.	Class V. Large restaurants, large grocery stores, hospitals, trailer parks. Motels, hotels, and apartments with more than 40 units and RV Parks with more than 40 spaces.	\$403.70

(3) *Reserved.*

(4) *Reserved.*

(Code 1962, § 8-3-11; Ord. No. 405, 2-8-93; Ord. No. 411, 1-10-94; Ord. No. 454, § 1, 3-23-98; Ord. No. 477, § 1, 7-24-00; Ord. No. 495, § 1, 7-9-01; Ord. No. 503, § 1, 11-26-01; Ord. No. 510, § 1, 3-11-02; Ord. No. 519, § 1, 6-10-02; Ord. No. 522, § 1, 11-12-02; Ord. No. 544, 7-25-05; Ord. No. 547, 10-24-05; Ord. No. 630, § 1, 11-13-12; Ord. No. 647, § 1, 11-12-13)

Editor's note(s)—Ord. No. 630, § 1, adopted Nov. 13, 2012, changed the title of § 11-10 from "Collection fees generally" to "Collection fees."

Sec. 11-11. Payment; when due.

All collection fees shall be payable at the utility offices of the City of Truth or Consequences on a monthly basis. All fees assessed for collection shall become delinquent 90 days after the due date. The City Clerk shall, at the end of each quarter of the year, prepare an assessment roll in accordance with state law.

(Code 1962, § 8-3-12)

Sec. 11-12. Delinquency; lien, generally; business establishments.

- (a) On or before October 1 of each year, the Municipal Clerk shall certify to the Governing Body a list containing any delinquent assessments with a penalty added for nonpayment of the assessment at the rate of one percent per month of any assessment confirmed by resolution and describe the parcel of real estate to which the assessment is applicable. After the certified list is accepted by the Governing Body, the assessment shall be a lien, when processed, against the parcel of real estate and shall be processed as provided in state law. Any such lien shall be a lien superior to all other liens except general property taxes upon the property so charged and a personal liability of the owner of the property so charged. The notice of lien shall comply with the requirements of the New Mexico Municipal Code and shall bear interest at the rate of eight percent per annum from the date of assessment. The lien may be foreclosed as provided by law.
- (b) A penalty of one percent per month shall be charged in all cases where payment is not made when delinquent.
- (c) For purposes of this section, "business establishment" shall mean each location at which business is conducted by an individual, associate, or corporate entity and each business at a common location which is separately conducted from other business at such common location.

(Code 1962, § 8-3-13)

Sec. 11-13. Charge for release of lien.

There shall be collected by the City Clerk the sum of \$5.00 for the release of any lien for delinquent garbage fees in addition to the delinquent garbage fees plus penalty and interest. This charge shall be collected, whether release is sought prior to or after the commencement of foreclosure proceedings, to enforce the lien for delinquent garbage assessments.

(Code 1962, § 8-3-14)

Sec. 11-14. Residential/commercial poly-carts and dumpsters.

Garbage and refuse containers (poly-carts/dumpsters) shall be provided by the City to applicable account holders and shall be made of metal or plastic with tight-fitting covers.

Residential customers: The City shall provide one minimum 95 **96** -gallon **ear** **container** to each applicable account holder in the order determined by the ~~City Solid Waste Department~~ **Recycling & Waste Collection Center**. Additional poly-carts **containers** may be provided at the ~~current adopted~~ rate per month **set by Resolution**. **Residential accounts will be serviced one (1) time per week.** (~~maximum two carts per customer account.~~)

Commercial containers: The City shall provide either one minimum 95 **96**-gallon **ear** **container** or size appropriate dumpster(s) as determined by the ~~City solid Waste Department~~ **Recycling & Waste Collection Center**. Additional poly-carts **containers** may be provided at

the current adopted rate per month **set by Resolution. Commercial account service provided is set by Resolution with a minimum service requirement of one (1) time per week.** (maximum two carts per customer account.)

The account holder shall be charged at the current adopted rate per month for one pick up a week. The solid waste shall not exceed the receptacle capacity, and the containers lid must be securely closed when not in use.

(Ord. No. 636, § 1, 4-9-13; Ord. No. 648, 11-12-13)

Editor's note(s)—Ord. No. 648, adopted Nov. 12, 2013, changed the title of § 11-14 from "Solid waste collection center fees" to "Residential/commercial poly-carts and dumpsters."

Sec. 11-14.1. [Fees Collection Practices.]

~~(a) Collection fees.~~

Number of Pick-ups per Week	Residential Poly-cart (1)	Residential Additional Poly-cart	Residential Dumpster	Basic Commercial Poly-cart (1)	Basic Commercial Additional Poly-cart	Commercial Dumpster (Small)	Commercial Dumpster (Medium)	Commercial Dumpster (Large)
1	\$22.37	\$11.18	\$44.85	\$32.37	\$16.18			
2	N/A	N/A	N/A	N/A	N/A			
3	N/A	N/A	N/A	N/A	N/A			
4	N/A	N/A	N/A	N/A	N/A			
5	N/A	N/A	N/A	N/A	N/A			
6	N/A	N/A	N/A	N/A	N/A			

N/A = Not applicable/not available

Replacement poly-cart	\$60.00
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Each July of every year hereafter the fees shall be adjusted automatically to reflect a five percent increase.

~~(b)(a) Pre-collection practices.~~

- (1) All residential and commercial users shall comply with the rules and regulations established by the City for the use, care and location of solid waste containers and shall keep the lids and covers furnished for such containers closed at all times except when they are being filled, emptied or cleaned. All garbage and refuse containers provided by the City shall be kept in neat and sanitary condition at all times. Containers shall be only loaded in such a manner as they will self-empty when inverted.
- (2) **Construction demolition material, including scrap metal, rocks, bricks, organic yard debris, household furnishings, or large utility appliances, hazardous waste, special waste, burn barrels, ash waste, medical or infectious waste, sludge waste or livestock manure, dead animals, or mortality waste, asbestos pipes, or residues, automotive fluids, are NOT allowed in residential or commercial solid waste containers. Only regular household/business bagged garbage shall be deposited in the City-owned containers.**
- (2)(3) No person shall remove for their own use, someone else's receptacle. To do so, shall result in fines and penalties and could be prosecuted to the fullest extent of the law. It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he/she does not own or is not entitled to use as a tenant (article II, utility department, section 14-31, taking service-without authority). **All receptacles are assigned by property address. Owners of multiple addresses are not allowed to exchange or remove to/from their other properties for usage.**
- (3)(4) The owner, occupant, tenant, or lessee of each premises shall store the containers (poly-cart) on their property for the purpose of and in such a manner to keep the containers from being overturned or upset and the **bagged** contents scattered. This will also keep the sidewalks and sides of the streets clear. ~~Poly-carts~~ **Containers** are to be placed at the designated pick up area on assigned pick up day only. It is the responsibility of the account holder to notify the utility department when vacating premises so that **the assigned poly-cart containers** will be removed by the Sanitation Department. Failure to do so could result in a replacement charge to the account holder.
- (4)(5) It is unlawful to maliciously damage any refuse container owned by the City. Any person that damages any container provided for the residential or commercial users shall be liable to the City for the cost of repair or replacement of such container at the current market rate including freight for such container. It is prohibited for any person, including children, to be on or in sanitation containers. All account holders shall be responsible for lost, stolen or burnt poly- carts. Replacement poly-carts are available at the current adopted rate. The City shall be entitled to seek restitution for all maintenance repairs or loss occasioned by the negligent or intentional acts of third parties from such responsible third parties. Replacement poly-carts will require a security deposit amount of which to be determined by current replacement rate (article II, utility department, section 14-37, security deposits, payment guarantees).

~~(e)~~**(b) Collection day.** On the day curbside collection is scheduled for any premises, or not earlier than 6:00 p.m. of the night before collection is scheduled, ~~poly-cart~~ **container** may be placed at curb unless otherwise specified by the City Solid Waste Department **Recycling & Waste Collection Center**. The ~~poly-cart~~ **container** may be placed at the edge of the resident's property, next to the street and front of ~~poly-cart~~ facing the street. There must be a minimum of five feet of clearance from parked vehicles, street signs, lampposts, trees, mailboxes and other obstructions. ~~Poly-carts~~ **Containers** must be set apart a minimum of 16 inches. The ~~reeceptacles~~ **containers**, when placed at curbside, shall not interfere with pedestrian or vehicular traffic. **Accounts will be serviced one (1) time per week. Only regular household/business bagged garbage shall be deposited in the City owned containers. All container lids will need to be closed or will result in a no service/delay of service and will be charged an additional fee, set by resolution if dispatched back on said route.** Collection will begin at 6:30 a.m. Monday through Friday in an order determined by the City Solid Waste Department **Recycling & Waste Collection Center**. It shall be the responsibility of the resident to deliver the ~~reeceptacles~~ **container(s)** to such point for collection and return the empty ~~reeceptacles~~ **container(s)** from such points to the usual place of storage, within 24 hours of collecting. No items, bagged, bundled or otherwise may be placed for pick up outside of the ~~poly-cart~~ **container(s)**. All ~~collections made by the city for other than qualified physically disabled residents, (see exempt service collection), shall be made at curbside from the streets, except where special circumstances warrant otherwise and are approved by the City Solid Waste Department. See special services and fees subsections (d) and (e).~~

~~(d) Special services.~~ Upon request and for a fee (refer to subsection (e)) A special pickup will be provided for items that cannot be placed in poly cart or dumpsters such as trash overflow, discarded furniture, appliances, yard waste, trees, tree and shrubbery trimmings, etc. Customers must call the office and make an appointment for the removal of such items. On the agreed appointment date and time customers will have items placed at the location specified by the Solid Waste Department and deemed acceptable and safely accessible for the city to remove such items. All costs and fees associated with this special service are payable at the time of removal and may not be applied to customers monthly bill.

~~(e) Special service fees.~~ (All fees subject to current GRT). Customer will be charged a fee of \$50.00 (fee includes one employee, trash truck or standard truck, fuel charges, and maximum one hour of labor) for any special services described above in subsection (d) (minimum one-hour charge).

All loads picked up will be subject to disposal fee at the current adopted rate (See section 11-14).

Loads requiring special or extra equipment, more than one employee and for services requiring more than one hour (see below):

Solid Waste Equipment	Cost/Hour	
Cost per employee	\$ 25.00	
Backhoe	35.00	

Dump truck	35.00	
Forklift	35.00	
Flatbed	35.00	
Skat trak	45.00	
Rear load trash truck	45.00	
Other equipment	40.00	

Each July of every year hereafter the fees shall be adjusted automatically to reflect a five (5) percent increase.

(Ord. No. 648, 11-12-13)

Sec. 11-14.2 Exempt Service Collection is hereby repealed as shown below.

Sec. 11-14.2. Exempt service collection.

Exempt service collection means the resident is physically unable and does not have anyone else at the residence to roll the poly cart(s) to the curb or designated location for collection.

To qualify for Exempt Service Collection the resident must:

- Have a physical disability preventing you from rolling the carts to the curb or specified collection point.
- Submit the completed application to the Solid Waste Department (see application for submission options).
- Not have any other occupant or long term guest residing in the home with the ability to roll the cart to the curb or specified collection point.
- Have your physician complete the physician's section of the application and return to the Solid Waste Department.

Within one week of receiving the request for Exempt Service Collection, a representative from the Solid Waste Department will contact you by phone and schedule an appointment to meet at your residence for completion of the Exempt Collection Service Application. At that meeting he/she will confirm the members of your household and accept or deny your application. Upon acceptance of your application he/she will advise you of the proper location for your poly-cart(s).

Your cart's location must be:

- In front of or beside your residence.
- Less than 100 feet from the street.
- Visible from the street.

~~• Out of danger of any dogs.~~

~~Applications must be renewed by July 1 of each year.~~

~~Exempt Service Collection shall not be provided for persons who have not complied with the above requirements of this section.~~

~~Customers receiving Exempt Service Collection are subject to all fees as stated in collection fees, [subsection (a) and special services and fees subsections (d) and (e) as warranted.~~

~~(Ord. No. 648, 11-12-13)~~

Sec.

11-14.2

Reserved.

Sec. 11-15. Reserved.

Sec. 11-16. Disposal fees for residential/commercial haulers and for the roll-off from the Sierra County Convenience Center is hereby repealed as shown below.

~~**Sec. 11-16. Disposal fees for residential/commercial haulers and for the roll-off from the Sierra County Convenience Center.**~~

~~(a) Definitions:~~

~~*Construction and demolition (C&D) debris* means materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard and lumber from the construction or destruction of a structure or project, and includes rocks, soil, tree remains, trees and other vegetative matter that normally result from land clearing. If construction and demolition debris is mixed with any other types of solid waste, it loses its classification as construction and demolition debris. Construction and demolition debris does not include asbestos or liquids, including, but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials.~~

~~*Ferrous metal* means any iron or steel scrap that has an iron content sufficient for magnetic separation.~~

~~*Municipal solid waste (MSW)* refers to all solid waste generated by residential, commercial and institutional sources, and all solid waste generated at treatment works for water and waste water, which are collected and transported under the authorization of a jurisdiction, or are self-hauled. Municipal solid waste does not include construction and demolition (C&D) waste, agricultural crop residues, animal manures, mining waste and fuel extraction waste, forestry waste, and ash from industrial boilers, furnaces and incinerators.~~

~~*Nonferrous metals* means any scrap metals that have value and are derived from metals other than iron and its alloys in steel. Nonferrous metals include aluminum, copper, brass, bronze, lead, zinc, and other metals. A magnet will not adhere to nonferrous metals.~~

~~*Operational costs* means those costs incurred while maintaining the ongoing operation of a program or facility, and do not include capital costs.~~

~~Waste diversion means to divert solid waste, in accordance with all applicable federal, state and local requirements, from disposal at solid waste landfills for recycling, reuse, composting, or beneficial use.~~

~~White goods means discarded, enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves and refrigerators.~~

~~Yard waste means any wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, grass and yard clippings, leaves, tree trimmings, pruning, brush, and weeds.~~

~~(b) On or about April 13, 2010, the City Commission of the City of Truth or Consequences approved and adopted Resolution No. 25-09/10 which imposed disposal fees for residential/commercial haulers and for the roll-off from the Sierra County Convenience Center. The City Commission has determined that Resolution No. 25-09/10 has been effective. The City Commission hereby codified the provisions of the said Resolution into this section as described below.~~

~~(c) A disposal fee of \$3.00 per cubic yard plus gross receipts tax will be charged. Any unloading on off days will require approval prior to unloading and an additional \$25.00 plus tax shall be added to each load.~~

~~(d) All haulers will be billed on a monthly basis. All collection fees shall be payable to the City of Truth or Consequences Utility Office. Any delinquent payments after 30 days will result in late fee charges and may result in that particular hauler being prohibited from using the landfill.~~

~~(e) Unloading of commercial trucks will not be allowed until the loads are inspected by the landfill operator or assistant, and all load slips must be signed and completely filled. The City's landfill operator reserves the right to refuse any load that does not comply with state or federal regulations. All rates may be adjusted for fuel or operational cost.~~

~~Commercial rate fees of \$57.63 plus gross tax receipt will be added to any commercial or contractor if loads are mixed. Residents shall pay the \$2.00 per percent of mixed waste per cubic yard.~~

~~(f) Commercial/residential haulers must submit a request to the City of Truth or Consequences Utility Office before using the City landfill. No hauler will be allowed to dispose of waste without written consent from the utility office.~~

~~(g) Tire disposal fees will be as follows:~~

~~ATV, motorcycle, bicycles, wheel barrels, est. \$1.00 each~~

~~Regular car tires and regular truck tire 2.00 each~~

~~Large irregular truck tires 3.00 each~~

~~Semi-truck, dump truck, trash truck or bus tires 10.00 each~~

~~Farm equipment tires or small tractor tires 10.00 each~~

~~Construction earth-moving equipment (consists of) 25.00 each~~

- ~~• Backhoe consists of two-wheel drive or four-wheel drive~~
- ~~• Grader~~
- ~~• Scrapers~~
- ~~• Bobcat or skid-steer loaders~~
- ~~• Large construction forklifts~~

~~Sanitation Director may refuse or permit any company, business or residents from delivering tire.~~

~~(Ord. No. 631, § 1, 11-27-12)~~

Sec. 11-16 Reserved.

Secs. 11-17—11-35. Reserved.

ARTICLE II. RESERVED¹

¹Editor's note(s)—Section 1 of Ord. No. 644, adopted Nov. 12, 2013, repealed former art. II, §§ 11-36—11-54, which pertained to litter, and derived from the 1962 Code, §§ 6-7-1—6-7-18; Ord. No. 481, § 1, adopted Aug. 14, 2000; Ord. No. 632, § 1, adopted Nov. 27, 2012; and Ord. No. 649, § 1, adopted Nov. 12, 2013.

Secs. 11-36—11-54. Reserved.

Section two. Effective date. The provisions of this Amended Ordinance shall become effective

_____.

PASSED, APPROVED, and ADOPTED by the GOVERNING BODY of the CITY OF TRUTH OR CONSEQUENCES this ___ day of _____ 2024.

ROLF HECHLER – Mayor

ATTEST:

ANGELA A. TORRES, CMC, City Clerk-Treasurer

*Rolf Hechler
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Ingo Hoepfner
Commissioner*

*Angie Gonzales
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences City Commission will hold a Public Hearing during their regular scheduled meeting on Wednesday, July 10, 2024, to receive additional input regarding the following:

Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 766 amending Chapter 11 pertaining to Solid Waste.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 9:00 a.m.

Please contact me at (575) 894-6675 or by email at aatorres@torcnm.org should you have any questions regarding this Public Hearing.

The agenda may be obtained on Friday, July 5, 2024 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Thursday, June 20, 2024



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: G.2

SUBJECT: Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 767 Authorizing the Execution and delivery of a loan agreement and intercept agreement by and between the City of T or C, and the New Mexico Finance Authority

DEPARTMENT: Community Development

DATE SUBMITTED: August 7, 2024

SUBMITTED BY: Angela Torres

WHO WILL PRESENT THE ITEM: Chris Muirhead

Summary/Background: Final Adoption of Ordinance No. 767 Authorizing the Execution and delivery of a loan agreement and intercept agreement by and between the City of T or C, and the New Mexico Finance Authority, evidencing a special limited obligation of the governmental unit to pay a principal amount not to exceed \$2,000,000, together with interest thereon for the purpose to acquire, construct, renovate, furnish, equip, beautify and improve a public safety building for the benefit of the city and its residents.

Recommendation:

Public hearing and final adoption. -

Attachments:

- Bond Ordinance
- Publication

-

Fiscal Impact (Finance): TBD

[Click here to enter text.](#)

Legal Review (City Attorney): Yes

.

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC agendas 8-14-24

STATE OF NEW MEXICO)
COUNTY OF SIERRA)
CITY OF TRUTH OR CONSEQUENCES)

The City Commission of the City of Truth or Consequences, New Mexico, met in regular session in full conformity with law and the rules and regulations of the City Commission at the City Commission Chambers, 405 West Third Street, Truth or Consequences, New Mexico, being the regular meeting place of the City Commission, on the 14th day of August, 2024, at the hour of 9:00 a.m. Upon roll call, the following members, which constitute a quorum of the City Commission, were found to be present:

Mayor:

Commissioners:

Absent:

Thereupon, there was officially filed with the Mayor, each Commissioner and the City Clerk a copy of a proposed bond ordinance in final form.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
ORDINANCE NO. 767

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (THE “FINANCE AUTHORITY”), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,000,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE TO (1) ACQUIRE, CONSTRUCT, RENOVATE, FURNISH, EQUIP, BEAUTIFY AND IMPROVE A PUBLIC SAFETY BUILDING FOR THE BENEFIT OF THE CITY AND ITS RESIDENTS, (2) FUND A DEBT SERVICE RESERVE ACCOUNT, AND (3) PAY COSTS OF ISSUANCE; PROVIDING FOR THE PAYMENT DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE REVENUES OF THE 1/4 OF ONE PERCENT (0.25%) INCREMENT OF MUNICIPAL GROSS RECEIPTS TAX IMPOSED ON ALL PERSONS ENGAGING IN BUSINESS IN THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-19D-9 NMSA 1978 AND GOVERNMENTAL UNIT ORDINANCE NO. 606 ADOPTED JUNE 14, 2011 (THE “GROSS RECEIPTS TAX”); APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; 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 LOAN AGREEMENT AND THE INTERCEPT AGREEMENT.

Capitalized terms used in the following recitals have the same meaning as defined in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS, the Governmental Unit is a legally and regularly created, established, organized and existing municipality under the general laws of the State; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interest of the Governmental Unit and its residents that the Loan Agreement and Intercept Agreement be executed and delivered and that the financing of the Project take place by executing and delivering the Loan Agreement; and

WHEREAS, the Governmental Unit may use the Pledged Revenues to finance the Project and the Project will provide for the public health, peace and safety of the Governmental Unit and its residents; and

WHEREAS, the Governmental Unit has imposed a one-fourth of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the Governmental Unit pursuant to Ordinance No. 606, adopted June 14, 2011, with an effective date of January 1 2012, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the Governmental Unit for the month in which the tax is distributed to the Governmental Unit; and

WHEREAS, the Governing Body has determined that it may lawfully pledge the Pledged Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, except as described in the Term Sheet, the Pledged Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

WHEREAS, the Loan Agreement shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues and shall not constitute a general obligation of the Governmental Unit, or a debt or pledge of the faith and credit of the Governmental Unit or the State; and

WHEREAS, the Governmental Unit desires to provide that distributions of the Pledged Revenues be redirected to the Finance Authority or its assigns pursuant to an Intercept Agreement between the Governmental Unit and the Finance Authority (the "Intercept Agreement") for the payment of amounts due under the Loan Agreement; and

WHEREAS, the Loan Agreement shall be executed and delivered pursuant to Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and with an irrevocable first lien, but not necessarily an exclusive first lien, on the Pledged Revenues; and

WHEREAS, the Governing Body intends by this Ordinance to authorize the execution and delivery of the Loan Agreement and the Intercept Agreement in the amount and for the purposes set forth herein; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the City Clerk this Ordinance and the forms of the Loan Agreement and Intercept Agreement, which are incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the Project to be financed with the Loan is to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a "private activity bond" as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, pursuant to Sections 6-14-8 through 6-14-12 NMSA 1978, as amended (the "Supplemental Public Securities Act"), the Commission is authorized to adopt an ordinance delegating to one or more of its members, Governmental Unit officers, or Governmental Unit

employees, the authority to sign a contract for the purchase or sale of public securities or to accept a binding bid for public securities and to determine the sale for public securities to be issued so long as such sale is within the parameters established by an authorizing ordinance adopted in conformity with the Supplemental Public Securities Act; and

WHEREAS, in order to, among other things, allow the Governmental Unit flexibility in setting the pricing date of the Loan and optimize debt service costs to the Governmental Unit, the Governing Body desires to grant to the Mayor, Manager, Finance Director or any other employee of the Village when designated by a certificate signed by the Mayor (collectively, the “Designated Officers”), the authority (a) to determine any or all of the following terms of the Loan: (i) the interest and principal payment dates, (ii) the principal amounts, denominations, and maturity dates, (iii) the sale prices, (iv) the interest rates, (v) the interest payment periods, (vi) the redemption and tender provisions, (vii) the procurement of municipal bond insurance and any related covenants or agreements, (viii) the creation of any capitalized interest or debt service reserve funds, including the size and funding of such funds, and (ix) the amount of underwriting discount, if any; and (b) to make any changes with respect thereto from those terms which were before the Governing Body at the time of adoption of this Ordinance, provided such terms do not exceed the parameters set forth for such terms in this Ordinance (the “Parameters,” as further described herein); and

WHEREAS, the Governmental Unit will approve the specific terms of the sale of the Loan in the Sale Certificate; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Pledged Revenues to the Finance Authority (or its assigns) for the payment of amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Project, and (iii) the authorization, execution and delivery of the Loan Agreement and Intercept Agreement 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 TRUTH OR CONSEQUENCES THAT:

Section 1. Definitions. As used in the Ordinance, the following terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

“Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, Sections 6-14-8 through 6-14-12, NMSA 1978, as amended, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, and Sections 7-19D-9, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement and the Intercept Agreement, including this Ordinance.

“Aggregate Annual Debt Service Requirement” means the total principal and interest payments due and payable pursuant to the Loan Agreement and on all Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

“Authorized Officers” means the Mayor, City Manager, and Finance Director of the Governmental Unit.

“Bonds” means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse the Loan Agreement.

“Closing Date” means the date of execution, delivery and funding of the Loan Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“Completion Date” means the date of final payment of the cost of the Project.

“Distributing State Agency” means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues on behalf of the Governmental Unit.

“Expenses” means the cost of execution of the Loan Agreement and the costs of issuance of the Bonds, if any, and the periodic and regular fees and expenses incurred by the Finance Authority and the Trustee in administering the Loan Agreement, including legal fees.

“Finance Authority” means the New Mexico Finance Authority.

“Finance Authority Debt Service Account” means the debt service account in the name of the Governmental Unit established under the Indenture and held by the Finance Authority to pay principal and interest on the Loan Agreement as the same become due.

“Fiscal Year” means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Governing Body” means the City Commission of the Governmental Unit, or any future successor governing body of the Governmental Unit.

“Governmental Unit” means the City of Truth or Consequences, New Mexico.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to the entire Ordinance and not solely to the particular section or paragraph of the Ordinance in which such word is used.

“Indenture” means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

“Intercept Agreement” means the Intercept Agreement dated the Closing Date between the Governmental Unit and Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of Pledged Revenues in amounts sufficient to pay principal and interest due on the Loan Agreement, and any amendments or supplements to the Intercept Agreement.

“Loan” means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement.

“Loan Agreement” means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provides for the financing of the Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority and/or the Trustee and any amendments or supplements thereto, and including the exhibits attached to the Loan Agreement.

“Loan Agreement Principal Amount” means the original principal amount of the Loan Agreement as shown on the Term Sheet.

“Loan Agreement Reserve Account” means the loan agreement reserve account in the name of the Governmental Unit established under the Indenture, funded from the proceeds of the Loan Agreement, and administered by the Trustee pursuant to the Indenture.

“Loan Agreement Reserve Requirement” means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account Deposit on the Term Sheet, which amount shall not to exceed the least of (i) ten percent (10%) of the Loan Agreement Principal Amount, (ii) 125% of the average annual principal and interest requirements under the Loan Agreement, or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

“Ordinance” means this Ordinance as adopted by the Governing Body on August 14, 2024, approving the Loan Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement, as amended from time to time.

“Parity Obligations” means the Loan Agreement and any other obligations, now or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on parity with the Loan Agreement, including those obligations described on the Term Sheet, if any.

“Pledged Revenues” means the revenues derived from the one-fourth of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the Governmental Unit by Ordinance No. 606, adopted June 14, 2011, with an effective date of January 1, 2012, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the Governmental Unit for the month in which the tax is distributed to the Governmental Unit.

“Program Account” means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of the Loan Agreement for disbursement to the Governmental Unit for payment of the costs of the Project.

“Project” means (i) acquiring, constructing, furnishing, equipping, beautifying, or making improvements to a public safety building for the City, (ii) funding the Loan Agreement Reserve Account, and (iii) paying Expenses.

“Sale Certificate” means one or more certificates executed by the Mayor, Manager or Finance Director dated on or before the date of delivery of the Loan, setting forth the following final terms of the Loan: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund or a debt service reserve account, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; and (ix) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Loan, all subject to the parameters and conditions contained in this Ordinance; provided that in no event shall the Sale Certificate specify a net effective interest rate on the Loan in excess of the statutory maximum of twelve percent (12%) per annum.

“State” means the State of New Mexico.

“Term Sheet” means Exhibit “A” to the Loan Agreement.

“Trustee” means BOKF, NA, or any successor trustee company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the Project and the execution and delivery of the Loan Agreement and the Intercept Agreement be, and the same hereby are, ratified, approved and confirmed.

Section 3. Authorization of the Project, the Loan Agreement, and the Intercept Agreement. The Project and the method of financing the Project through execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized and ordered. The Project is for the benefit of the Governmental Unit.

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

A. The Project is needed to meet the needs of the Governmental Unit and its residents and the issuance, execution and delivery of the Loan Agreement is necessary and advisable.

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

C. The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

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

E. The Project and the execution and delivery of the Loan Agreement and the Intercept Agreement pursuant to the Act to provide funds for the financing of the Project are

necessary and in the interest of the public health, safety, and welfare of the residents of the Governmental Unit.

F. The Governmental Unit will finance the Project, in whole or in part, with the net proceeds of the Loan.

G. Other than as described in the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from Pledged Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement and the Intercept Agreement.

H. The net effective interest rate on the Loan shall be less than 12% per annum, the maximum rate permitted by State law as specified in the Sale Certificate.

Section 5. Loan Agreement and Intercept Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of a three-fourths majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and completing the Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, execute and deliver the Loan Agreement and the Intercept Agreement evidencing a special, limited obligation of the Governmental Unit to pay a principal amount of not to exceed \$2,000,000, plus interest, and the execution and delivery of the Loan Agreement and the Intercept Agreement are hereby authorized. The terms of the Loan shall be approved in the Sale Certificate. The Governmental Unit shall use the proceeds of the Loan to finance the Project. The final maturity of the Loan shall not be greater than twenty years.

B. Detail. The Loan Agreement and Intercept Agreement shall be in substantially the forms presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an aggregate principal amount of not to exceed \$2,000,000, shall be payable in installments of principal due on the dates designated in Exhibit "B" to the Loan Agreement and bear interest payable on the dates and at the rates designated in Exhibit "B" to the Loan Agreement.

Section 6. Approval of Loan Agreement and Intercept Agreement. The forms of the Loan Agreement and the Intercept Agreement as presented at the meeting of the Governing Body at which this Ordinance was adopted are hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement and the Intercept Agreement with such changes, insertions and omissions as are consistent with this Ordinance and the Sale Certificate and as may be approved by such individual Authorized Officers, and the City Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and the Intercept Agreement and attest the same. The execution of the Loan Agreement and the Intercept Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Pledged Revenues as set forth in the Loan Agreement and shall be payable solely from the Pledged Revenues. The Loan Agreement, together with interest thereon and other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Pledged Revenues as provided in this Ordinance and the Loan Agreement

and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance, the Sale Certificate, the Loan Agreement, or any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Pledged Revenues), as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8. Disposition of Proceeds: Completion of the Project.

A. Program Account, Loan Agreement Reserve Account, and Finance Authority Debt Service Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held and maintained by the Finance Authority and to the Program Account and Loan Agreement Reserve Account to be held and maintained by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves the deposit of the proceeds of the Loan Agreement in the Program Account and Loan Agreement Reserve Account.

The proceeds derived from the execution and delivery of the Loan Agreement shall be deposited promptly upon the receipt thereof in the Program Account and the Loan Agreement Reserve Account, all as provided in the Loan Agreement, Sale Certificate and the Indenture.

Until the Completion Date, the money in the Program Account shall be used and paid out solely for the Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

The Governmental Unit will complete the Project with all due diligence.

B. Completion of the Project. Upon the Completion Date, the Governmental Unit shall execute and send to the Finance Authority a certificate stating that payment for the Project has been completed. As soon as practicable after the Completion Date, and, in any event, not more than sixty (60) days from the Completion Date, any balance remaining in the Program Account shall be transferred and deposited into the Finance Authority Debt Service Account, as provided in the Loan Agreement and the Indenture.

C. Finance Authority and Trustee Not Responsible. The Finance Authority and the Trustee shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9. Deposit of Pledged Revenues, Distributions of the Pledged Revenues and Flow of Funds.

A. Deposit of Pledged Revenues. Pursuant to the Intercept Agreement, the Pledged Revenues shall be paid directly by the Distributing State Agency to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal, interest, premium, if any, and other amounts due under the Loan Agreement.

B. Termination on Deposits to Maturity. No payment shall be made into the Finance Authority Debt Service Account if the amounts in the Finance Authority Debt Service Account and Loan Agreement Reserve Account total a sum at least equal to the entire aggregate amount to become due as to principal and interest on, and any other amounts due under, the Loan Agreement in which case moneys in such accounts in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such account shall be transferred to the Governmental Unit and used as provided below.

C. Use of Surplus Revenues. After making all the payments hereinabove required to be made by this Section, any moneys remaining in the Finance Authority Debt Service Account shall be transferred to the Governmental Unit on a timely basis and shall be applied to any other lawful purpose, including, but not limited to, the payment of any Parity Obligations or bonds or obligations subordinate and junior to the Loan Agreement, or other purposes authorized by the Governmental Unit, the Constitution, and laws of the State, as the Governmental Unit may from time to time determine.

Section 10. Lien on Pledged Revenues. Pursuant to this Ordinance and the Loan Agreement, the Pledged Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement subject to the uses thereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable and first lien, but not necessarily an exclusive first lien, on the Pledged Revenues with the lien thereon of the Parity Obligations as set forth herein and in the Loan Agreement. The Governmental Unit shall not create a lien on the Pledged Revenues superior to that of the Loan Agreement.

Section 11. 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 Loan Agreement, the Intercept Agreement 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, the Loan Agreement and the Intercept Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance, the Loan Agreement and the Intercept Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the Intercept Agreement, and the publication of the summary of this Ordinance set out in Section 18 of this Ordinance (with such changes, additions and deletions as may be necessary).

Pursuant to the Supplemental Public Securities Act, Section 6-14-8 et seq., NMSA 1978, the Mayor and City Manager are each hereby delegated authority to execute the Sale Certificate and to determine any or all of the final terms of the Loan, subject to the parameters and conditions contained in this Ordinance. The Mayor or City Manager shall present the Sale Certificate to the Governing Body in a timely manner, before or after execution and delivery of the Loan Agreement, at a regularly scheduled public meeting of the Governing Body.

Section 12. Amendment of Ordinance. Prior to the date of the initial delivery of the Loan Agreement to the Finance Authority, the provisions of this Ordinance may be supplemented or amended by ordinance or resolution of the Governing Body with respect to any changes which are not inconsistent with the substantive provisions of this Ordinance. This Ordinance may be amended by ordinance of the Governing Body without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Reimbursement. The Governmental Unit presently intends and reasonably expects to finance the acquisition and improvement of the Project with moneys currently held in Governmental Unit's General Fund. The Governmental Unit presently intends and reasonably expects to participate in a tax-exempt borrowing within 18 months of the date of the expenditure of moneys on the Project or the date upon which the Project is placed in service or abandoned, whichever is later (but in no event more than three years after the date of the original expenditure of such moneys), and to allocate an amount not to exceed \$1,680,000 of the proceeds thereof to reimburse the Governmental Unit for its prior expenditures in connection with the Project.

Section 14. Ordinance Irrepealable. After the Loan Agreement and Intercept Agreement have been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as provided therein.

Section 15. 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 16. Repealer Clause. All 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 17. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Mayor and the City Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 18 below) shall be published in a newspaper which maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and such Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 18. 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 Truth or Consequences, New Mexico
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. 767 duly adopted and approved by the City Commission of the City of Truth or Consequences, New Mexico, on August 14, 2024. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 214 S. Love Street, Truth or Consequences, New Mexico.

The title of the Ordinance is:

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,000,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE TO (1) ACQUIRE, CONSTRUCT, RENOVATE, FURNISH, EQUIP, BEAUTIFY AND IMPROVE A PUBLIC SAFETY BUILDING FOR THE BENEFIT OF THE CITY AND ITS RESIDENTS, (2) FUND A DEBT SERVICE RESERVE ACCOUNT, AND (3) PAY COSTS OF ISSUANCE; PROVIDING FOR THE PAYMENT DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE REVENUES OF THE 1/4 OF ONE PERCENT (0.25%) INCREMENT OF MUNICIPAL GROSS RECEIPTS TAX IMPOSED ON ALL PERSONS ENGAGING IN BUSINESS IN THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-19D-9 NMSA 1978 AND GOVERNMENTAL UNIT ORDINANCE NO. 606 ADOPTED JUNE 14, 2011 (THE "GROSS RECEIPTS TAX"); APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; 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 LOAN AGREEMENT AND THE INTERCEPT AGREEMENT.

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

(End of Form of Summary for Publication)

(Signature Page Follows)

PASSED, APPROVED AND ADOPTED THIS 14th DAY OF AUGUST, 2024.

CITY OF TRUTH OR CONSEQUENCES,
NEW MEXICO

ATTEST:

Rolf Hechler, Mayor

Angela A. Torres, City Clerk

\$1,680,000

LOAN AGREEMENT

dated

[CLOSING DATE]

by and between the

NEW MEXICO FINANCE AUTHORITY

And the

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Certain interests of the New Mexico Finance Authority under this Loan Agreement may be assigned to BOKF, NA, as trustee under an Indenture, as defined in Article I of this Loan Agreement.

LOAN AGREEMENT

THIS LOAN AGREEMENT dated [CLOSING DATE] is entered into by and between the NEW MEXICO FINANCE AUTHORITY (the “Finance Authority”), and the CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO (the “Governmental Unit”), a political subdivision duly organized and existing under the laws of the State of New Mexico (the “State”).

WITNESSETH:

WHEREAS, the Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized and created under and pursuant to the laws of the State, particularly Section 6-21-1 et seq., NMSA 1978, as amended (the “Finance Authority Act”); and

WHEREAS, one of the purposes of the Finance Authority Act is to implement a program to permit qualified entities, such as the Governmental Unit, to enter into agreements with the Finance Authority to facilitate financing of public projects; and

WHEREAS, the Governmental Unit is a political subdivision duly organized and existing under and pursuant to the laws of the State and is a qualified entity under the Finance Authority Act; and

WHEREAS, the Governing Body of the Governmental Unit has determined that it is in the best interests of the Governmental Unit and its residents that the Governmental Unit enter into this Loan Agreement with the Finance Authority and accept a loan from the Finance Authority to finance the costs of the acquisition, construction and renovation of an existing building for law enforcement for the Governmental Unit as more fully described on the Term Sheet attached hereto as Exhibit “A”; and

WHEREAS, the Act authorizes the Governmental Unit to use the Pledged Revenues to finance the Project and to enter into this Loan Agreement; and

WHEREAS, the Governmental Unit is a disadvantaged qualified entity within the meaning of Section 8(B)(4)(b) of the Finance Authority’s Amended Rules and Regulations Governing the Public Project Revolving Fund Program; and

WHEREAS, the Finance Authority has determined that the Project is important to the overall capital needs of the residents of the State and that the Project will directly enhance the health and safety of the residents of the Governmental Unit; and

WHEREAS, the Governmental Unit has entered into the Intercept Agreement by and between the Finance Authority and the Governmental Unit whereby the Pledged Revenues due to the Governmental Unit from the Distributing State Agency are intercepted by the Finance Authority, or the Trustee, as its assignee, to make payments due under this Loan Agreement; and

WHEREAS, the Finance Authority may assign and transfer this Loan Agreement to the Trustee pursuant to the Indenture; and

WHEREAS, except as described on the Term Sheet, the Pledged Revenues have not been pledged or hypothecated in any manner or for any purpose at the time of the execution and delivery of this Loan Agreement, and the Governmental Unit desires to pledge the Pledged Revenues toward the payment of this Loan Agreement; and

WHEREAS, the obligation of the Governmental Unit hereunder shall constitute a special, limited obligation of the Governmental Unit, limited to the Pledged Revenues, and shall not constitute a general obligation or other indebtedness of the Governmental Unit or a charge against the general credit or ad valorem taxing power of the Governmental Unit or the State; and

WHEREAS, the execution, performance and delivery of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Governing Body pursuant to the Ordinance; and

WHEREAS, the execution and performance of this Loan Agreement and the Intercept Agreement have been authorized, approved and directed by all necessary and appropriate action of the Finance Authority.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises and covenants herein contained, the parties hereto agree:

ARTICLE I DEFINITIONS

Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Loan Agreement unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Loan Agreement including the foregoing recitals, unless the context clearly requires otherwise.

“Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12, and Sections 7-19D-9 and 7-1-6.15, NMSA 1978, as amended, and enactments of the Governing Body relating to this Loan Agreement and Intercept Agreement, including the Ordinance.

“Additional Payment Obligations” mean payments in addition to Loan Agreement Payments required by this Loan Agreement, including, without limitation, payments required to replenish the Loan Agreement Reserve Account and payments required pursuant to the provisions of Article IX and Article X hereof.

“Aggregate Annual Debt Service Requirement” means the total principal, interest, and premium payments, if any, due and payable pursuant to this Loan Agreement and on all Parity Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

“Authorized Officers” means, in the case of the Governmental Unit, Mayor, City Manager and City Clerk-Treasurer, and, in the case of the Finance Authority, the Chair, Vice-Chair and Secretary of the Board of Directors and the Chief Executive Officer or any other officer or employee of the Finance Authority designated in writing by an Authorized Officer.

“Blended Interest Rate” means the rate of interest on this Loan Agreement as shown on the Term Sheet.

“Bond Counsel” means nationally recognized bond counsel experienced in matters of municipal law, satisfactory to the Trustee and listed in the list of municipal bond attorneys, as published semiannually by The Bond Buyer’s Municipal Marketplace, or any successor publication, acting as loan counsel to the Finance Authority.

“Bonds” means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority to fund or reimburse this Loan Agreement.

“Closing Date” means the date of execution, delivery and funding of this Loan Agreement as shown on the Term Sheet.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“Distributing State Agency” means the department or agency of the State, as described on the Term Sheet, authorized to distribute the Pledged Revenues to or on behalf of the Governmental Unit.

“Event of Default” means one or more events of default as defined in Section 10.1 of this Loan Agreement.

“Expenses” means the costs of issuance of this Loan Agreement and the Bonds, if any, and periodic and regular fees and expenses incurred by the Finance Authority in administering this Loan Agreement, including legal fees.

“Finance Authority Debt Service Account” means the debt service account established in the name of the Governmental Unit within the Debt Service Fund, as defined in the Indenture, held and administered by the Finance Authority to pay principal and interest, if any, on this Loan Agreement as the same become due.

“Fiscal Year” means the period beginning on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Governing Body” means the duly organized City Commission of the Governmental Unit, and any successor governing body of the Governmental Unit.

“Indenture” means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, as successor trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between the Finance Authority and the Trustee, as successor trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

“Independent Accountant” means: (i) an accountant employed by the State and under the supervision of the State Auditor; or (ii) any certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Governmental Unit who: (a) is, in fact, independent and not under the domination of the Governmental Unit; (b) does not have any substantial interest, direct or indirect, with the Governmental Unit; and (c) is not connected with the Governmental Unit as an officer or employee of the Governmental Unit, but who may be regularly retained to make annual or similar audits of the books or records of the Governmental Unit.

“Intercept Agreement” means the Intercept Agreement dated [CLOSING DATE], between the Governmental Unit and the Finance Authority providing for the direct payment by the Distributing State Agency to the Finance Authority of the Pledged Revenues in amounts sufficient to pay Loan Agreement Payments, and any amendments or supplements to the Intercept Agreement.

“Interest Component” means the portion of each Loan Agreement Payment paid as interest on this Loan Agreement as shown on Exhibit “B” hereto.

“Loan” means the funds in the Loan Agreement Principal Amount to be loaned to the Governmental Unit by the Finance Authority pursuant to this Loan Agreement.

“Loan Agreement” means this loan agreement and any amendments or supplements hereto, including the exhibits attached to this loan agreement.

“Loan Agreement Balance” means, as of any date of calculation, the Loan Agreement Principal Amount less the aggregate principal amount paid or prepaid pursuant to the provisions of this Loan Agreement.

“Loan Agreement Payment” means, collectively, the Principal Component and the Interest Component, if any, to be paid by the Governmental Unit as payment of this Loan Agreement as shown on Exhibit “B” hereto.

“Loan Agreement Payment Date” means each date a payment is due on this Loan Agreement as shown on Exhibit “B” hereto.

“Loan Agreement Principal Amount” means the original principal amount of this Loan Agreement as shown on the Term Sheet.

“Loan Agreement Reserve Account” means the loan agreement reserve account established in the name of the Governmental Unit funded from the proceeds of this Loan Agreement and administered by the Trustee pursuant to the Indenture.

“Loan Agreement Reserve Requirement” means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account deposit on the Term Sheet which amount does not exceed the least of: (i) ten percent (10%) of the Loan Agreement Principal Amount; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest requirements under the Loan Agreement; or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

“Loan Agreement Term” means the term of this Loan Agreement as provided under Article III of this Loan Agreement.

“NMSA” means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

“Ordinance” means the Governmental Unit Ordinance No. _____ adopted by the Governing Body on August 14, 2024 approving this Loan Agreement and the Intercept Agreement and pledging the Pledged Revenues to the payment of the Loan Agreement Payments as shown on the Term Sheet.

“Parity Obligations” means this Loan Agreement, and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a lien or pledge of the Pledged Revenues and issued with a lien on the Pledged Revenues on a parity with this Loan Agreement, including any such obligations shown on the Term Sheet.

“Permitted Investments” means securities which are at the time legal investments of the Governmental Unit for the money to be invested, as applicable, including but not limited to the following, if permitted by law: (i) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States, the federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank, federal home loan banks or the student loan marketing association or that are backed by the full faith and credit of the United States government; (ii) negotiable securities of the State; (iii) money market funds which invest solely in obligations described in clause (i) above which are rated in the highest rating category by Moody’s Investors Service, Inc., or S&P Global Ratings; and (iv) the State Treasurer’s short-term investment fund created pursuant to Section 6-10-10.1, NMSA 1978, as amended, and operated, maintained and invested by the office of the State Treasurer.

“Pledged Revenues” means the revenues derived from the one-fourth of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the Governmental Unit by Ordinance No. 606, adopted June 14, 2011, with an effective date of January 1, 2012, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the Governmental Unit for the month in which the tax is distributed to the Governmental Unit. Pledged Revenues also includes (i) the portion of the gross receipts tax distribution to the Governmental Unit to be made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of Pledged Revenues set forth in the sentence above that would have been remitted to the Governmental Unit but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar distributions made to the Governmental Unit in lieu of Pledged Revenues, but Pledged Revenues do not include any similar distributions in lieu of any other local option gross receipts tax revenues.

“Principal Component” means the portion of each Loan Agreement Payment paid as principal on this Loan Agreement as shown on Exhibit “B” hereto.

“Program Account” means the account in the name of the Governmental Unit established pursuant to the Indenture and held by the Trustee for the deposit of the net proceeds of this Loan Agreement for disbursement to the Governmental Unit for payment of the costs of the Project.

“Project” means the project(s) described on the Term Sheet.

“Term Sheet” means Exhibit “A” attached hereto.

“Trustee” means BOKF, NA, Albuquerque, New Mexico, or any successor trust company, national or state banking association or financial institution at the time appointed the Trustee by the Finance Authority.

“Unassigned Rights” means the rights of the Finance Authority to receive payment of the administrative expenses, reports and indemnity against claims pursuant to the provisions of this Loan Agreement which are withheld in the granting clauses of the Indenture from the pledge, assignment and transfer of this Loan Agreement to the Trustee.

ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1 Representations, Covenants and Warranties of the Governmental Unit. The Governmental Unit represents, covenants and warrants:

(a) Binding Nature of Covenants. All covenants, stipulations, obligations and agreements of the Governmental Unit contained in this Loan Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Governmental Unit to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Governmental Unit and its successors and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Loan Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Governmental Unit by the provisions of this Loan Agreement and the Ordinance shall be exercised or performed by the Governmental Unit or by such members, officers, or officials of the Governmental Unit as may be required by law to exercise such powers and to perform such duties.

(b) Personal Liability. No covenant, stipulation, obligation or agreement contained in this Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Governmental Unit or member of the Governing Body in his or her individual capacity, and neither the members of the Governing Body nor any officer, agent or employee of the Governmental Unit executing this Loan Agreement shall be liable personally on this Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

(c) Authorization of Loan Agreement and Intercept Agreement. The Governmental Unit is a political subdivision of the State and is duly organized and existing under the statutes and laws of the State. Pursuant to the Act, as amended and supplemented from time to time, the Governmental Unit is authorized by the Act to enter into the transactions contemplated by this Loan Agreement and the Intercept Agreement and to carry out its obligations hereunder

and thereunder. The Governmental Unit has duly authorized and approved the execution and delivery of this Loan Agreement, the Intercept Agreement, and the other documents related to the transaction.

(d) Use of Loan Agreement Proceeds. The Governmental Unit shall proceed without delay in applying the proceeds of this Loan Agreement (less the deposits to the Loan Agreement Reserve Account, if any, and the Finance Authority Debt Service Account) to the acquisition of the Project.

(e) Payment of Loan Agreement. The Governmental Unit shall promptly pay Loan Agreement Payments, as specified in Exhibit "B" hereto, according to the true intent and meaning of this Loan Agreement. Loan Agreement Payments are payable solely from the Pledged Revenues or from the proceeds of refunding bonds or other refunding obligations which the Governmental Unit may hereafter issue in its sole discretion and which are payable from the Pledged Revenues; and nothing in this Loan Agreement shall be construed as obligating the Governmental Unit to pay Loan Agreement Payments from any general or other fund of the Governmental Unit other than such special funds. Nothing contained in this Loan Agreement, however, shall be construed as prohibiting the Governmental Unit in its sole and absolute discretion, from making such payments from any moneys which may be lawfully used, and which are legally available, for that purpose.

(f) Acquisition and Completion of Project. The Project will consist of the acquisition, construction and renovation of an existing building for law enforcement for the Governmental Unit. The Project will be acquired and completed so as to comply with all applicable ordinances, resolutions and regulations, if any, and any and all applicable laws relating to the acquisition and completion of the Project and to the use of the Pledged Revenues. The Project complies with Sections 7-1.6.1 and 7-1-6.4, NMSA 1978, as amended.

(g) Necessity of Project. The acquisition of the Project under the terms and conditions provided for in this Loan Agreement is necessary, convenient and in furtherance of the governmental purposes of the Governmental Unit and is in the best interests of the Governmental Unit and its residents.

(h) Legal, Valid and Binding Special Obligation. The Governmental Unit has taken all required action necessary to authorize the execution and delivery of this Loan Agreement and the Intercept Agreement, and this Loan Agreement and the Intercept Agreement constitute legal, valid and binding special obligations of the Governmental Unit enforceable in accordance with their terms.

(i) Loan Agreement Term. The weighted average maturity of _____ years of the Loan Agreement does not exceed 120% of the reasonably expected life of the Project which is at least _____ () years.

(j) Use of Project. During the Loan Agreement Term, the Project will at all times be used for the purpose of benefiting the Governmental Unit as a whole.

(k) No Private Activity. The Governmental Unit is a “governmental unit” within the meaning of Sections 103 and 141(b)(6) of the Code. In addition, no amounts disbursed from the Program Account and used to finance the Project shall be used in the trade or business of a person who is not a “governmental unit” within the meaning of Sections 103 and 141(b)(6) of the Code.

(l) No Excess Loan Agreement Proceeds. The amount loaned to the Governmental Unit under this Loan Agreement as set forth on the Term Sheet does not exceed the sum of: (i) the cost of the Project; (ii) the Loan Agreement Reserve Requirement; and (iii) an amount necessary to pay the costs related to issuance of the Bonds, if any.

(m) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement and the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions in this Loan Agreement and the Intercept Agreement, nor the consummation of the transactions contemplated herein and therein, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the Governmental Unit is a party or by which the Governmental Unit is bound or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Governmental Unit or its properties are subject, or constitutes a default under any of the foregoing.

(n) Irrevocable Enactments. While this Loan Agreement remains outstanding and unpaid, any ordinance, resolution or other enactment of the Governing Body applying the Pledged Revenues for the payment of this Loan Agreement, including the Ordinance, shall be irrevocable until this Loan Agreement has been paid in full as to both principal and interest, and shall not be subject to amendment or modification in any manner which would in any way jeopardize the timely payment of Loan Agreement Payments.

(o) Outstanding Debt. Except for the Parity Obligations, if any, described on the Term Sheet, there are currently no outstanding bonds, notes or other obligations of the Governmental Unit which are payable from and secured by a parity lien on the Pledged Revenues. No additional indebtedness, bonds or notes of the Governmental Unit payable on a priority ahead of the indebtedness herein authorized out of the Pledged Revenues shall be created or incurred while this Loan Agreement remains outstanding. Prior to entering into additional indebtedness to be secured by a parity lien on the Pledged Revenues, the Governmental Unit shall comply with the terms of Section 5.5 hereof and shall seek the written consent of the Finance Authority, such consent shall not be unreasonably withheld. During the term of this Loan Agreement, prior to entering into any indebtedness secured by a subordinate lien on the Pledged Revenues or a lien on any revenues of the Governmental Unit other than the Pledged Revenues, the Governmental Unit shall notify the Finance Authority in writing of such indebtedness.

(p) No Litigation. To the knowledge of the Governmental Unit, no litigation or proceeding is pending or threatened against the Governmental Unit or any other person affecting the right of the Governmental Unit to execute or deliver this Loan Agreement or the Intercept Agreement or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Governmental Unit nor compliance by the Governmental Unit with the

obligations under such agreements, requires the approval of any regulatory body, or any other entity, which approval has not been obtained or which is not reasonably expected to be obtained.

(q) No Event of Default. No event has occurred and no condition exists which, upon the execution and delivery of this Loan Agreement and the Intercept Agreement, would constitute an Event of Default on the part of the Governmental Unit under this Loan Agreement or the Intercept Agreement.

(r) Pledged Revenues Not Budgeted. The portion of the Pledged Revenues necessary to pay the Loan Agreement Payments, as and when due, is not needed or budgeted to pay current or anticipated operational or other expenses of the Governmental Unit.

(s) Expected Coverage Ratio. The Pledged Revenues (giving credit for any increase in Pledged Revenues which has received final approval of the Governing Body and become effective) from the Fiscal Year immediately preceding the Closing Date were equal to or exceeded, and, on an ongoing basis during each year of the Loan Agreement Term, are reasonably expected to equal or exceed, one hundred twenty-five percent (125%) of the maximum Aggregate Annual Debt Service Requirement.

(t) No Extension of Interest Payments. The Governmental Unit will not extend or be a party to the extension of the time for paying any interest on this Loan Agreement.

(u) Governmental Unit's Existence. The Governmental Unit will maintain its corporate identity and existence so long as this Loan Agreement is unpaid, unless another political subdivision by operation of law succeeds to the liabilities and rights of the Governmental Unit without adversely affecting to any substantial degree the privileges and rights of the Finance Authority.

(v) Continuing Disclosure. The Governmental Unit covenants that it shall provide continuing disclosure to the Finance Authority, as the Finance Authority may require, that shall include, but not be limited to: annual audits, operational data required to update information in any disclosure documents used to assign or securitize the Loan Agreement Payments by issuance of Bonds by the Finance Authority pursuant to the Indenture, and notification of any event deemed material by the Finance Authority.

(w) Tax Covenants. The Governmental Unit covenants that it shall restrict the use of the proceeds of this Loan Agreement in such manner and to such extent, if any, as may be necessary so that this Loan Agreement will not constitute an arbitrage bond under Section 148 of the Code and that it shall pay any applicable rebate to the Internal Revenue Service. Authorized Officers are hereby authorized and directed to execute an Arbitrage and Tax Certificate as may be required by the Finance Authority and such additional certificates as shall be necessary to establish that this Loan Agreement is not an "arbitrage bond" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated or proposed with respect thereto, including Treasury Regulation Sections 1.148-1 through 1.148-11, 1.149 and 1.150 as the same currently exist, or may from time to time hereafter be amended, supplemented or revised. The Governmental Unit covenants to comply with the provisions of any such Arbitrage and Tax Certificate and the provisions thereof will be incorporated herein by reference to the same extent as if set forth herein.

The Governmental Unit covenants that no use will be made of the proceeds of this Loan Agreement, or any funds or accounts of the Governmental Unit which may be deemed to be Gross Proceeds (as defined in Treasury Regulation Section 1.148-1(b)) of this Loan Agreement, which use, if it had been reasonably expected on the Closing Date, would have caused this Loan Agreement to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Pursuant to this covenant, the Governmental Unit obligates itself to comply throughout the Loan Agreement Term with the requirements of Sections 103 and 141 through 150 of the Code and the regulations proposed or promulgated with respect thereto. The Governmental Unit further represents and covenants that no bonds or other evidence of indebtedness of the Governmental Unit payable from substantially the same source as this Loan Agreement have been or will be issued, sold or delivered within fifteen (15) days prior to or subsequent to the Closing Date. The Governmental Unit hereby further represents and covenants to comply with Section 7.6 hereof, which designates this Loan Agreement as a “qualified tax-exempt obligation” for the purposes of Section 265(b)(3) of the Code.

(x) Pledged Revenues Covenants. Pursuant to Sections 7-19D-9 and 7-1-6.15, NMSA 1978, as amended, the State collects gross receipts taxes from business locations within the Governmental Unit, on land owned by the State within the exterior boundaries of the Governmental Unit, and outside the exterior boundaries of the Governmental Unit on land owned by the Governmental Unit, and distributes each month to the Governmental Unit an amount equal to one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the Governmental Unit for the month in which the tax is distributed to the Governmental Unit.

Section 2.2 Representations, Covenants and Warranties of the Finance Authority. The Finance Authority represents, covenants and warrants for the benefit of the Governmental Unit as follows:

(a) Authorization of Loan Agreement and Intercept Agreement. The Finance Authority is a public body politic and corporate constituting a governmental instrumentality, separate and apart from the State, duly organized, existing and in good standing under the laws of the State, has all necessary power and authority to enter into and perform and observe the covenants and agreements on its part contained in this Loan Agreement and the Intercept Agreement and, by proper action, has duly authorized the execution and delivery of this Loan Agreement and the Intercept Agreement based upon the Finance Authority’s findings that:

(i) The Governmental Unit is a disadvantaged qualified entity in that its median household income is \$28,685, which is less than eighty percent (80%) of the State median household income of \$58,733.

(ii) The Project is important to the overall capital needs of the State and directly enhances the health and safety of the residents of the Governmental Unit.

(b) Assignment of Rights. The Finance Authority may not pledge or assign the Pledged Revenues, the Loan Agreement Payments or any of its other rights under this Loan Agreement and the Intercept Agreement except to the Trustee pursuant to the Indenture.

(c) No Breach or Default Caused by Loan Agreement or Intercept Agreement. Neither the execution and delivery of this Loan Agreement or the Intercept Agreement, nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement or the Intercept Agreement, nor the consummation of the transactions contemplated in this Loan Agreement or the Intercept Agreement, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Finance Authority is a party or by which the Finance Authority is bound or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or resolution of any court, government or governmental authority having jurisdiction over the Finance Authority or its property, and which conflict or violation will have a material adverse effect on the Finance Authority or the financing of the Project.

(d) No Litigation. To the knowledge of the Finance Authority, there is no litigation or proceeding pending or threatened against the Finance Authority or any other person affecting the right of the Finance Authority to execute or deliver this Loan Agreement or the Intercept Agreement, or to comply with its obligations under this Loan Agreement or the Intercept Agreement. Neither, the execution and delivery of this Loan Agreement or the Intercept Agreement by the Finance Authority, nor compliance by the Finance Authority with its obligations under this Loan Agreement and the Intercept Agreement, requires the approval of any regulatory body, or any other entity, which approval has not been obtained.

(e) Legal, Valid and Binding Obligations. This Loan Agreement and the Intercept Agreement constitute the legal, valid and binding obligations of the Finance Authority enforceable in accordance with their terms.

(f) Tax-Exempt Reimbursement of Amount Loaned. The Finance Authority intends to reimburse the public project revolving fund (as defined in the Finance Authority Act) for the amount of the Loan from the proceeds of tax-exempt bonds which the Finance Authority expects to issue within eighteen (18) months of the Closing Date.

ARTICLE III LOAN AGREEMENT TERM

The Loan Agreement Term shall commence on the Closing Date and shall not terminate until this Loan Agreement has been paid in full or provision for the payment of this Loan Agreement has been made pursuant to Article VIII hereof.

ARTICLE IV LOAN; APPLICATION OF MONEYS

On the Closing Date, the Finance Authority shall transfer the Loan Agreement Principal Amount as follows:

(a) To the Trustee, the amount shown on the Term Sheet as the Program Account deposit shall be deposited into the Governmental Unit's Program Account to be maintained by the Trustee pursuant to the Indenture and disbursed pursuant to Section 6.2 hereof at the direction of the Governmental Unit as needed by the Governmental Unit for the Project; and

(b) To the Trustee, the amount shown on the Term Sheet as the Loan Agreement Reserve Account deposit shall be deposited in the Governmental Unit's account maintained in the Loan Agreement Reserve Fund by the Trustee pursuant to the Indenture; and

(c) To the Finance Authority, the amount shown on the Term Sheet as the Finance Authority Debt Service Account deposit shall be deposited into the Finance Authority Debt Service Account to be maintained by the Finance Authority or its assignee and utilized as provided in Section 5.2 hereof.

ARTICLE V
LOAN TO THE GOVERNMENTAL UNIT;
PAYMENTS BY THE GOVERNMENTAL UNIT

Section 5.1 Loan to the Governmental Unit; Payment Obligations Limited to Pledged Revenues; Pledge of Pledged Revenues. The Finance Authority hereby lends to the Governmental Unit and the Governmental Unit hereby borrows from the Finance Authority an amount equal to the Loan Agreement Principal Amount. The Governmental Unit promises to pay, but solely from the sources pledged herein, the Loan Agreement Payments as herein provided. The Governmental Unit does hereby convey, assign and pledge unto the Finance Authority and unto its successors in trust forever all right, title and interest of the Governmental Unit in and to: (i) the Pledged Revenues to the extent required to pay the Loan Agreement Payments on parity with the Parity Obligations; (ii) the Finance Authority Debt Service Account, such account being held by the Finance Authority; (iii) the Program Account and the Loan Agreement Reserve Account, such accounts being held by the Trustee, and; (iv) all other rights hereinafter granted, for the securing of the Governmental Unit's obligations under this Loan Agreement, including payment of the Loan Agreement Payments and Additional Payment Obligations; provided, however, that if the Governmental Unit, its successors or assigns, shall well and truly pay, or cause to be paid, all Loan Agreement Payments at the time and in the manner contemplated by this Loan Agreement, then, upon such final payment or provision for payment by the Governmental Unit, this Loan Agreement and the rights created thereby shall terminate; otherwise, this Loan Agreement shall remain in full force and effect. The Loan Agreement Payments shall, in the aggregate, be sufficient to pay the Principal Component and Interest Component when due, the payment schedule of which is attached hereto as Exhibit "B."

The pledge of the Pledged Revenues and the lien thereon shall be effective upon the Closing Date. The Governmental Unit and the Finance Authority acknowledge and agree that the Loan Agreement Payments of the Governmental Unit hereunder are limited to the Pledged Revenues, and that this Loan Agreement shall constitute a special, limited obligation of the Governmental Unit. No provision of this Loan Agreement shall be construed or interpreted as creating a general obligation or other indebtedness of the Governmental Unit within the meaning of any constitutional or statutory debt limitation. No provision of this Loan Agreement shall be construed to pledge or to create a lien on any class or source of Governmental Unit moneys other than the Pledged Revenues, nor shall any provision of this Loan Agreement restrict the future issuance of any bonds or obligations payable from any class or source of Governmental Unit moneys other than the Pledged Revenues. In addition, to the extent not required for the payment of obligations of the Governmental Unit hereunder, the Pledged Revenues may be utilized by the Governmental Unit for any other purposes permitted by law.

Section 5.2 Payment Obligations of Governmental Unit. The Finance Authority Debt Service Account shall be established and held by the Finance Authority and the Loan Agreement Reserve Account shall be established and held by the Trustee, each on behalf of the Governmental Unit. All Pledged Revenues received by the Finance Authority pursuant to this Section 5.2 shall be accounted for and maintained on an ongoing basis by the Finance Authority in the Finance Authority Debt Service Account and all Loan Agreement Payments shall be remitted to the Trustee. The amounts on deposit in the Finance Authority Debt Service Account and Loan Agreement Reserve Account shall be expended and used by the Finance Authority or the Trustee, as the case may be, only in the manner and order of priority specified below.

(a) As a first charge and lien, but not an exclusive first charge and lien, on the Pledged Revenues (on a parity with the lien on the Pledged Revenues created by any outstanding Parity Obligations), the Governmental Unit shall remit to the Finance Authority, and the Finance Authority shall transfer and deposit into the Finance Authority Debt Service Account the following from the Pledged Revenues received pursuant to the Intercept Agreement from the Governmental Unit, which the Finance Authority shall transfer to the Trustee in accordance with the Indenture:

(i) Interest Components. (A) Monthly, beginning on the first day of the second month following the Closing Date, an amount in equal monthly installments which is necessary to pay the first maturing Interest Component coming due on this Loan Agreement (which is December 1, 2024), and (B) on the first day of each month thereafter, one-sixth (1/6) of the amount necessary to pay the next maturing Interest Component on this Loan Agreement as described in Exhibit "B";

(ii) Principal Payments. (A) Monthly, beginning on the first day of the second month following the Closing Date, an amount in equal monthly installments which is necessary to pay the first maturing Principal Component (which is June 1, 2025), and (B) on the first day of each month thereafter, one-twelfth (1/12) of the amount which is necessary to pay the next maturing Principal Component on this Loan Agreement during the Loan Agreement Term, as described in Exhibit "B".

(b) Each Loan Agreement Payment shall be transferred by the Finance Authority from the Finance Authority Debt Service Account to the Trustee.

(c) As a second charge and lien on the Pledged Revenues received from the Governmental Unit after deposits in (a) and (b) have been made, the Trustee shall transfer and deposit to the Loan Agreement Reserve Account any amounts necessary to replenish the Loan Agreement Reserve Account to the Loan Agreement Reserve Requirement. Moneys in the Loan Agreement Reserve Account shall be held and administered by the Trustee and shall be used only to prevent deficiencies in the payment of the Principal Component and Interest Component of the Loan Agreement Payments resulting from a failure to deposit into the Finance Authority Debt Service Account sufficient funds to pay debt service requirements on the Loan; provided, that the final two Interest Components and the final Principal Component on the Loan shall be payable from the Loan Agreement Reserve Account. If funds are withdrawn from the Loan Agreement Reserve Account to pay debt service on the Loan, at the direction of the Finance Authority or the Trustee, additional Pledged Revenues shall be deposited into the Loan Agreement Reserve Account in amounts in equal monthly installments sufficient to restore the amount on deposit

therein to the Loan Agreement Reserve Requirement within one (1) year following such withdrawal; provided, that no additional Pledged Revenues shall be intercepted to replenish the Loan Agreement Reserve Account following the transfer of the amount in the Loan Agreement Reserve Account to the Finance Authority Debt Service Account for payment of the final two Interest Components and the final Principal Component.

Notwithstanding any other provisions hereof, the Finance Authority shall have the right to waive the requirement of the Loan Agreement Reserve Account and the Loan Agreement Reserve Requirement, and any moneys in the Loan Agreement Reserve Account may, at the written direction of the Finance Authority, be applied to the Finance Authority Debt Service Account, applied to the prepayment of the Loan pursuant to Article VIII hereof, or released to the Governmental Unit for the Project or used for any other purposes provided by law. If amounts in the Loan Agreement Reserve Account are released by the Finance Authority, the references in this Loan Agreement to the Loan Agreement Reserve Account and the Loan Agreement Reserve Requirement shall be of no further force and effect.

(d) Subject to the foregoing deposits, the Finance Authority or the Trustee shall annually use the balance of the Pledged Revenues received, if any, at the request of the Governmental Unit: (i) to credit against upcoming Loan Agreement Payments; or (ii) to distribute to the Governmental Unit for any purpose permitted by law.

Section 5.3 Manner of Payment. All payments of the Governmental Unit hereunder shall be paid in lawful money of the United States of America to the Finance Authority at the address designated in Section 11.1 herein, for remittance to the Trustee. The obligation of the Governmental Unit to make payments hereunder, from and to the extent of the available Pledged Revenues, shall be absolute and unconditional in all events, except as expressly provided hereunder, and payment hereunder shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the Governmental Unit, the Finance Authority, the Trustee, any vendor or any other person, the Governmental Unit shall make all deposits hereunder, from and to the extent of the available Pledged Revenues, when due and shall not withhold any deposit hereunder pending final resolution of such dispute, nor shall the Governmental Unit assert any right of set-off or counterclaim against its obligation to make such deposits required hereunder.

Section 5.4 Disposition of Payments by the Trustee. The Trustee shall deposit all moneys received from the Finance Authority under this Loan Agreement in accordance with the Indenture.

Section 5.5 Additional Parity Obligations. No provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional Parity Obligations payable from the Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this Loan Agreement; provided, however, that before any such additional Parity Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Section 5.6 hereof), the Governmental Unit shall obtain the written consent of the Finance Authority and it must be determined that:

(a) The Governmental Unit is then current in all of the accumulations required to be made into the Finance Authority Debt Service Account and the Loan Agreement Reserve Account as provided herein.

(b) No default shall exist in connection with any of the covenants or requirements of the Ordinance or this Loan Agreement.

(c) The Pledged Revenues received by or credited to the Governmental Unit for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing one hundred twenty-five percent (125%) of the combined maximum Aggregate Annual Debt Service Requirement coming due in any subsequent Fiscal Year on the then outstanding Parity Obligations and the Parity Obligations proposed to be issued (excluding the accumulation of any reserves therefor).

(d) A written certification or opinion by the Governmental Unit's Treasurer or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the Governmental Unit to authorize, issue, sell and deliver the Parity Obligations proposed to be issued.

(e) With prior written notice to the Finance Authority, no provision of this Loan Agreement shall be construed in such a manner as to prevent the issuance by the Governmental Unit of additional bonds or other obligations payable from the Pledged Revenues constituting a lien upon such Pledged Revenues subordinate and junior to the lien of this Loan Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Loan Agreement as permitted by Section 5.6 hereof.

(f) The Governmental Unit shall not issue bonds or other obligations payable from the Pledged Revenues having a lien thereon prior and superior to this Loan Agreement.

Section 5.6 Refunding Obligations. The provisions of Section 5.5 hereof are subject to the following exceptions:

(a) If at any time after the Closing Date, while this Loan Agreement, or any part thereof, is outstanding, the Governmental Unit shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Loan Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Loan Agreement or bonds to be refunded may not be compelled to surrender this Loan Agreement or their bonds, unless this Loan Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the Governmental Unit's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph (e) of Section 5.5 hereof and in subparagraphs (b) and (c) of this Section.

(b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on a parity with this Loan Agreement unless:

(i) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof.

(c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Loan Agreement or any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Loan Agreement or the bonds or other obligations of the same issue refunded thereby. If only a part of this Loan Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

(i) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 5.5 hereof; or

(iii) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

(d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the Governmental Unit may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the Governmental Unit by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Loan Agreement).

Section 5.7 Investment of Governmental Unit Funds. Money on deposit in the Finance Authority Debt Service Account established by the Finance Authority for the Governmental Unit may be invested by the Finance Authority in Permitted Investments at the discretion of the Finance Authority. Money on deposit in the Program Account and the Loan Agreement Reserve Account held by the Trustee and created hereunder may be invested by the Trustee in Permitted Investments at the written direction of the Finance Authority or at the discretion of the Trustee. Any earnings on any of said accounts shall be held and administered in each respective account and utilized in the same manner as the other moneys on deposit therein.

Section 5.8 Governmental Unit May Budget for Payments. The Governmental Unit may, in its sole discretion, but without obligation and subject to the Constitution of the State, governing laws, and its budgetary requirements, make available properly budgeted and legally

available funds to defray any insufficiency of Pledged Revenues to pay Loan Agreement Payments; provided, however, the Governmental Unit has not covenanted and cannot covenant to make such funds available and has not pledged any of such funds for such purpose.

ARTICLE VI THE PROJECT

Section 6.1 Agreement to Acquire the Project. The Governmental Unit hereby agrees that to effectuate the purposes of this Loan Agreement and to effectuate the acquisition and completion of the Project, it shall make, execute, acknowledge and transmit any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and, in general, do all things which may be requisite or proper to acquire the Project. The Governmental Unit agrees to acquire and complete the Project through the application of moneys to be disbursed from the Program Account pursuant to Section 6.2 of this Loan Agreement.

Section 6.2 Disbursements From the Program Account. So long as no Event of Default shall occur, the Trustee shall disburse moneys from the Program Account in accordance with Section 6.2 of the Indenture upon receipt by the Trustee of a requisition substantially in the form of Exhibit "C" attached hereto signed by an Authorized Officer of the Governmental Unit.

No disbursement shall be made from the Program Account without the approval of Bond Counsel: (i) to reimburse the Governmental Unit's own funds for expenditures made prior to the Closing Date; (ii) to refund or advance refund any tax-exempt obligations issued by or on behalf of the Governmental Unit; (iii) to be used, directly or indirectly, to finance a project used or to be used in the trade or business of a person who is not a "governmental unit," within the meaning of Section 141(b)(6) of the Code; or (iv) to expend funds after the date that is three (3) years after the execution and delivery of this Loan Agreement.

Section 6.3 Completion of the Project. Upon completion of the Project, an Authorized Officer of the Governmental Unit shall deliver a certificate to the Finance Authority and the Trustee substantially in the form of Exhibit "D" attached hereto stating that, to the best of his or her knowledge, the Project has been completed and accepted by the Governmental Unit, and all costs have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 6.4 Application of Loan Agreement Proceeds Subsequent to Completion of the Project. Upon completion of the Project as signified by delivery of the completion certificate contemplated in Section 6.3 hereof or in the event that the Finance Authority and the Trustee shall not have received a certificate of completion as required by Section 6.3 hereof by the date three (3) years from the Closing Date (or such later date as is approved in writing by Bond Counsel), the Trustee shall transfer the amounts remaining in the Program Account (except amounts necessary for payment of amounts not then due and payable) to the Finance Authority Debt Service Account and such amounts shall be used for the payment of Loan Agreement Payments.

**ARTICLE VII
COMPLIANCE WITH LAWS
AND RULES; OTHER COVENANTS**

Section 7.1 Further Assurances and Corrective Instruments. The Finance Authority and the Governmental Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or of the Pledged Revenues, or for otherwise carrying out the intention hereof.

Section 7.2 Finance Authority and Governmental Unit Representatives. Whenever under the provisions hereof the approval of the Finance Authority or the Governmental Unit is required, or the Governmental Unit or the Finance Authority is required to take some action at the request of the other, such approval or such request shall be given for the Finance Authority or for the Governmental Unit by an Authorized Officer of the Finance Authority or the Governmental Unit, as the case may be, and any party hereto shall be authorized to act on any such approval or request.

Section 7.3 Requirements of Law. During the Loan Agreement Term, the Governmental Unit and the Finance Authority shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the parties hereto, the Project or the Pledged Revenues.

Section 7.4 First Lien; Equality of Liens. The Loan Agreement Payments constitute an irrevocable first lien (but not necessarily an exclusive first lien) upon the Pledged Revenues. The Governmental Unit covenants that the Loan Agreement Payments and any Parity Obligations herein authorized to be issued and from time to time outstanding shall be equitably and ratably secured by a first lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of such obligations, it being the intention of the Governmental Unit that there shall be no priority between the Loan Agreement Payments and any such Parity Obligations regardless of the fact that they may be actually issued and delivered at different times.

Section 7.5 Expeditious Completion. The Governmental Unit shall complete the Project with all practical dispatch.

Section 7.6 Bank Designation of Loan Agreement. For purposes of and in accordance with Section 265 of the Code, the Governmental Unit hereby designates this Loan Agreement as an issue qualifying for the exception for certain qualified tax-exempt obligations to the rule denying banks and other financial institutions 100% of the deduction for interest expenses which is allocable to tax-exempt interest. The Governmental Unit reasonably anticipates that the total amount of tax exempt obligations (other than obligations described in Section 265(b)(3)(C)(ii) of the Code) which will be issued by the Governmental Unit and by any aggregated issuer during the current calendar year will not exceed \$10,000,000. For purposes of this Section 7.6, "aggregated issuer" means any entity which: (i) issues obligations on behalf of the Governmental Unit; (ii) derives its issuing authority from the Governmental Unit; or (iii) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-

1(e). The Governmental Unit hereby represents that: (a) it has not created and does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code; and (b) the total amount of obligations so designated by the Governmental Unit, and all aggregated issuers for the current calendar year, does not exceed \$10,000,000.

Section 7.7 Arbitrage Rebate Exemption. The Governmental Unit hereby certifies and warrants, for the purpose of qualifying for the exception contained in Section 148(f)(4)(D) of the Code, to the requirement to rebate arbitrage earnings from investments of the proceeds of the Loan Agreement (the “Rebate Exemption”), that: (i) this Loan Agreement is issued by the Governmental Unit which has general taxing powers; (ii) neither this Loan Agreement nor any portion thereof is a private activity bond as defined in Section 141 of the Code (“Private Activity Bond”); (iii) all of the net proceeds of this Loan Agreement are to be used for local government activities of the Governmental Unit (or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Governmental Unit); and (iv) neither the Governmental Unit nor any aggregated issuer has issued or is reasonably expected to issue any Tax-Exempt Bonds other than (A) Private Activity Bonds (as those terms are used in Section 148(f)(4)(D) of the Code) and (B) issued to refund (other than to advance refund (as used in the Code)) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, during the current calendar year, which would in the aggregate amount exceed \$5,000,000. For purposes of this paragraph, “aggregated issuer” means any entity which: (a) issues obligations on behalf of the Governmental Unit; (b) derives its issuing authority from the Governmental Unit; or (c) is controlled directly or indirectly by the Governmental Unit within the meaning of Treasury Regulation Section 1.150-1(e). The Governmental Unit hereby represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 148(f)(4)(D) of the Code.

Accordingly, with respect to the Loan Agreement, the Governmental Unit will qualify for the rebate exemption granted under Section 148(f)(4)(D) of the Code and the Governmental Unit shall be treated as meeting the requirements of paragraphs (2) and (3) of Section 148(f) of the Code relating to the required rebate of arbitrage earnings to the United States.

The Governmental Unit hereby further represents and covenants that if it is determined that rebatable arbitrage, as that term is defined under Section 148 of the Code and related regulations, is required to be paid to the United States, that it will pay such rebatable arbitrage.

ARTICLE VIII PREPAYMENT OF LOAN AGREEMENT PAYMENTS

Section 8.1 Prepayment. The Governmental Unit is hereby granted the option to prepay any of the Principal Components of this Loan Agreement in whole or in part on any day on or after ten (10) years following the Closing Date without penalty or prepayment premium. The Governmental Unit may designate the due dates of any Principal Components being prepaid in the event of a partial prepayment. Notice of intent to make such prepayment shall be provided to the Finance Authority and the Trustee by the Governmental Unit no less than forty-five (45) days prior to the prepayment date. The Trustee shall recalculate the Loan Agreement Payments due under

this Loan Agreement in the event of a partial prepayment in a manner which is consistent with the manner in which the Bonds, if any, are prepaid.

Section 8.2 Defeasance. Should the Governmental Unit pay or make provision for payment of the Loan such that all amounts due pursuant to this Loan Agreement shall be deemed to have been paid and defeased, then the Loan Agreement Payments hereunder shall also be deemed to have been paid, the Governmental Unit's payment obligations hereunder shall be terminated, this Loan Agreement and all obligations contained herein shall be discharged and the pledge hereof released. Such payment shall be deemed made when the Governmental Unit has deposited with an escrow agent, in trust, (i) moneys sufficient to make such payment, and/or (ii) noncallable Government Obligations maturing as to principal and interest in such amount and at such times as will ensure the availability of sufficient moneys to make such payment and when all necessary and proper expenses of the Finance Authority have been paid or provided for. In the event the Governmental Unit makes provisions for defeasance of this Loan Agreement, the Governmental Unit shall cause to be delivered (1) a report of an independent nationally recognized certified public accountant verifying the sufficiency of the escrow established to pay this Loan Agreement in full when due or upon an irrevocably designated prepayment date, and (2) an opinion of Bond Counsel to the effect that this Loan Agreement is no longer outstanding, each of which shall be addressed and delivered to the Finance Authority. Government Obligations within the meaning of this Section 8.2, unless otherwise approved by the Finance Authority, shall include only (1) cash, (2) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series – "SLGs"), and (3) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

ARTICLE IX INDEMNIFICATION

From and to the extent of the Pledged Revenues, to the extent permitted by law, the Governmental Unit shall and hereby agrees to indemnify and save the Finance Authority and the Trustee harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity arising from the acquisition or operation of the Project during the Loan Agreement Term, from: (i) any act of negligence or other misconduct of the Governmental Unit or breach of any covenant or warranty by the Governmental Unit hereunder; and (ii) the incurrence of any cost or expense in connection with the acquisition or operation of the Project in excess of the Loan Agreement proceeds and interest on the investment thereof. The Governmental Unit shall indemnify and save the Finance Authority and the Trustee harmless, from and to the extent of the available Pledged Revenues, from any such claim arising as aforesaid from (i) or (ii) above, or in connection with any action or proceeding brought thereon and, upon notice from the Finance Authority or the Trustee, shall defend the Finance Authority or the Trustee, as applicable, in any such action or proceeding.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. Any one of the following shall be an Event of Default under this Loan Agreement:

(a) Failure by the Governmental Unit to pay any amount required to be paid under this Loan Agreement on the date on which it is due and payable;

(b) Failure by the Governmental Unit to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a), for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the Governmental Unit by the Finance Authority or the Trustee unless the Finance Authority and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Finance Authority or the Trustee but cannot be cured within the applicable thirty (30) day period, the Finance Authority and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Governmental Unit within the applicable period and diligently pursued until the failure is corrected; and provided, further, that if by reason of force majeure the Governmental Unit is unable to carry out the agreements on its part herein contained, the Governmental Unit shall not be deemed in default under this paragraph (b) during the continuance of such inability (but force majeure shall not excuse any other Event of Default);

(c) Any warranty, representation or other statement by or on behalf of the Governmental Unit contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect;

(d) A petition is filed against the Governmental Unit under any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests;

(e) The Governmental Unit files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, moratorium, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(f) The Governmental Unit admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including, without limitation, a receiver, liquidator or trustee) of the Governmental Unit for any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than thirty (30) days, but the Finance Authority and the Trustee shall have the right to intervene in the proceedings prior to the expiration of such thirty (30) days to protect their interests.

Section 10.2 Remedies on Default. Whenever any Event of Default has occurred and is continuing and subject to Section 10.3 hereof, the Finance Authority or the Trustee may take any or all of the following actions as may appear necessary or desirable to collect the payments then

due and to become due or to enforce performance of any agreement of the Governmental Unit in this Loan Agreement or the Intercept Agreement:

(a) By mandamus or other action or proceeding or suit at law or in equity to enforce the rights of the Finance Authority and the Trustee under this Loan Agreement and the Intercept Agreement against the Governmental Unit, and compel the Governmental Unit to perform or carry out its duties under the law and the agreements and covenants required to be performed by it contained herein; or

(b) By suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Finance Authority or the Trustee; or

(c) Intervene in judicial proceedings that affect this Loan Agreement or the Pledged Revenues; or

(d) Cause the Governmental Unit to account as if it were the trustee of an express trust for all of the Pledged Revenues; or

(e) Take whatever other action at law or in equity may appear necessary or desirable to collect amounts then due and thereafter to become due under this Loan Agreement or to enforce any other of its rights thereunder; or

(f) Apply any amounts in the Program Account toward satisfaction of any of the obligations of the Governmental Unit under this Loan Agreement.

Section 10.3 Limitations on Remedies. A judgment requiring a payment of money entered against the Governmental Unit may reach only the available Pledged Revenues.

Section 10.4 No Remedy Exclusive. Subject to Section 10.3 hereof, no remedy herein conferred upon or reserved to the Finance Authority or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Finance Authority or the Trustee to exercise any remedy reserved in this Article X, it shall not be necessary to give any notice, other than such notice as may be required in this Article X.

Section 10.5 Waivers of Events of Default. The Finance Authority or the Trustee may in its discretion waive by written waiver any Event of Default hereunder and the consequences of such an Event of Default provided, however, that there shall not be waived: (i) any Event of Default in the payment of the principal of this Loan Agreement at the date when due as specified herein; or (ii) any default in the payment when due of the interest on this Loan Agreement, unless prior to such waiver or rescission, all arrears of interest, with interest at the rate borne by this Loan Agreement on all arrears of payments of principal and all expenses of the Finance Authority or the Trustee, in connection with such Event of Default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Finance Authority or the Trustee on account of any such Event of Default shall have been discontinued or abandoned or

determined adversely, then and in every such case, the Finance Authority and the Trustee shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 10.6 No Additional Waiver Implied by One Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be in writing and limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.7 Agreement to Pay Attorneys' Fees and Expenses. In the event that the Governmental Unit shall default under any of the provisions hereof and the Finance Authority or the Trustee shall employ attorneys or incur other expenses for the collection of payments hereunder, or the enforcement of performance or observance of any obligation or agreement on the part of the Governmental Unit herein contained, the Governmental Unit agrees that it shall on demand therefor pay to the Finance Authority or the Trustee, as applicable, the fees of such attorneys and such other expenses so incurred, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction; provided, however, that the obligation of the Governmental Unit under this Section shall be limited to expenditures from and to the extent of the available Pledged Revenues.

ARTICLE XI MISCELLANEOUS

Section 11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered as follows: if to the Governmental Unit, City of Truth or Consequences, 505 Sims Street, Truth or Consequences, New Mexico 87901 Attention: City Manager; if to the Finance Authority, New Mexico Finance Authority, 207 Shelby Street, Santa Fe, New Mexico 87501, Attention: Chief Executive Officer; and if to the Trustee, BOKF, NA, 100 Sun Avenue NE, Suite 500, Albuquerque, New Mexico 87109, Attention: Trust Division. The Governmental Unit, the Finance Authority, and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.2 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Finance Authority, the Governmental Unit and their respective successors and assigns, if any.

Section 11.3 Amendments. The Governmental Unit agrees that this Loan Agreement will not be amended without the prior written consent of the Finance Authority, and, if the Loan has been pledged under the Indenture (as defined herein), without the prior written consent of the Trustee (as defined herein), the Finance Authority and the Governmental Unit, pursuant to the Indenture.

Section 11.4 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Loan Agreement shall be had against any member, employee, director or officer, as such, past, present or future, of the

Finance Authority, either directly or through the Finance Authority, or against any officer, employee, director, trustee or member of the Governing Body, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, employee, director, trustee or member of the Governing Body or of the Finance Authority is hereby expressly waived and released by the Governmental Unit and by the Finance Authority as a condition of and in consideration for the execution of this Loan Agreement.

Section 11.5 Severability. In the event that any provision of this Loan Agreement, other than the requirement of the Governmental Unit to pay hereunder, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6 Execution in Counterparts. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Assignment by the Finance Authority. Pursuant to the Indenture, this Loan Agreement and the Intercept Agreement may be assigned and transferred by the Finance Authority to the Trustee, which assignment and transfer is hereby acknowledged and approved by the Governmental Unit.

Section 11.8 Compliance with Governing Law. It is hereby declared by the Governing Body that it is the intention of the Governmental Unit by the execution of this Loan Agreement to comply in all respects with the provisions of the New Mexico Constitution and statutes as the same govern the pledge of the Pledged Revenues to payment of all amounts payable under this Loan Agreement.

Section 11.9 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.10 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

(Signature pages follow)

IN WITNESS WHEREOF, the Finance Authority, on behalf of itself, and as approved by the Board of Directors of the Finance Authority on July 25, 2024, has executed this Loan Agreement in its corporate name by its duly authorized officer; and the Governmental Unit has caused this Loan Agreement to be executed in its corporate name and the seal of the Governmental Unit affixed and attested by its duly authorized officers. All of the above are effective as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
Marquita D. Russel, Chief Executive Officer

PREPARED FOR EXECUTION BY OFFICERS
OF THE NEW MEXICO FINANCE AUTHORITY:
Sutin, Thayer & Browne A Professional Corporation
As Loan Counsel

By _____
Suzanne Wood Bruckner

APPROVED FOR EXECUTION BY OFFICERS OF
THE NEW MEXICO FINANCE AUTHORITY:

By _____
Daniel C. Opperman, Chief Legal Officer

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

[SEAL]

By _____
Rolf Hechler, Mayor

ATTEST:

By _____
Angela A. Torres, City Clerk-Treasurer

6918724

EXHIBIT "A"

TERM SHEET

New Mexico Finance Authority Loan No. PPRF-6486

Governmental Unit: CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Project Description: Acquisition, construction and renovation of an existing building for law enforcement for the Governmental Unit.

Loan Agreement Principal Amount: \$1,680,000

Disadvantaged Funding Amount: \$168,000

Pledged Revenues: Revenues derived from the one-fourth of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the Governmental Unit by Ordinance No. 606, adopted June 14, 2011, with an effective date of January 1, 2012, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the Governmental Unit for the month in which the tax is distributed to the Governmental Unit, for the month for which the distribution is made, subject to any increase or decrease made pursuant to Section 7-1-6.15, NMSA 1978, and after any disbursements for tax audits, refunds, payments of interest and administrative costs. Pledged Revenues also includes (i) the portion of the gross receipts tax distribution to the Governmental Unit to be made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of Pledged Revenues set forth in the sentence above that would have been remitted to the Governmental Unit but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar distributions made to the Governmental Unit in lieu of Pledged Revenues, but Pledged Revenues do not include any similar distributions in lieu of any other local option gross receipts tax revenues.

Coverage Ratio: 125%

Distributing State Agency: State of New Mexico Taxation and Revenue Department

Currently Outstanding Parity Obligations:

Additional Parity Bonds Test: 125%
Authorizing Legislation: Ordinance No. 767 adopted on August 14, 2024
Closing Date: [CLOSING DATE]
Blended Interest Rate: _____ %
Program Account Deposit: \$1,555,000
Loan Agreement Reserve
Account Deposit: \$125,000
Finance Authority Debt Service
Account Deposit: \$0.00
First Interest Payment Date: December 1, 2024
First Principal Payment Date: June 1, 2025
Final Payment Date: June 1, 2044

PROGRAM ACCOUNT DEPOSITS MUST BE USED WITHIN THREE YEARS UNLESS A
LATER DATE IS APPROVED IN WRITING TO THE TRUSTEE AND THE FINANCE
AUTHORITY BY BOND COUNSEL TO THE FINANCE AUTHORITY

EXHIBIT "B"

DEBT SERVICE SCHEDULE FOR LOAN REPAYMENT

[SEE ATTACHED]

EXHIBIT “C”

FORM OF REQUISITION

RE: \$1,680,000 Loan Agreement by and between the City of Truth or Consequences, New Mexico, and the New Mexico Finance Authority (the “Loan Agreement”).

TO: BOKF, NA
c/o New Mexico Finance Authority
PPRF@nmfa.net

You are hereby authorized to disburse from the Program Account – City of Truth or Consequences, New Mexico (2024 Police Facility Loan), with regard to the above-referenced Loan Agreement the following:

LOAN NO.: PPRF-6486

CLOSING DATE: [CLOSING DATE]

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

AMOUNT OF PAYMENT: \$ _____

PURPOSE OF PAYMENT: _____

Each obligation, item of cost or expense mentioned herein is for costs of the Project, is due and payable, has not been the subject of any previous requisition and is a proper charge against the Program Account – City of Truth or Consequences, New Mexico (2024 Police Facility loan).

All representations contained in the Loan Agreement and the related closing documents remain true and correct and the City of Truth or Consequences, New Mexico, is not in breach of any of the covenants contained therein.

If this is the final requisition, payment of costs of the Project is complete or, if not complete, the City of Truth or Consequences, New Mexico, shall, and understands its obligation to, complete the acquisition of the Project from other legally available funds.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED: August 14, 2024

By: _____
Authorized Officer of Borrower

Title: Rolf Hechler, Mayor

EXHIBIT “D”

CERTIFICATE OF COMPLETION

RE: \$1,680,000 Loan Agreement by and between the City of Truth or Consequences, New Mexico and the New Mexico Finance Authority (the “Loan Agreement”).

TO: New Mexico Finance Authority
PPRF@nmfa.net

Susen Ellis
Vice President, Corporate Trust
BOKF, NA
100 Sun Avenue NE, Suite 500
Albuquerque, New Mexico 87109

LOAN NO.: PPRF-6486

CLOSING DATE: [CLOSING DATE]

In accordance with Section 6.3 of the Loan Agreement, the undersigned states, to the best of his or her knowledge, that the acquisition of the Project has been completed and accepted by the Governmental Unit, and all costs have been paid as of the date of this Certificate. Notwithstanding the foregoing, this certification is given without prejudice to any rights against third parties which exist at the date of this Certificate or which may subsequently come into being.

Capitalized terms used herein, are used as defined or used in the Loan Agreement.

DATED: August 14, 2024

By: _____
Authorized Officer of Governmental Unit

Title: Rolf Hechler, Mayor

INTERCEPT AGREEMENT

This INTERCEPT AGREEMENT is made and entered into August 14, 2024, by and between the NEW MEXICO FINANCE AUTHORITY (the “Finance Authority”), a public body politic and corporate constituting a governmental instrumentality separate and apart from the State of New Mexico (the “State”) under the laws of the State and the CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, a political subdivision duly organized and existing under the laws of the State (the “Governmental Unit”).A

W I T N E S S E T H:

WHEREAS, Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, authorized the creation of the Finance Authority within the State to assist in financing the cost of public projects of participating qualified entities, including the Governmental Unit, such as the acquisition, construction and renovation of an existing building for law enforcement for the Governmental Unit; and

WHEREAS, pursuant to Sections 6-21-1 through 6-21-31, NMSA 1978, as amended, and Sections 3-31-1 through 3-31-12, NMSA 1978, as amended (collectively, the “Act”), the Finance Authority and the Governmental Unit are authorized to enter into agreements to facilitate the financing of the Project as described in the Loan Agreement by and between the Finance Authority and the Governmental Unit of even date herewith (the “Loan Agreement”); and

WHEREAS, the Governmental Unit desires to acquire the Project and such acquisition is permitted under the Act; and

WHEREAS, the Finance Authority has established its Loan Program (the “Program”) funded by its public project revolving fund (as defined in the Act) for the financing of infrastructure and equipment projects upon the execution of the Loan Agreement and the assignment of loan agreements to a trustee (the “Trustee”); and

WHEREAS, the Governmental Unit desires to borrow \$1,680,000 from the Program for the purpose of financing the acquisition of the Project, which Loan is to be governed by this Intercept Agreement and by the Loan Agreement; and

WHEREAS, the Act confers upon the Finance Authority the authority to loan funds to the Governmental Unit to finance the Project, and Sections 7-19D-9 and 7-1-6.15, NMSA 1978, as amended, authorizes the Governmental Unit to direct that its distribution of State Shared Gross Receipts Tax Revenues (the “Pledged Revenues”) from the State Taxation and Revenue Department (the “Distributing State Agency”) be paid to the Finance Authority or its assignee, to secure payments under the Loan Agreement;

NOW THEREFORE, the parties hereto agree:

Unless otherwise defined in this Intercept Agreement and except where the context by clear implication otherwise requires, capitalized terms used in this Intercept Agreement shall have for all purposes of this Intercept Agreement the meanings assigned thereto in the Loan Agreement and the Indenture, as defined in the Loan Agreement.

Section 1. Authorization to the Finance Authority. The Governmental Unit hereby recognizes that the Finance Authority has made a Loan to the Governmental Unit in the amount of \$1,680,000 to finance the acquisition of the Project. Pursuant to the Loan Agreement and this Intercept Agreement, the Loan and all Loan Agreement Payments on the Loan made by or on behalf of the Governmental Unit shall be collected by the Finance Authority and remitted to the Trustee. All payments due on the Loan from the Pledged Revenues shall be paid by the Distributing State Agency to the Finance Authority or its designee, on behalf of the Governmental Unit, from scheduled distributions of the Pledged Revenues in accordance with the Intercept Schedule attached hereto as Exhibit “A” (the “Intercept Schedule”)

This Intercept Agreement shall be deemed a written certification, authorization and request by the Governmental Unit to the Distributing State Agency to pay to the Finance Authority, on behalf of the Governmental Unit, sums shown on the Intercept Schedule from distributions of the Pledged Revenues pursuant to Sections 7-19D-9 and 7-1-6.15, NMSA 1978, as amended, to insure compliance with the Loan Agreement and repayment of the Loan. Upon written notice to the Distributing State Agency from the Finance Authority, the amount of the Pledged Revenues to be paid to the Finance Authority shall be increased from the amounts shown on Exhibit “A” to defray any delinquencies in the Finance Authority Debt Service Account or Loan Agreement Reserve Account, if any, established for the Governmental Unit. Any accumulation of the Pledged Revenues in an amount in excess of the next Loan Agreement Payment and the Loan Agreement Reserve Requirement, if any, shall be redirected by the Finance Authority to the benefit of the Governmental Unit on a timely basis as provided in Section 5.2 of the Loan Agreement.

To the extent applicable and to the extent that the Pledged Revenues are insufficient to meet the debt service requirements due on the Loan and other Parity Obligations (as defined in the Loan Agreement) now or hereafter issued or incurred, the amounts intercepted under this Intercept Agreement shall be applied to allow partial payment on a pro-rata basis of the debt service due and owing on the Loan Agreement and other Parity Obligations.

Section 2. Term; Amendments. This Intercept Agreement will remain in full force and effect from its effective date as herein provided until such time as the Loan made pursuant to the Loan Agreement and this Intercept Agreement have been paid in full. Nothing herein shall be deemed in any way to limit or restrict the Governmental Unit from issuing its own obligations, providing its own program or participating in any other program for the financing of public projects which the Governmental Unit may choose to finance. This Intercept Agreement may be amended only by written instrument signed by the parties hereto.

Section 3. Authorization. The execution and performance of the terms of this Intercept Agreement have been authorized and approved by Ordinance No. 767, passed and adopted on August 14, 2024 by the Governing Body of the Governmental Unit, which Ordinance is in full force and effect on the date hereof.

Section 4. Severability of Invalid Provisions. If any one or more of the provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed

separable from the remaining provisions and shall in no way affect the validity of any of the other provisions hereof.

Section 5. Counterparts. This Intercept Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6. Further Authorization. The Governmental Unit agrees that the Finance Authority shall do all things necessary or convenient to the implementation of the Program to facilitate the Loan to the Governmental Unit.

Section 7. Effective Date. This Intercept Agreement shall take effect on the Closing Date of the Loan.

Section 8. Initial Intercept Date. As indicated on the Intercept Schedule, the first distribution of the Pledged Revenues that is to be intercepted by the Distributing State Agency under the terms of this Intercept Agreement consist of Pledged Revenues due to the Governmental Unit distributed in _____, 2024.

Section 9. Final Intercept Date. Once the Loan has been fully paid off and satisfied, Finance Authority shall provide written notice to the Distributing State Agency to discontinue the interception of the Governmental Unit's Pledged Revenues.

[Remainder of page left intentionally blank]

[Signature page follows]

IN WITNESS WHEREOF, the parties to this Intercept Agreement have caused their names to be affixed hereto by the proper officers thereof as of the date first above written.

NEW MEXICO FINANCE AUTHORITY

By _____
Marquita D. Russel, Chief Executive Officer

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

By _____
Rolf Hechler, Mayor

[SEAL]

ATTEST:

By _____
Angela A. Torres, City Clerk-Treasurer

Acknowledged:

By _____
_____, Taxation and Revenue Department

Date _____

EXHIBIT "A"

INTERCEPT SCHEDULE

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Payment Dates	Pledged Revenues	Amount
Monthly, beginning: 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042	Revenues derived from the one-fourth of one percent (1/4%) increment of municipal gross receipts tax imposed on all persons engaging in business in the Governmental Unit by Ordinance No. 606, adopted June 14, 2011, with an effective date of January 1, 2012, which tax equals, subject to the exemptions specified in Section 7-19D-9 NMSA 1978, one-fourth of one percent (1/4%) of the gross receipts of all persons engaging in business in the Governmental Unit for the month in which the tax is distributed to the Governmental Unit, for the month for which the distribution is made, subject to any increase or decrease made pursuant to Section 7-1-6.15, NMSA 1978, and after any disbursements for tax audits, refunds, payments of interest and administrative costs. Pledged Revenues also includes (i) the portion of the gross receipts tax distribution to the Governmental Unit to be made pursuant to Section 7-1-6.46 NMSA 1978, which represents the amount of Pledged Revenues set forth in the sentence above that would have been remitted to the Governmental Unit but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978 and (ii) any similar distributions made to the Governmental Unit in lieu of Pledged Revenues, but Pledged Revenues do not include any similar distributions in lieu of any other local option gross receipts tax revenues.	\$ _____

2043		
2044		

7203963

STATE OF NEW MEXICO,

ss.

County of Sierra

Marsha Wright, being first duly sworn, on her oath says: That she is the publisher of the Sierra County SENTINEL, a newspaper published in the Town of Truth or Consequences, in the County of Sierra and State of New Mexico, and that said newspaper is now, and was at all times herein mentioned, a newspaper of general circulation.

That the advertisement, a copy of which is hereto attached, was published in said herein before mentioned newspaper once each and every week for One (1) consecutive week(s), the first publication thereof having been made on the 25th day of July, A.D. 2024, and the last publication thereof having been made on the 25th day of July, A.D. 2024.

That said newspaper was regularly printed, published and issued with said notice therein upon the following dates, to-wit:

July 25, 2024.

Marsha Wright

Subscribed and sworn to before me this 25th of

July, 2024.

Frances Luna

Notary Public

My commission expires January 29th, 2025

STATE OF NEW MEXICO
NOTARY PUBLIC
FRANCES LUNA
COMMISSION # 1132440
EXPIRES JANUARY 29, 2025

LEGAL NOTICE

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
NOTICE OF MEETING, PUBLIC HEARING AND INTENT TO ADOPT ORDINANCE
The City of Truth or Consequences, New Mexico,

hereby gives notice of a regular City Commission meeting for Wednesday, August 14, 2024 at 9:00 a.m. at such meeting, the City Commission will consider for adoption the ordinance described below. Complete copies of the proposed ordinance are available for public inspection during the normal and regular business hours of the City Clerk, Truth or Consequences, New Mexico.

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND INTERCEPT AGREEMENT BY AND BETWEEN THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY (THE "FINANCE AUTHORITY"), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,000,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE TO (1) ACQUIRE, CONSTRUCT, RENOVATE, FINISH, EQUIP, BEAUTIFY AND IMPROVE A PUBLIC SAFETY BUILDING FOR THE BENEFIT OF THE CITY AND ITS RESIDENTS, (2) FUND A DEBT SERVICE RESERVE ACCOUNT, AND (3) PAY COSTS OF ISSUANCE; PROVIDING FOR THE PAYMENT DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE REVENUES OF THE 1/4 OF ONE PERCENT (0.25%) INCREMENT OF MUNICIPAL GROSS RECEIPTS TAX IMPOSED ON ALL PERSONS ENGAGED IN BUSINESS IN THE GOVERNMENTAL UNIT PURSUANT TO SECTION 7-19D-9 NMSA 1978 AND GOVERNMENTAL UNIT ORDINANCE NO. 306 ADOPTED JUNE 14, 2011 (THE "GROSS RECEIPTS

TAX"); APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE LOAN PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT PROVIDING FOR THE DISTRIBUTIONS OF THE REVENUES OF THE GROSS RECEIPTS TAX FROM THE STATE TAXATION AND REVENUE DEPARTMENT TO BE REDIRECTED TO THE FINANCE AUTHORITY OR ITS ASSIGNS PURSUANT TO THE INTERCEPT AGREEMENT FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON THE LOAN AGREEMENT; 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 LOAN AGREEMENT AND THE INTERCEPT AGREEMENT.

The title sets forth a general summary of the subject matter contained in the Ordinance. This notice constitutes compliance with Section 3-17-3 NMSA 1978.

Pub.: July 25, 2024

This legal posted at www.newmexicopublicnotices.com



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: G.3

SUBJECT: Discussion/Action: Public Hearing/Final Adoption of Ordinance 768, amending Sec. 3-98 of the Municipal Code of Ordinances pertaining to safekeeping of animals by the Animal shelter.

DEPARTMENT: Animal Shelter

DATE SUBMITTED: August 7, 2024

SUBMITTED BY: O.J. Hechler

WHO WILL PRESENT THE ITEM: O.J. Hechler, Community Service Director

Summary/Background:

Change title of Sec. 3-98 Safekeeping of Animals by the Animal Shelter to Animal Owner Hospitalized or Incarcerated. In this amendment, there will no longer be a Safekeep status. Animals will go under a Medical Hold status or Incarceration Hold status. Publication was approved on 7-24 and now it is being brought back for a public hearing and final adoption.

Recommendation:

Public Hearing and Final Adoption

Attachments:

- Ordinance 725
- Amendment to Sec. 3-98
- Publication Notice

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

[Click here to enter text.](#)

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

CITY OF TRUTH OR CONSEQUENCES

ORDINANCE 768

AN ORDINANCE AMENDING THE CITY OF TRUTH OR CONSEQUENCES MUNICIPAL CODE OF ORDINANCES, BY AMENDING SECTION 3-98 PERTAINING TO ANIMAL OWNERS HOSPITALIZED OR INCARCERATED

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, CITY COMMISSIONERS OF
THE CITY OF TRUTH OR CONSEQUENCES:

Section one. That section 3-98 of the Code of Ordinances of the City of Truth or Consequences
be amended so that such section shall read as follows:

Sec. 3-98. Animal owner hospitalized or incarcerated

Due to unforeseen circumstances, a police officer, animal control officer, or animal owner
may require an animal to be placed in the care and custody of the Animal Shelter to ensure that
the animal is properly cared for. In situations that the owner of an animal(s) is hospitalized the
shelter will put the animal(s) on a **Medical Hold** status and will hold the animal(s) for up to ten
(10) days. After the ten (10) days, if there has been no contact with the shelter, the animal(s)
shall become the property of the City. After the first 72 hours, a boarding fee will be applied.

In situations that the owner of an animal(s) is incarcerated, the shelter will put the animal(s)
on an **Incarceration Hold**, and the shelter will hold the animal(s) for up to five (5) days. After
the five (5) days, if there has been no contact with the shelter the animal(s) shall become the
property of the City. After the first 72 hours, a boarding fee will be applied.

If the owner of the animal(s) cannot pick up the animal(s) from the shelter, the owner shall
be responsible for contacting a designated person or organization to pick up the animal(s). All
contact between owner and shelter will be logged by shelter staff. If no contact has been made by
the owner to the shelter after the ten (10) day **Medical Hold** or five (5) day **Incarceration Hold**
the animal(s) will become the property of the City. If contact has been made with the shelter,
there may be circumstances the shelter can hold the animal(s) for a longer period of time with a
boarding fee applied. After the initial holding period has expired and no contact has been made
with the shelter, the animal(s) is no longer classified as a Medical Hold or Incarceration Hold and
the animal(s) shall be considered abandoned and property of the City. No animal shall be
released from the Animal Shelter until all fees are paid in full. Owners who knowingly abandon
or fail to arrange for pickup of their animal(s) at the Animal Shelter may be prosecuted under
other sections within the Municipal Code.

Section two. Effective date. The provisions of this Amended Ordinance shall become effective August 19, 2024.

PASSED, APPROVED, and ADOPTED by the GOVERNING BODY of the CITY OF TRUTH OR CONSEQUENCES this 14th day of August 2024.

Rolf Hechler, Mayor

ATTEST:

Angela A. Torres, CMC, City Clerk-Treasurer

*Rolf Hechler
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Ingo Hoepfner
Commissioner*

*Angie Gonzales
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences City Commission will hold a Public Hearing during their regular scheduled meeting on Wednesday, August 14, 2024, to receive additional input regarding the following:

Public Hearing/Discussion/Action: Final Adoption of Ordinance 768, Amending Sec. 3-98 of the Municipal Code of Ordinances pertaining to safekeeping of animals by the animal shelter.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 9:00 a.m.

Please contact me at (575) 894-6675 or by email at aatorres@torcnm.org should you have any questions regarding this Public Hearing.

The agenda may be obtained on Friday, August 9, 2024, on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Thursday, July 25, 2024

ORDINANCE NO. 725

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES, BE AMENDED BY AMENDING CHAPTER 3 PERTAINING TO ANIMALS:

Chapter 3. ANIMALS shall be amended in its entirety to read as follows:

Chapter 3 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 3-1. - Short title of chapter.

This chapter shall be known and may be cited as the Truth or Consequences Animal Control Ordinance. It is the intent of the City Commission that enactment of this chapter will protect animals from neglect and abuse, protect residents from annoyance and injury, assist in providing housing for animals in a control center, and finance the functions of the licensing and recovery of such animals.

(Code 1962, § 6-2-1; Ord. No. 384, § 6-2-1, 7-22-91)

Sec. 3-2. - Administration of chapter.

The City Manager is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the Commission to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. Powers to enforce the chapter are delegated to the Truth or Consequences Police Department and the Animal Control Officer.

(Code 1962, § 6-2-3; Ord. No. 436, § 1, 5-13-96; Ord. No. 532, § 1, 10-14-03)

Sec. 3-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment of animals means to leave any animal unattended and with no provision of food, water or shelter for more than twenty-four (24) hours on one's premises or to dump or leave off any animal on property other than one's own without permission, regardless of age or condition.

Adoption means to take by choice and assume responsibility for proper care in accordance with this Ordinance.

Adequate food means access to and the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each animal in good health, to include:

1. Easily accessible to each animal
2. Prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal
3. Provided in a clean and sanitary manner
4. Placed so as to minimize contamination by excrement and pests

Adequate living area means adequate space, shade, and shelter for exercise suitable to the age, size, species and breed of animal.

Adequate Shade means provision of and access to either man made or natural shade suitable for species, age, condition, size and type of each animal.

Adequate Shelter means provision of and access to shelter that is suitable for species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry.

Adequate space to prevent overcrowding means having sufficient space to allow animals restrained together to be able to move freely, turn around and lie down.

Adequate water means constant access to a supply of unfrozen, potable water, provided in a sanitary manner suitable for species, in sufficient amounts to maintain good health.

Animal means any vertebrate member of the animal kingdom, excluding the human species, including but not limited to wild animals, domesticated animals, and livestock.

Animal Shelter or Shelter means any pound, lot, premises, and/or building maintained by the City for the care and custody of animals. This shall include any private shelter contracted or recognized by the City for the purpose of maintaining care and custody of animals.

Animal Control Officer means any person designated by the Police Chief to enforce animal control laws, orders, ordinances and regulations.

Animal fighting paraphernalia means equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to:

1. instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp instrument,
2. items to train and condition animals to fight including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open dog's jaws, performance enhancing drugs or substances, or food or water additives.

Auction means any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Bait animal means any animal used to train and/or condition other animals to fight and are exposed to attack by other animals used or trained to be used in fighting or to make the attacking animal more confident and aggressive.

Bite means any puncture, tear, scratch or wound of the skin inflicted by the teeth of an animal.

Breeder means any person involved in the controlled breeding of animals. Breeders are subject to City of Truth or Consequences Kennel Permit requirements.

Canine Hybrid means any offspring which results from the breeding of a domestic species or breed of canine with any wild species or breed of canine, such as wolf or coyote. Any animal which at any time has been or is advertised, or otherwise described or represented as a canine hybrid, wolf-dog, or wolf hybrid by its owner to an Animal Control Officer, Veterinarian, Police Officer, or Official of the Department of Health shall be considered a canine hybrid for the purpose of this chapter. An animal shall not be classified to be a canine hybrid based strictly on its appearance.

Care means responsibility for or attention to health, well-being, and safety.

Collar means a strap made of leather or other strong material or a harness that is worn around the neck/torso of an animal to which a current rabies vaccination and city animal registration tag can be affixed.

Confined or Confinement means restriction of an animal at all times by an owner or keeper in an escape proof building or other enclosure away from other animals and the public.

Continually means a duration that continues over a long period of time but with intervals and interruptions.

Emergency measures means any action taken by animal control or its designated agents to preserve the health and life of an animal or human being, including but not limited to entering vehicles or premises, with probable cause and/or exigent circumstance, and impounding an animal to prevent present or imminent suffering to the animal, a human being, or another animal.

Enclosed lot means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

Enclosure means an area completely surrounded by a wall, fence, or animal pen of sufficient height and strength to contain the animal(s) within.

Establishment means a place of business together with its grounds and equipment.

Estray or Stray means any animal found running at large or unattended beyond the boundaries of the premises of the owner.

Feline Hybrid means any offspring which results from the breeding of a domestic species or breed of feline with any wild species or breed of feline, such as an African Serval cat. Any animal which at any time has been or is advertised, or otherwise described or represented as a feline hybrid by its owner to an Animal Control Officer, Veterinarian, Police Officer, or Official of the Department of Health shall be considered a feline hybrid for the purpose of this chapter. An animal shall not be classified to be a feline hybrid based strictly on its appearance.

Feral Animal means an individual animal of a domesticated species that is not behaviorally compatible with humans, and is therefore not suitable to serve as a pet, companion animal, or work animal. Any feral animal that by physical aspect and behavior are deemed to be un-owned and have been trapped for the purpose of improving public health and limiting reproduction.

Grooming parlor means any establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetological services for profit.

Heat, Estrus or Season means a regularly recurring state of estrus during which the female animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

Immediate control means direct physical control over an animal by the owner/responsible party by use of:

1. A secure collar or harness and leash for a dog; or
2. A secure leash in conjunction with a properly fitting harness for a cat or ferret; or
3. A secure and appropriate portable animal crate or cage for any animal.

Household means one or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel.

Kennel area means a secure space within which an animal is housed that is of sufficient height and strength to contain the animal within and provide sufficient room for the animal to comfortably move around within the structure.

Kennel, commercial means any premises on which a total of five or more dogs or cats, in any combination thereof, four months of age or older are kept; and/or where the business of buying, selling, breeding, training or boarding of dogs and/or cats is conducted.

Licensed veterinarian means a person with a Doctor of Veterinary Medicine degree, licensed to practice in the State of New Mexico.

Livestock means horses, cattle, pigs, sheep, goats, fowl, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined by the city manager as agricultural.

Owner/responsible party means a person 18 years of age or older or the parent or guardian of a person under 18 years of age who owns, harbors, keeps an animal, has one in his/her care, or permits an animal to remain on or about the premises owned or controlled by him/her.

Pet means any domesticated animal kept as a companion animal, and not intended to be used for farming or human consumption. Livestock shall not be considered a pet even if kept as a companion animal and not used for farming or human consumption.

Pet shop or dealer means any commercial establishment or person, including wholesalers engaged in the business of buying and selling or holding pet animals for sale. This term shall not include livestock auctions.

Potable water means water that can be consumed without concern for adverse health effects.

Premises means a parcel of land and/or the structure(s) thereon.

Public nuisance means a situation where an animal owner fails to prevent its animal from urinating, defecating, disturbing the peace, emitting noxious odors or otherwise endangering or offending the well-being of the inhabitants of the City while:

- (1) Trespassing on school grounds, public or private property;
- (2) Being found running at large;
- (3) Damaging private or public property; or
- (4) Barking, whining, or howling in an excessive or continual fashion.

Public Way means an alley, avenue, boulevard, bridge, channel, ditch easement, express freeway, highway, land, parkway, right-of-way, road, sidewalk, street subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

Qualified service animal means:

- A. any qualified service dog or qualified service miniature horse that has been or is being trained to provide assistance to an individual with a disability;
- B. An animal recognized as a service animal under either federal regulations implementing the Americans with Disabilities Act, or NMSA 1978, Chapter 28, Article 11, which is the New Mexico Service Animal Act, and as amended;
- C. A qualified service animal does not include a pet, an emotional support animal, a comfort animal, or a therapy animal as defined in NMSA 1978, Section 28- 11- 2(B) (2013).

Quarantine means detention and isolation of an animal in order to observe the animal suspected of contagion.

Responsible person party for the animal means the owner of the animal, or an adult person placed in charge of the animal in the absence of incapacitation of the owner.

Restraint means any of the following:

1. To be under the immediate control of a capable and competent person on a leash or lead; or
2. To be secured by a trolley system confining the animal within the owner' s premises; or
3. To be secured within an escape -proof enclosure within the owner's premises.

Running at large or to run at large means an animal that is free of physical restraint beyond the boundaries of the premises of the owner/responsible party.

Tether means to restrain an animal by means of a runner cable or similar device attached to a running line, pulley or trolley system.

Tormenting of animals means the act of bothering, annoying, distracting or agitating an animal.

Un-weaned means of an infant or other young mammal not accustomed to food other than its mother's milk

Vaccination means the inoculation of an animal with a vaccine administered by a veterinarian for the purpose of immunizing the animal against rabies as required by the State of New Mexico Rabies Control Act of 1959. The amount given should be sufficient to provide immunity from rabies for a minimum of one year.

Veterinary hospital or clinic means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

Vicious animal means any animal which bites or in any other manner attacks or attempts to attack any person or animal within the City, except that any animal that bites, attacks, or attempts to attack any person unlawfully upon its owner's or keeper's premises, or which is provoked to attack, shall not be deemed a vicious animal.

(Code 1962, § 6-2-2; Ord. No. 384, § 6-2-2, 7-22-91; Ord. No. 400, § 1, 10-26-92; Ord. No. 436, § 2, 5-13-96; Ord. No. 532, § 2, 10-14-03; Ord. No. 608, § 1, 8-30-11; Ord. No. 659(1), § 1, 1-13-15)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 3-4. - Service animals.

(a) A person with a disability who is using a qualified service animal, as defined by the American Disability Act (ADA), shall be admitted to any building open to the public and to all other public accommodations and shall be allowed access to all common carriers; provided that the qualified service animal is under the control of an owner, a trainer or a handler of the qualified service animal. A person shall not deny an individual with a qualified service animal entry to a building open to the public or to any public accommodation or deny access to a common carrier, regardless of any policy of denying pets entry to that building, public accommodation or common carrier. A person shall not be required to pay any additional charges for the qualified service animal, but may be liable for any damage done by the qualified service animal; provided that persons without disabilities would be liable for similar damage; and

(b) This section does not require a public accommodation or common carrier to permit an owner, trainer or handler using a qualified service animal to have access to a public accommodation or common carrier in circumstances in which the individual's use of the qualified service animal poses a direct threat of significant harm to the health or safety of others.

Credits L. 1989, Ch. 242, § 2; L. 1999, Ch. 262, § 2; L. 1999, Ch. 288, § 2; L. 2005, Ch. 224, § 3, eff. June 17, 2005; L. 2013, Ch. 57, § 3, eff. June 14, 2013.

§ 28-11-3. Admittance of qualified assistance animals, State of New Mexico

(Code 1962, § 6-2-23; Ord. No. 659(1), § 1, 1-13-15)

Editor's note— Section 1 of Ord. No. 659, adopted Jan. 13, 2015, changed the title of § 3-4 from "Dogs trained to assist the blind and hearing impaired allowed in public places" to read as herein set out.

Sec. 3-5. - Cruelty.

- (a) **Physical abuse.** It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn, or scald any animal; except that reasonable force may be employed to drive off vicious or trespassing animals. When a Law Enforcement Officer or an Animal Control Officer has probable cause to believe that an animal has been cruelly treated, the officer may impound the animal for its protection pending appropriate court proceedings.
- (b) **Work cruelty.** It is unlawful for any person to drive or work any animal cruelly.
- (c) **Animal in a Vehicle.** It shall be unlawful for any owner/responsible party to place or confine an animal in a motor vehicle without allowing cross-ventilation and under no circumstance shall a person confine any animal in any parked, closed vehicle on any public way or private street for any amount of time that would endanger, or create an adverse condition placing at risk the health or well-being of such animal due to temperature, lack of food or potable water or such other conditions as may be reasonably expected that may cause suffering, disability or death. Any animal control or law enforcement officer observing an animal kept in violation of this Section may take emergency measures, as defined by the definitions of this article and impound the animal. In addition to all other defenses and immunities provided by law, any such officer taking emergency measures for the purpose of this Section shall be immune from suit or liability, criminal or civil, caused by or arising from the emergency measures taken.
- (d) **Care and maintenance.** It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with:
 - (1) **Adequate Food.**
 - (2) **Adequate Water.**
 - (3) **Adequate Shelter.**
 - (4) **Adequate Shade.**
 - (5) **Adequate space**
- (e) No animal shall be left unattended for more than 24 hours.
- (f) No owner or responsible party shall fail to provide necessary grooming of the coat in order to prevent matting, skin irritation, distress or pain, trapping of fecal matter, and loss of the ability to protect the animal from adverse weather conditions. An animal shall not be so dirty that it becomes matted as to provide a home for parasites and insects. No animal shall be allowed to have a foreign object embedded in its hide, fur or skin other than a microchip or a medical device implanted by a licensed veterinarian.
- (g) **Veterinary care.** It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including suffering from starvation, or severe thirst without providing proper veterinary care. An animal shall be afforded immediate veterinary care if it is known or suspected to be ill or injured. No person shall perform procedures such as ear-cropping, de-barking, tail docking on an animal, or otherwise endanger an animals well-being. Procedures completed by a licensed veterinarian in accordance to their standard practices shall not be considered cruelty.

- (h) **Abandonment.** It shall be unlawful for any person being the owner/responsible party of a dog, cat, or other domesticated animal or pet to abandon such animal. Abandonment includes dumping of an animal from a moving or stationary motor vehicle. This section shall not apply to voluntary relinquishments to an animal rescue organization, animal control center, animal control officer, licensed veterinarian, or another person.
- (i) **Poisoning.** It is unlawful for any person to intentionally or knowingly poison, or attempts to poison any domestic animal. For purposes of this section, "poison" or "attempt to poison" includes the act of placing food, water, or lure of another sort which contains poison or contains health threatening foreign objects, such as glass or metal, in a location where any animal may be attracted.
- (j) **Uncared-for animals.** Whenever the animal control officer, Code Enforcement Officer, or designated representative finds that any animal is or will be without proper care because of injury, illness, incarceration, or other involuntary absence of the owner or ~~person~~-responsible party for the care of such animal, the Animal Control Officer shall make arrangements for the care of the animal.
- (k) **Injury by motorists.** Every operator of a motor or other self-propelled vehicle upon the streets and ways of the City shall immediately, upon injuring, striking, maiming, or running down any animal, give such aid as is reasonably able to be rendered. In the absence of the owner, he/she shall immediately notify the Police, furnishing sufficient facts relative to such injury. It is the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive and, upon the arrival of such person, such operator shall immediately identify themselves to the appropriate authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital or the Animal Shelter and notifying the Police. Such animal shall be deemed an uncared-for animal within the meaning of subsection (j) of this section. Emergency vehicles are excluded from this provision.
- (l) **Hobbling livestock.** It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal.
- (m) **Keeping of diseased animals.** It is unlawful for any person to have, keep, or harbor any animal which is infected with any dangerous disease. The Animal Control Officer may impound such diseased animal in accordance with the provisions of this article. All such animals impounded may be destroyed humanely as soon as is conveniently possible. In the case of destruction of such animal, the Animal Control Officer or designee shall not be required to give any of the notices provided in this article. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.
- (n) **Fights.** It is unlawful for any person to promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, or fight, or combat between one (1) or more animals or between animals and humans in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal. This includes any animal used as a "Bait Animal" as defined in the definitions of this ordinance.
- (o) **Fowl; impounding; crating.** It is unlawful for any person to confine any wild or domestic fowl or birds unless provisions are made by each person for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than 12 hours. No person shall impound any wild or domestic fowl or birds in a crate, box or other enclosure, which does not permit each fowl or bird impounded therein to stand in a naturally erect position.

(p) **Tormenting.** It shall be unlawful for any person to willfully torment any and all animals by any means, such as throwing rocks, yelling or giving chase in any manner. No person shall purposely cause a dog to bark unnecessarily or annoy such animal to the point the animal will attempt to attack a person or other animal.

(q) Songbirds, killing and robbing of nest prohibited. It is unlawful for any person to willfully kill any songbird, or to molest or rob the nest of such bird.

(Code 1962, § 6-2-24; Ord. No. 384, § 6-2-24, 7-22-91; Ord. No. 436, § 3, 5-13-96; Ord. No. 659(1), § 1, 1-13-15)

State Law reference— Cruelty to animals, NMSA 1978, § 30-18-1.

Sec. 3-6. - Sale.

(a) **Use of public property.** No person shall display, sell, or offer for sale, barter, give away, or otherwise dispose of any animal upon any street, sidewalk, public park or private business, unless said private business is properly licensed or such person is acting on behalf of the Truth or Consequences Animal Shelter during an adoption event.

(b) **Rabbits or fowl.** No person shall sell, offer for sale, barter, or give away any baby rabbits under four weeks of age. Nothing in this section shall be construed to prohibit the raising of rabbits and fowl by a private individual for his personal use and consumption, provided that he shall maintain proper brooders and other facilities for the care and containment of such animals while they are in his possession.

(c) **Premiums and novelties.** No person shall offer as a premium prize, award, novelty, or incentive to purchase merchandise any live animal.

(d) **Turtles.** No person shall offer for sale, sell, barter, or give away turtles, except in conformance with appropriate federal regulations.

(e) **Sale of un-weaned animals.** A person shall not sell, offer for sale, transfer, or adopt a dog, cat, or ferret under eight weeks of age, or a guinea pig, hamster, or rabbit under four weeks of age. However, in no event shall an animal be sold, transferred or adopted until it is fully weaned and capable of eating on its own to sufficiently maintain proper body condition as determined by the breed and species of the animal. Nothing herein shall prohibit the transfer of animals between animal shelters and animal rescue organizations or prohibit the sale, transfer, or adoption of an un-weaned animal if accompanied by a nursing female.

(Code 1962, § 6-2-25; Ord. No. 436, § 4, 5-13-96; Ord. No. 532, § 3, 10-14-03)

Sec. 3-7. - Wild animals prohibited.

(a) No person shall keep an animal of a species prohibited or protected by Title 50 of the Code of Federal Regulations or by the appropriate state regulations or statutes.

(b) No person shall keep any animal which is wild, fierce, dangerous, noxious, or naturally inclined to do harm except where 1) adequate protective devices are provided to prevent such animals from escaping or injuring the public, and 2) a proper license is obtained in accordance with section 3-8. If such requirements are met, they may be kept in a zoological park, pet shop, veterinary hospital, animal shelter, public laboratory, circus, amusement show, educational facility, scientific facility, or in the control of a humane society.

(c) *Wild animals prohibited.* "Wild animal" means any animal of a species that in its natural life is wild, dangerous, or ferocious and though it may be trained and domesticated will remain dangerous to others and may injure or kill a citizen in the City. Those animals, however domesticated, shall include but are not limited to:

- (1) Dog family (canidae). All except domesticated dogs, including wolf, fox, coyote, dingo, etc.
- (2) Cat family (felidae). All except the commonly accepted domesticated cats, including lions, pumas, panthers, mountain lions, wild cats, etc.
- (3) Bears (ursidae). All bears, including grizzly bears, brown bears, black bears, etc.
- (4) Weasels (mustelidae). All, including weasels, martins, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc.
- (5) Porcupine (erethizontidae).
- (6) Venomous snakes.
- (7) Venomous lizards, alligators, and crocodiles.

(Code 1962, § 6-2-26; Ord. No. 384, § 6-2-26, 7-22-91; Ord. No. 436, § 5, 5-13-96)

State Law reference— Sale, purchase, trade and possession of certain animals regulated, NMSA 1978, § 77-18-1.

Sec. 3-8. - Licensing wild animals.

- (a) Any person owning a wild animal covered by this section at the time of enactment of this Chapter may license such animal in accordance with law. A fee set by resolution shall be charged for such licensing through the City.
- (b) For the purpose of humanely trapping wild animals such as skunks and domesticated dogs or cats which may be a menace to the public, the Animal Control Officer may maintain such traps as are constructed for the purpose of trapping a live animal without serious risk of injury to the trapped animal and which may be placed on private property at the request of the owner thereof. Traps shall be baited only inside the trap and shall be checked not less than twice a day by the Animal Control Officer or the property owner requesting the placement of such traps. All such trapping shall be in conformity with state law.

(Ord. No. 384, § 6-2-27, 7-22-91; Ord. No. 436, § 6, 5-13-96)

Sec. 3-8.1. – Multi-Animal Site Permit and Kennel Permit.

- (a) It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit.
- (b) If a business premises is being used for the buying, selling, breeding, training, fostering, rescuing, or boarding of animals, said business shall apply for a kennel permit.

- (c) Animals belonging to visitors who are located within city limits and who stay in a household or lodging establishment longer than 30 days in a calendar year shall be included in the calculation of total animals for said location and the owner of the animal shall be required to comply with all applicable sections contained in this chapter.
- (d) No person shall keep or operate a residential or commercial multi-animal site without a permit issued by the city. All business applicants must have a valid business license issued through the city at the time of application.
- (e) Veterinary hospitals or clinics shall be exempt from the kennel permit licensure requirement of this chapter unless the veterinary hospital or clinic engages in the non-veterinary medical boarding of animals.
- (f) Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit with the police department, describing the location of the site, and the purpose for which it is to be maintained. An initial non-refundable fee, established by resolution, for residential or commercial multi-animal sites must accompany any application to defray the cost of processing the request.
- (g) Upon receipt of payment, the police department shall forward the application to the Planning and Zoning Department. All applications for multi-animal site and kennel permits shall undergo a special use permit process pursuant to the procedure detailed in section 11-5-6 of the City's Planning and Zoning Code.
- (h) An onsite visit of the premises shall occur by the animal control and designated zoning official or administrator prior to a hearing before the City's Planning and Zoning Board to verify compliance with this section and/or other applicable zoning regulations. If any provision of this section is in conflict with the provision of any applicable zoning regulation, the provision of the zoning regulation shall control.
- (i) All animals listed on the application three months of age or over must be vaccinated for rabies and possess a city animal license tag.
- (j) All multi-animal residential or commercial site permits and kennel permits must be renewed annually at a fee established by resolution.
- (k) There shall not be more than seven animals in any combination thereof for multi-animal residential or commercial site permits. The maximum animal occupancy for kennel permits shall be determined based upon the recommendation of the animal control officer or designated zoning official or administrator to ensure there is adequate space and adequate shelter to ensure sanitary and safe conditions.
- (l) An application may be denied if the applicant or animal owner shows a history of noncompliance with sections contained in this chapter as evidenced by two or more convictions of violations during the preceding 12 months. Any past city permit or license revocations may be considered in decision making process of whether to approve or deny a permit under this section.
- (m) Multi-animal site and kennel permit holders shall allow the animal control officer, police officer, designated zoning official or administrator or other city official to enter and inspect the premises for compliance with this section and/or any other city municipal code or ordinances during normal business hours.

(n) A multi-animal site permit or kennel permit may be revoked when, in the opinion of the designated zoning official or administrator or animal control officer, any one or more the following conditions exist:

(1) The premises or enclosures are not maintained in a clean, safe, and sanitary condition and are a health, fire, or public safety hazard or produce noxious odors.

(2) The number of animals exceeds the number allowed under the permit.

(3) Any other violation listed under this chapter or sections.

(o) In cases where a multi-animal site permit or kennel permit is revoked, the permittee shall be notified in writing via the mailing address listed on their permit application. The revocation letter shall state the reasons said permit has been revoked and the option to file a written appeal with the City Manager or their designee within ten business days of the date listed on the revocation letter. Written appeals shall be hand delivered to City Clerk's Office within the allotted timeframe. The City Manager or their designee may review the appeal and reverse the decision, modify the decision, or deny the appeal and upheld the initial revocation.

(p) If a multi-animal site permit or kennel permit has been revoked, said applicant and/or location of where the permit was issued shall not be allowed to apply or obtain another permit within city limits for a period of at least two years from the date of revocation.

(Ord. No. 395, § 1, 10-26-92; Ord. No. 436, § 7, 5-13-96; Ord. No. 532, § 4, 10-14-03; Ord. No. 609, § 1, 8-30-11; Ord. No. 659(1), § 1, 1-13-15)

Sec. 3-8.2. Sterilization Agreement/deposit for Spaying and neutering of dogs and cats.

(a) It is the intent of the City for all dogs and cats over the age of 6 months to be spayed/neutered. Therefore, no cat or dog shall be released from the animal shelter to an adopting person unless it has been spayed/neutered or a sterilization agreement has been signed and a sterilization deposit set by resolution has been paid.

(b) The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized within 30 days of the date of adoption for cats/dogs over the age of six months or by 6 months of age for kittens and puppies.

(c) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the sterilization deposit and impoundment/boarding fees imposed by the shelter and set by resolution, and the owner shall sign an agreement stating he/she will sterilize the animal within 30 days after release or will obtain a breeder permit or its equivalent. The sterilization deposit may be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized within 30 days of release.

(NM Stat § 77-1-20 (2019) History: Laws 1993, ch. 43, § 3

(Ord. No. 393, § 1, 8-24-92; Ord. No. 532, § 5, 10-14-03; Ord. No. 610, § 1, 8-30-11)

Sec. 3-8.3. Female dogs or cats in Estrus (heat) to be confined.

It shall be unlawful for any owner/responsible party to fail to securely confine any un-spayed animal in the state of estrus (heat), in a house, building or proper enclosure, in such a manner that such animal cannot come in contact with another animal except for planned breeding, and such that the animal does not create a nuisance by attracting other animals. When outside on the property of the owner, for metabolic waste elimination, the animal must be physically restrained with a hand-held leash.

Owners/responsible party who do not comply may be ordered to remove the animals in estrus (heat) to a boarding kennel, veterinary hospital or animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner/responsible party of the animal. Failure to comply with the removal order shall be a violation of this Section and the animal shall then be impounded as prescribed in this Title.

(Ord. No. 436, § 8, 5-13-96)

Sec. 3-9. – Enforcement and Interference with Enforcement.

- (a) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by the City Manager.
- (b) It shall be a violation of this chapter for any person to interfere, hinder or molest any Animal Control Officer or Police Officer in the performance of their duties.

(Ord. No. 384, § 6-2-28, 7-22-91; Ord. No. 436, § 9, 5-13-96; Ord. No. 532, § 6, 10-14-03; Ord. No. 611, § 1, 8-30-11)

Sec. 3-10. - Reserved.

Editor's note— Section 1 of Ord. No. 612, adopted Aug. 30, 2011, repealed § 3-10, which pertained to fines and fees and derived from Ord. No. 384, § 6, adopted July 22, 1991; Ord. No. 436, § 10, adopted May 13, 1996; and Ord. No. 532, § 7, adopted Oct. 14, 2003.

Sec. 3-11. - Penalty for violation of chapter.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with section 1-10, with each conviction carrying a mandatory minimum fine of \$100.00.

(Code 1962, § 6-2-30; Ord. No. 384, § 6-2-30, 7-22-91; Ord. No. 394, § 1, 8-24-92; Ord. No. 436, § 11, 5-13-96; Ord. No. 532, § 8, 10-14-03; Ord. No. 613, § 1, 8-30-11)

Sec. 3-12 Deceased Animal Disposal Requirements.

A. Owner responsibility – The owner / responsible party having care, custody or control of an animal carcass shall be responsible for its removal within twenty-four (24) hours of death if the animal is not to be used for human consumption.

1) An animal carcass may be disposed of in one of the following ways:

a. Burial of the animal carcass on the owners land under the following conditions:

- The bottom of the burial pit must be at least 3 ft. above the water table.
- If possible, choose a site where the soil is heavier and less permeable.
- Flat areas are best. Avoid areas sloping toward water or arroyos.
- Ensure the pit is sized to allow soil to cover mortalities to a depth of at least 3 ft.

b. Cremation by a licensed facility where the remains can be sealed in an acceptable urn for return to the animal owner or disposed of by the facility.

- The cremation of the carcass will be at the expense of the animal owner.

B. Removal - The Animal Control Officer may remove any animal carcass from the roadway or other public property. The Animal Control Officer and/or T or C Animal Shelter staff shall make reasonable efforts to notify the animal's owner if known in the event of the animal's death.

1) Animal Control Officer may dispose of the animal carcass at the T or C Animal Shelter as authorized after microchip scanning and making reasonable efforts to notify the animal's owner. If an owner is located and request that the Animal Shelter dispose of the carcass, then the owner/responsible party will be responsible for the disposal fee.

2) Animal Control Officer shall turn over any tags or other identification found on an animal carcass to the T or C Animal Shelter.

C. Removal fee - The Animal Control Officer may, but is not obligated to, provide for the removal of an animal carcass from private property at the request of the animal owner or property owner for a fee.

1) The fee amount shall be established by resolution or

2) The fee amount shall be established by most current rate schedule as provided by the current licensed facility, contracted with the City of Truth or Consequences, for cremation services.

a. This fee schedule is based on the weight of the carcass.

Secs. 3-13 - 3-25. - Reserved.

ARTICLE II. - CONTROL

DIVISION 1. - GENERALLY

Sec. 3-26. - Authority of Animal Control Officers.

(a) The office of animal control officer is hereby created. The chief of police will assign that duty as needed. The animal control officer shall be charged with all duties pertaining to the enforcement of ordinances regulating or controlling animals and fowl within the corporate limits of the city or in areas of other areas of jurisdiction as specified in agreements with other entities.

(b) An Animal Control Officer shall wear a uniform and shall wear a badge identifying such officer as an animal control officer.

(c) It shall be the duty of the animal control officer to take up and impound any animal or fowl authorized to be impounded by this Code or by other ordinances within the specified agreements with other entities.

(d) It shall be the duty of the animal control officer to investigate all reported violations of animal control ordinances and to attempt, when appropriate, to solve such problems through conferences and issuance of citations or complaints filed with the appropriate court.

(Code 1962, § 6-2-4; Ord. No. 436, § 12, 5-13-96; Ord. No. 532, § 9, 10-14-03)

State Law reference— Municipal authority to designate animal control officer, NMSA 1978, § 77-1-15.1B.

Sec. 3-27. - Establishment of Animal Shelter.

There is hereby established an Animal Shelter which shall be located at a location designed by the Commission.

(Code 1962, § 6-2-5)

Sec. 3-28. - Animal Shelter, hours of business.

The Animal Shelter of the City of Truth or Consequences shall be kept open to the general public for the transaction of business during the hours set by the City Manager.

(Code 1962, § 6-2-6; Ord. No. 436, § 13, 5-1-3-96)

Sec. 3-29. - Impoundment.

It is the duty of the Animal Control Officer to take up and impound in the Animal Shelter any stray or any animal kept or maintained contrary to this chapter, including any animal that is allegedly creating a public nuisance.

(Code 1962, § 6-2-7; Ord. No. 384, § 6-2-7, 7-22-91)

State Law reference— Municipal authority to impound and dispose of animals running at large, NMSA 1978, § 3-18-3A(3).

Sec. 3-30. - Impounding strays; records; redemption fees; notice.

- (a) No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of such animal to the animal control officer, giving his/her name and address, a true and complete statement of the circumstances under which the animal was taken, and the location where such animal is confined.
- (b) It is unlawful for any person taking up an animal to fail to give the notice required in subsection (a) of this section and for any person having such animal in his/her possession to fail or refuse to immediately surrender such animal to the Animal Control Officer upon demand thereof.
- (c) If a stray animal is wearing a license or other identification, it shall be returned to the owner and a citation may be issued. If a stray animal is not wearing a license or other identification, the animal shall be confined for a 72-hour period at the Animal Shelter. The Animal Shelter may dispose of stray animals impounded under this section according to their policies and procedures the day after the required impoundment period.
- (d) No dog or cat that has been impounded by the Animal Shelter will be sold for the purpose of breeding or resale.
- (e) An animal which continues to be an alleged nuisance may be impounded by the Animal Control

Officer until such time as a judgment is made by the Municipal Court.

- (f) Animals confined/impounded to the Animal Shelter may be released to the rightful owner or designee after all applicable fees have been paid. Owner shall bear the cost of any expenditure while animal is confined including veterinary services.
- (g) Reserved.
- (h) Fines for violations of this article shall be in accordance with the provisions of section 1-10. In addition, upon a finding of guilt, the City may request that the Municipal Court shall order a defendant to reimburse the Animal Control Shelter or Police Department for any costs associated with apprehending and/or impounding the animal.

(Code 1962, § 6-2-8; Ord. No. 384, § 6-2-8, 7-22-91; Ord. No. 436, § 14, 5-13-96; Ord. No. 614, § 1, 8-30-11)

Sec. 3-31. - Restraint of animals.

- (a) Physical restraint - A person owning or having charge, custody, or care over an animal shall keep the animal under humane physical restraint at all times.
- (b) Dragging; hobbling - A person shall not hobble an animal, or tether or attach any animal to any object that can be dragged or moved by the animal. Such an animal, if not otherwise restrained by immediate control or enclosure, shall be considered by the animal control officer to be unrestrained. This shall not apply to livestock animals being properly used for work purposes.
- (c) Owner's premises - A person owning or having care, custody, or control over an animal on his or her premises shall restrain the animal either by a secure enclosure or by immediate control.
- (1) All pens, kennels, stalls, corrals, or other enclosures used to restrain an animal shall be continuously maintained with preservatives, fasteners, and other materials to prevent deterioration and animal escape. Substantial and acceptable locking or latching devices shall be installed on all gates and doors to animal enclosures in such a manner as to be inaccessible to animals and small children in order to prevent animal escape and unauthorized entry.
- (2) A person owning or having care, custody, or control over an animal on his or her premises may use a tether as a means of restraint only if:
 - a. The tethered animal has access to adequate food, water, shade and shelter
 - b. A tether used to restrain a dog shall be at least 12 feet in length. Such tether shall not enable the animal to reach beyond the owner's property.
 - c. A tether used to restrain an animal shall be affixed to a properly fitting collar or harness worn by the animal. A person shall not wrap a chain or tether directly around the neck or other body part of the animal.
 - d. A tether used to restrain an animal shall be fastened so that the animal may sit, walk, and lie down using natural motions. Such tether shall be unobstructed by objects that may cause the tether or animal to become entangled, strangled or denied access to adequate necessities.

(3) Voice commands are not an acceptable form of restraint.

(d) Public premises - A person owning or having care, custody, or control over an animal off of his or her premises shall keep the animal under immediate control.

(1) While restrained off premises under the immediate control of the owner or responsible party, the animal must be on a leash that shall enable the handler to maintain control of the animal. The leash shall not exceed six (6) feet in length while the animal is in and around the inhabitants of the city.

(2) A person shall not carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in an open flatbed vehicle shall be crated or restrained upon a non-slick surface and in a manner that prevents the animal from falling out of the vehicle. At no time is an animal allowed to sit or stand in the drivers lap while the vehicle is being operated on any public roadway.

(3) A person in charge of an amphibian or reptile away from the owner's premises shall keep the animal secured within a closed container that will not expose people unexpectedly to the animal.

(4) Voice commands are not an acceptable form of restraint.

(e) Property of others - A person owning or having care, custody, or control over an animal shall not detain or restrain an animal upon another person's private property without having permission from the resident or owner of such property.

(1) If the resident or owner does not permit the animal being detained or restrained upon such property, the animal may be taken up and impounded by the animal control officer at the request of the resident or owner.

(2) If the owner of a rented or leased property does not approve of an animal being restrained or detained by the resident on such property, the dispute shall be regarded by the animal control officer as a civil matter.

(f) Multiple dwelling unit - An owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, shall not permit or authorize any animal to be unrestrained upon the common areas of the multiple dwelling unit, except upon such areas and within such enclosures specifically designated for such activity.

(g) Exceptions

(1) A working dog that is under the control and supervision of the owner or handler performing such acts as herding, search and rescue, or police work shall not be considered as unrestrained while performing or being trained for such duties.

(2) A hunting, tracking, or show dog that is under the control and supervision of the owner or handler shall not be considered as unrestrained while performing in or being trained for those capacities.

Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court.

(Code 1962, § 6-2-12; Ord. No. 384, § 6-2-12, 7-22-91; Ord. No. 436, § 15, 5-13-96; Ord. No. 615, § 1, 8-30-11)

Sec. 3-32. - Breaking into Animal Control Center, animal control vehicle.

It is unlawful for any person to break open any pound, center, trap, or animal control vehicle wherein animals are impounded by the Animal Control Officer of the City, or in any other way to remove or assist in the removal of any animal from such pound, center, trap, or vehicle without lawful permission.

(Code 1962, § 6-2-22)

Sec. 3-33. - Seizure of Animals Notice.

- (a) An Animal Control Officer, or designee who reasonably believes that the life or health of an animal to include livestock is endangered due to cruel treatment may apply to the municipal court in the city where the animal is located for a warrant to seize the animal.
- (b) If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within 10 business days unless good cause is demonstrated by the city for a later time and such extension is approved by the municipal court judge.
- (c) Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.
- (d) If the owner of the animal cannot be determined or cannot be located, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.
- (e) At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice if approved by the municipal court judge.
- (f) If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

NM Stat § 30-18-1.1 (1996 through 1st Sess 50th Legis)

Sec. 3-34 Disposition of Seized Animals

- (a) If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

- (b) If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.
- (c) An animal control agency operated by the municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.
- (d) The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay and may conduct periodic reviews of its order. If the posting of security is ordered, the animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.
- (e) If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, animal shelter or animal welfare organization for adoption or humane destruction
- (f) Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed cruelty to animals.
- (g) Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.
- (h) As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

NM Stat § 30-18-1.2 (1996 through 1st Sess 50th Legis)

Sec. 3-35 Costs of Seized Animals

- (a) Upon conviction, a defendant shall be liable for the reasonable cost of boarding the animal and all necessary veterinary examinations and care provided to the animal. The amount of these costs shall be offset by the security posted pursuant to Section 3-36. Unexpended security funds shall be returned to the owner.

- (b) In the absence of a conviction, the seizing agency shall bear the costs of boarding the animal and all necessary veterinary examinations and care of the animal during the pendency of the proceedings, return the animal, if not previously relinquished, and all of the security posted pursuant to Section 3-36.

NM Stat § 30-18-1.3 (1996 through 1st Sess 50th Legis)

Secs. 3-36 - 3-50. - Reserved.

DIVISION 2. - RABIES^[2]

Footnotes:

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Cross reference— Health and sanitation, ch. 6.

Sec. 3-51. - Vaccinations.

- (a) It is the duty of all persons owning or keeping a cat or a dog or any member of the canine family over the age of three months to have such animals vaccinated against rabies. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for three years and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination. The Commission may require other animals to receive annual rabies vaccination.
- (b) The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated the date of vaccination, and the expiration date of the period of immunity.
- (c) It is unlawful for the owner or keeper of any dog, cat, or any other members of the canine or feline family to fail to exhibit its certificate of vaccination upon demand to any police officer or animal control officer.
- (d) It is the duty of all persons who adopt a dog to have such dog vaccinated against rabies, distemper complex, and parvo virus within 48 hours of adoption. It is the duty of all persons who adopt a cat to have such cat vaccinated against rabies and feline distemper complex within 48 hours of adoption.
- (e) Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court.

(Code 1962, § 6-2-9; Ord. No. 527, §§ 1, 2, 7-14-03)

State Law reference— Vaccination of dogs and cats against rabies, NMSA 1978, § 77-1-3.

Sec. 3-52. - Confinement of rabid animal.

An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall be confined at once in a secure place by the owner. A person who knows or who has reason to know that an animal is infected with rabies or has been exposed to rabies shall immediately upon learning of this notify the Animal Control Officer as to the place where the animal is confined and shall surrender the animal to the Animal Control Officer upon demand. The Animal Control Officer shall then deal with the rabid animal pursuant to state law. (Code 1962, § 6-2-10)

Sec. 3-53. - Biting dogs or other biting animals.

- (a) The owner of an animal that bites a person and a person bitten by an animal have a duty to report that occurrence to the Animal Control Officer within 24 hours. The owner of an animal that bites a person shall surrender the animal to an Animal Control Officer to impound such animal for a period of observation.
- (b) A physician who renders professional treatment to a person bitten by an animal shall report the fact that he/she has rendered professional treatment to ~~the Chief of Police~~ or an Animal Control Officer within 24 hours of his/her first professional attendance. The physician shall report the name, sex, and address of the person bitten as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite and other facts that may assist the Animal Control Officer in ascertaining the immunization status of the animal.
- (c) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the Animal Control Officer. The owner of the animal shall bear the cost of confinement.
- (d) A person who has custody of an animal that has bitten a person shall immediately notify the Animal Control Officer.

(Code 1962, § 6-2-11; Ord. No. 384, § 6-2-11, 7-22-91; Ord. No. 436, § 16, 5-13-96; Ord. No. 616, § 1, 8-30-11)

State Law reference— Notice to health officer of animal bites, NMSA 1978, § 77-1-6.

Secs. 3-54—3-70. - Reserved.

DIVISION 3. - LICENSING

Sec. 3-71. - License required.

- (a) Any person owning, possessing or harboring any dog or cat three months of age or over shall obtain a license for each animal. Application for such license shall be made as directed and shall state the name and address of the owner, the name, breed, color, age and sex of such animal and any other information deemed necessary. A current rabies vaccination certificate shall be presented at the time of application for the license. Upon payment of the license fee, as prescribed in subsection (d) of this section, a license certificate and tag for each animal shall be issued. If the tag is lost, replacement tags with a cost set by resolution shall be purchased. The license shall expire on the same date as the rabies certificate or one year whichever is greater.

- (b) A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, is appearing in an approved show, or is being trained. Provided that the person that is training the dog shall have in his personal possession the valid license tag for each dog or cat and shall immediately display such upon request of the Animal Control Officer or a regular law enforcement officer.
- (c) Animals belonging to nonresidents who do not keep said animals within the corporate limits of the city for 30 consecutive days shall be exempt from this section, provided, however, that all other provisions of this division be complied with.
- (d) The annual license fee shall be set by resolution for each neutered or spayed dog or cat. The annual license fee shall be set by resolution for each unneutered or un-spayed dog or cat. No fee shall be charged for the licensure of qualified service animals that are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons. A fee shall be charged for each dog or cat that has not been spayed or neutered, unless the owner presents a signed statement from a licensed veterinarian stating that spaying or neutering would be a surgical risk for the animal, due to the animal's age or condition.
- (e) Within 5 business days upon change of ownership of any dog or cat, the new owner shall apply for a new license with their personal identifying information.

(Code 1962, § 6-2-14; Ord. No. 384, § 6-2-14, 7-22-91; Ord. No. 436, § 17, 5-13-96; Ord. No. 564, § 1, 11-14-06; Ord. No. 659(1), § 1, 1-13-15)

State Law reference— Municipal authority to require licensing of dogs, NMSA 1978, § 77-1-15.1.

Sec. 3-72. - Unlawful use of license tag.

It is unlawful for any person to remove any license tag from one dog or cat to another. It shall be unlawful for any person to manufacture, cause to be manufactured, or to have in his possession or under his control a stolen, counterfeit, or forged license tag, rabies vaccination certificate, or other form of licensing as required under this division.

(Code 1962, § 6-2-21)

(Ord. No. 564, § 1, 11-14-06)

Secs. 3-373- 3-90. - Reserved.

DIVISION 4. - AT LARGE, VICIOUS, NUISANCE

Sec. 3-91. - Running at large.

(a) It is unlawful for any person to allow or permit any animal to run at large in public or on any public street, public alley, public sidewalk, private or public vacant lot, or private property without the permission of the owner thereof. Any animal permitted to run at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and shall be taken up and impounded as provided in section 3-30.

(b) Each animal cited as a violation under this section is considered a separate offense. Upon a second conviction of an offense under this section, an offender may be sentenced to imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum of \$100.00 per offense. Upon a third or subsequent conviction of an offense under this section, an offender may be sentenced to

imprisonment of up to 90 days at the discretion of the court. The offender shall be fined a minimum \$250.00 per offense. The fine penalties imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement by the court

(Code 1962, § 6-2-15)

State Law reference— Municipal authority to make provision for the seizure of dogs and cats running at large, NMSA 1978, § 77-1-12

~~(Code 1962, § 6-2-16)~~

Sec. 3-392 - 3-93. - Reserved.

Editor's note— Ord. No. 436, § 18, adopted May 13, 1996, repealed § 3-93, which pertained to unenclosed premises and derived from Code 1962, § 6-2-17.

Sec. 3-94. - Vicious animals.

It is unlawful for any person to keep or harbor a vicious animal in the City. Any person attacked by a vicious animal may use necessary force to repel said attack. After a judicial determination that an animal is vicious, the owner or keeper of such vicious animal shall turn such animal over to the Animal Control Officer, who shall destroy it humanely.

(Code 1962, § 6-2-18; Ord. No. 505, § 1, 2-11-02; Ord. No. 621, § 1, 11-22-11)

State Law reference— Vicious animals, NMSA 1978, § 77-1-10.

Sec. 3-95. - Disturbing the peace.

It is unlawful for a person owning or having the care, custody or control of an animal to permit that animal to howl, bark or create noise which disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity. It shall be a violation of this section if the howling, barking or noise is frequent or long continued; is audible beyond the property line of the premises on which the animal is located.

(Code 1962, § 6-2-19; Ord. No. 617, § 1, 8-30-11; Ord. No. 659(2), § 1, 1-13-15)

Cross reference— Offenses relating to public order and safety, § 8-31 et seq.

Sec. 3-96. - Public nuisance.

- a. Property damage; nuisance. A person owning or having care, custody, or control over an animal shall prevent the animal from causing damage or being a nuisance to the person or property of another.
- b. Pet Waste. A person owning or having care, custody, or control over a pet such as a dog or cat shall dispose of the waste from the animal in a watertight and fly tight receptacle, which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard by noxious or offensive odors.
- c. Public defecation. A person owning or having care, custody, or control over an animal shall not permit the animal to defecate on public property or the property of another unless such animal waste is immediately removed and properly disposed of.
- d. Feeding animals running at large. A person shall not feed an animal running at large

It is unlawful for the owner of any animal to be in violation of the public nuisance definition and such violation will be punished in accordance with section 1-10.

(Code 1962, § 6-2-20; Ord. No. 436, § 19, 5-13-96; Ord. No. 618, § 1, 8-30-11)

Editor's note— Section 1 of Ord. No. 618, adopted Aug. 30, 2011, changed the title of § 3-96 from "Nuisances on sidewalks, public parks, alleys" to "Public nuisance."

Sec. 3-97. - Dangerous and potentially dangerous dogs.

(a) *Short title.* This section may be known, and will be cited, as the "Dangerous Dog Ordinance".

(b) *Findings and intent.*

- (1) Every year innocent people, predominantly children, are injured and sometimes killed as a result of the actions of dangerous dogs.
- (2) No person has an absolute right to keep or harbor a dangerous or potentially dangerous dog within the City.
- (3) This section will protect the inhabitants of the City.
- (4) This section will provide for the proper registration and tracking of dangerous or potentially dangerous dogs within the City.
- (5) This section will assist in providing control over dangerous and potentially dangerous dogs.

(c) *Definitions.*

Animal control authority: The Animal Shelter and Animal Control Officer(s) of the Police Department of the City is charged with addressing animal control issues within the City.

Dangerous dog: A dog that caused a serious injury to a person or domestic animal.

Owner: A person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of 18, that person's parent or guardian.

Potentially dangerous dog: A dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:

- (1) Causing an injury to a person or domestic animal that is less severe than a serious injury; or
- (2) Chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or
- (3) Acting in a highly aggressively manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure.

Proper enclosure: Secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or other affixing the animal to a stationary object.

Serious injury: A physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

(d) *Exceptions.* A dog will not be declared a dangerous or potentially dangerous dog if:

- (1) The dog is used by a law enforcement official for legitimate law enforcement purposes; or

- (2) The threat, injury or damage sustained by a person or domestic animal is the result of the person or domestic animal:
 - a. Trespassing upon premises occupied by the owner or the dog; or
 - b. Provoking, tormenting, abusing or assaulting the dog, or in the past has repeatedly provoked, tormented, abused or assaulted the dog; or
 - c. Committing, or attempting to commit, a crime; or
- (3) The dog was:
 - a. Responding to pain or injury; or
 - b. Protecting itself or its offspring; or
 - c. Protecting or defending a human being or domestic animal from attack or assault.

(e) *Seizure of dog—Petition to court of competent jurisdiction.*

- (1) If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- (2) If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.
- (3) After seizure, the animal control authority will impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of subsection (e) of this section.
- (4) After seizure:
 - a. The owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to subsection (e) of this section; or
 - b. The animal control authority may, within 14 days after seizure of the dog, bring a petition in a court of competent jurisdiction seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within 30 days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to the owner.
- (5) If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within 14 days of seizure of the dog, the court shall immediately order the release of the dog to its owner.
- (6) If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.
- (7) A determination that a dog is not dangerous or potentially dangerous shall not prevent the

animal control authority from making a subsequent application for seizure based on the dog's subsequent behaviors.

(f) *Dangerous and potentially dangerous dogs—Registration required.*

- (1) Upon application, an animal control authority shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner establishes that:
 - a. The owner is able to keep the dog under control at all times; and
 - b. A license, if applicable, has been issued pursuant to the requirements of the City; and
 - c. The dog has a current rabies vaccination; and
 - d. The owner has a proper enclosure to the dog; and
 - e. The owner has paid an annual fee set by resolution to register a dangerous or potentially dangerous dog.; and
 - f. The dog has been spayed or neutered; and
 - g. The dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
 - h. The owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.
- (2) If a dog previously determined to be dangerous or potentially dangerous has not exhibited any of the behaviors specified in this section for 36 consecutive months, the owner may request the animal control authority in the City to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.
- (3) An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of subsection (e)(1) of this section, establishes that:
 - a. The owner has paid an annual fee set by resolution, as established by the animal control authority to register a dangerous dog; and
 - b. The owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable; and
 - c. The dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination; and
 - d. When the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times; and
 - e. The dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and
 - f. A clearly visible warning sign with a conspicuous warning symbol indicate there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from 50 feet, whichever is less.
- (4) An animal control authority may order the immediate impoundment or humane destruction

of a dog previously determined to be a dangerous dog if the owner fails to comply with the conditions for registration, confinement or handling set forth in this section.

(g) *Prohibited acts.*

- (1) It is unlawful for an owner of a dangerous or potentially dangerous dog to:
 - a. Keep the dog without a valid certificate of registration; or
 - b. Violate the registration and handling requirements for the dog; or
 - c. Fail to notify the animal control authority immediately upon:
 1. The escape of the dog; or
 2. An attack by the dog upon a human being or a domestic animal;
 - d. Fail to notify the animal control authority of the dog's death within five business days; or
 - e. Fail to notify the animal control authority within 24 hours if the dog has been sold or given away and to provide the name, address and telephone number of the new owner of the dog; or
 - f. Fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case where there is reason to believe that the dog poses an imminent threat to public safety; or
 - g. Fail to comply with special handling or case requirements for the dog that a court has ordered.
- (2) Whoever violates a provision of subsection (g)(1) shall be charged in the Municipal Court in which the animal is located with a violation of the Dangerous Dog Ordinance, and upon conviction shall be sentenced to a fine not to exceed \$500.00, or 90 days imprisonment, or both fines and imprisonment.

(Ord. No. 546, §§ 1—7, 10-11-05; Ord. No. 619, § 1, 9-27-11)

Editor's note— Ord. No. 546, §§ 1—7, adopted Oct. 11, 2005, set out provisions intended for use as § 3-101. At the editor's discretion, these provisions have been included as § 3-97.

Sec. 3-98. – Safekeeping of animals by the Animal Shelter

Under unforeseen circumstances, a police officer, animal control officer, or animal owner may require an animal to be placed in the care and custody of the Animal Shelter to ensure that the animal is properly cared for. In these situations, the safekeeping of the animal shall only occur for a period of not more than 72 hours at the expense of the owner pursuant to fees established by resolution. The owner shall be responsible for contacting a designated person or organization to pick up the animal from the Animal Shelter and the owner shall provide written authorization to the Animal Shelter as to the responsible person or organization taking custody of the animal. After the initial 72 hour period has expired, the animal is no longer classified as a safe keep and the animal shall be considered abandoned and property of the City unless the owner or designated party notifies the City in writing of a date and time the animal will be picked up, not to exceed an additional 72 hours at the owner's expense. No animal shall be released from the Animal Shelter until all fees are paid in full. Owners who knowingly abandon or fail to arrange for pickup of their animal at the Animal Shelter may be prosecuted under other sections within the Municipal Code.

Sec. 3-99. – Livestock running at large.

It is unlawful for the owners of livestock to willfully allow the livestock to run at large within the city limits. The owners of the livestock are subject to prosecution under this section regardless of the livestock's origination.

As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS. CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:


Section 1. All Ordinances or Resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution or part thereof, heretofore repealed.

Section 2. This Ordinance shall take effect on the 9th day of 2022.

PASSED, APPROVED AND ADOPTED this 9th day of February, 2022.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

BY:


Amanda Forrister- Mayor

ATTEST:


Angela A. Torres- City Clerk





City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: H.1

SUBJECT: Discussion/Action - Resolution 05 24/25 Establishing Solid Waste and Recycling Service and Collection Center Rates for The City of Truth or Consequences

DEPARTMENT: Community Development

DATE SUBMITTED: July 4, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez – Assistant City Manager

Summary/Background:

The City Commission approved the Cost of Rate Study for the Solid Waste and Recycling Service and Collection Center on 2-28-2024. Commission approved delaying annual rate increase at the 6-12-24 meeting to allow for necessary ordinance changes. Staff is requesting to implement new rates effective November 1, 2024, to allow for ample time to notify customers with future increases taking place July 1 as previously established.

Recommendation:

Approve Resolution 05 24/25

Attachments:

- Resolution 05 24/25
- Exhibits A & B
- Solid Waste and Recycling Cost of Service and Collection Rate Study

Fiscal Impact (Finance): Yes

Annual Increase to SW Dept Revenue

Legal Review (City Attorney): Yes

Click here to enter text.

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: Click here to enter text.

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. [Click here to enter text.](#)

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

Approved Denied Other: [Click here to enter text.](#)

File Name: CC agendas 8-14-24



RESOLUTION NO. 05 24/25

A RESOLUTION ESTABLISHING SOLID WASTE AND RECYCLING SERVICE AND COLLECTION CENTER RATES FOR THE CITY OF TRUTH OR CONSEQUENCES

WHEREAS, the City of Truth or Consequences owns and operates the Truth or Consequences Sanitation Department and Recycling and Solid Waste Collection Center and is responsible for establishing fees and other charges; and

WHEREAS, The City procured a rate study to update the rates for the Sanitation Department and Recycling and Solid Waste Collection Center; and

WHEREAS, the goal of the rate study is to gradually work towards equitable cost of service across all classes of Solid Waste and Recycling service and collection; and

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Truth or Consequences:

1. The Solid Waste and Recycling Service and Collection fees as set forth in Exhibit "A and B" attached hereto and incorporated herein by this resolution, will be effective October 1, 2024 and annually thereafter July 1st.
2. The Truth or Consequences Board of Commission or Designee may review the fees set forth in Exhibit A and B annually.

PASSED, APPROVED AND ADOPTED on this 14th day of August, 2024.

Rolf Hechler, Mayor

Angela Torres, City Clerk-Treasurer

**City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Dumpster Proposed Rates**

EXHIBIT A

Rates are applied per dumpster times the amount of collections per week

FY 2025 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 69.57	\$ 88.45	\$ 123.29	\$ 158.13	\$ 192.96	\$ 227.80
3	\$ 69.57	\$ 96.99	\$ 136.11	\$ 175.22	\$ 214.34	\$ 253.45

FY 2025 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 30.00	\$ 60.00	\$ 90.00	\$ 120.00	\$ 150.00	\$ 180.00
3	\$ 30.00	\$ 60.00	\$ 90.00	\$ 120.00	\$ 150.00	\$ 180.00

FY 2026 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 74.79	\$ 95.08	\$ 132.53	\$ 169.98	\$ 207.44	\$ 244.89
3	\$ 74.79	\$ 104.27	\$ 146.32	\$ 188.37	\$ 230.41	\$ 272.46

FY 2026 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 31.50	\$ 63.00	\$ 94.50	\$ 126.00	\$ 157.50	\$ 189.00
3	\$ 31.50	\$ 63.00	\$ 94.50	\$ 126.00	\$ 157.50	\$ 189.00

FY 2027 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 80.40	\$ 102.21	\$ 142.47	\$ 182.73	\$ 223.00	\$ 263.26
3	\$ 80.40	\$ 112.09	\$ 157.29	\$ 202.49	\$ 247.69	\$ 292.90

FY 2027 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 33.08	\$ 66.15	\$ 99.23	\$ 132.30	\$ 165.38	\$ 198.45
3	\$ 33.08	\$ 66.15	\$ 99.23	\$ 132.30	\$ 165.38	\$ 198.45

FY 2028 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 86.43	\$ 109.88	\$ 153.16	\$ 196.44	\$ 239.72	\$ 283.00
3	\$ 86.43	\$ 120.50	\$ 169.09	\$ 217.68	\$ 266.27	\$ 314.86

FY 2028 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 34.73	\$ 69.46	\$ 104.19	\$ 138.92	\$ 173.64	\$ 208.37
3	\$ 34.73	\$ 69.46	\$ 104.19	\$ 138.92	\$ 173.64	\$ 208.37

**City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Collection Center Proposed Rates**

Exhibit B

FY 2025						
	Minimum Fee (lbs tiers)					Per Ton
Residential	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00
Yard waste	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00

	Minimum Fee (lbs tiers)					Per Ton
Commercial	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00
Yard waste	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00

	Minimum Fee (lbs tiers)					Per Ton
Tree Branches	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00

FY 2026						
	Minimum Fee (lbs tiers)					Per Ton
Residential	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00
Yard waste	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00

	Minimum Fee (lbs tiers)					Per Ton
Commercial	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00
Yard waste	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00

	Minimum Fee (lbs tiers)					Per Ton
Tree Branches	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00

FY 2027						
	Minimum Fee (lbs tiers)					Per Ton
Residential	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

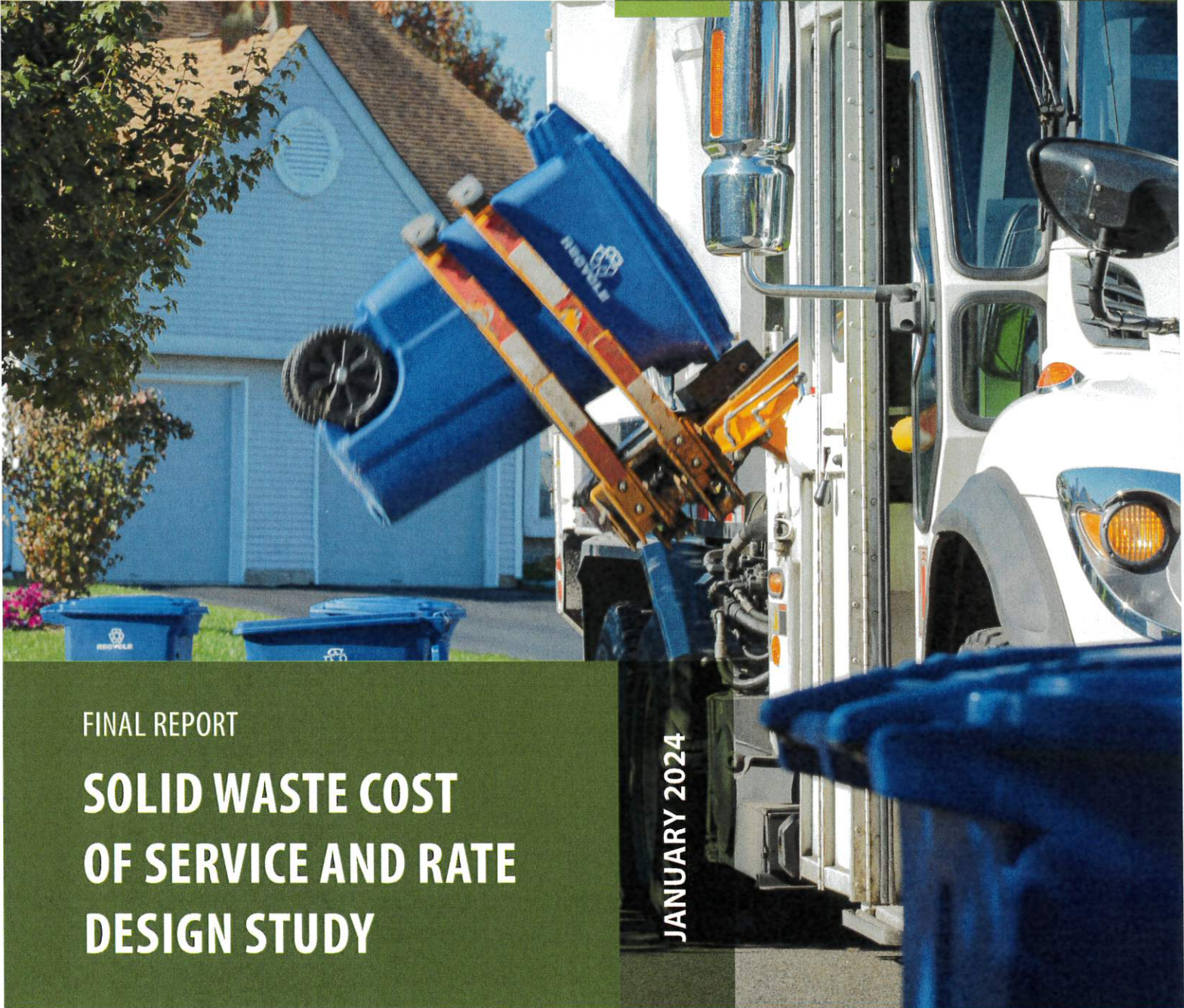
	Minimum Fee (lbs tiers)					Per Ton
Commercial	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

	Minimum Fee (lbs tiers)					Per Ton
Tree Branches	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

FY 2028						
	Minimum Fee (lbs tiers)					Per Ton
Residential	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

	Minimum Fee (lbs tiers)					Per Ton
Commercial	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

	Minimum Fee (lbs tiers)					Per Ton
Tree Branches	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00



FINAL REPORT

SOLID WASTE COST OF SERVICE AND RATE DESIGN STUDY

JANUARY 2024

Prepared for:
City of Truth or Consequences
505 Sims
Truth or Consequences, NM 87901

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Blank pages have been included to facilitate double-sided printing.



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January 31, 2024

Ms. Traci Alvarez
Assistant City Manager
City of Truth or Consequences
505 Sims
Truth or Consequences, NM 87901

Subject: Solid Waste Cost of Service and Rate Design Study – Final Report

Dear Ms. Alvarez:

The Project Team of Parkhill and NewGen Strategies and Solutions, LLC (NewGen), as a subcontractor to Parkhill, is pleased to submit the enclosed report to the City of Truth or Consequences (City) detailing the analysis and conclusions resulting from the Solid Waste Cost of Service and Rate Design Study (Study). The Study equitably distributes costs between the appropriate customer classes, and designs rates to safeguard the financial integrity of the solid waste utility, while ensuring that the rate structure is fair to all customer classes.

We appreciate the opportunity to assist the City of Truth or Consequences in this engagement. In addition, we would like to express our sincere appreciation to you and your staff for supplying the needed information and data. Please contact us if you have any questions concerning this Study.

Sincerely,

NewGen Strategies and Solutions, LLC

DocuSigned by:
Dave Yanke
500E94C76CC84BC...
Dave Yanke
President

Parkhill

DocuSigned by:
Michael Crepeau
628FC65525C5422...
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Senior Associate

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- Schedule 2: 10-Year Capital Improvement Plan
- Schedule 3: Rolling Stock
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- Schedule 5: Five-Year Forecast
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- Schedule 10: Over/(Under) at Current Rates
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- Schedule 13: Over/(Under) at Proposed Rates
- Schedule 14: Reserves

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Section 1 INTRODUCTION

In February of 2023, the City of Truth or Consequences (City) retained the Project Team of Parkhill and NewGen Strategies and Solutions, LLC (NewGen), as a subcontractor to Parkhill, to conduct a Solid Waste Cost of Service and Rate Design Study (Study or Report) for the Solid Waste Department (Department or Utility). The purpose of this Report is to determine the cost of providing solid waste services, equitably distribute the costs to the appropriate customer classes, and design rates to safeguard the financial integrity of the Utility.

This section of the Report describes the solid waste services provided by the City of Truth or Consequences. For each of these services (also called service categories), NewGen identified the cost of providing each of these services.

Background

The City of Truth or Consequences' Solid Waste Department currently provides solid waste collection services to approximately 3,076 residential customers via automated side load cart collection, as well as commercial refuse customers, via rear-load dumpsters and automated side load cart collection.

The Department is a self-supporting enterprise fund and revenues are derived primarily from solid waste user fees. This revenue must adequately fund operations, debt service, and cash funded capital outlays (both rolling stock and infrastructure related).

Current Solid Waste Services and Rates

Solid waste services provided by the City include the following:

Residential Cart Service

Residential services provided by the City include weekly residential refuse cart collection serviced via automated side load collection vehicles. The City provides one 95-gallon cart to every residential property with cart service in the City at a current rate of \$34.69 per month. Residential customers can also opt for additional carts. As part of this monthly user fee, all residents receive once per week refuse (garbage) collection.

Table 1-1
Residential Cart Service

Cart Type	Rates
95 gallons	\$34.69
Additional Cart Fee	\$17.37

Commercial Cart Service

The City offers a cart collection service for commercial customers. Commercial customers can opt for a minimum of one 95-gallon cart. The current rates are listed in Table 1-2.

**Table 1-2
Commercial Cart Service**

Cart Type	Rates
95 gallons	\$50.22
Additional Cart Fee	\$25.10

Commercial Dumpster Collection (Refuse)

The City also offers refuse dumpster collection service for commercial customers. Customers can choose either a 1.5 or 3 cubic yard dumpster container, to be serviced up to six times per week. The current rates for service are shown in Table 1-3.

**Table 1-3
Commercial Dumpster Service**

Commercial Classes	Rates
Class 1	\$69.57
Class 2	\$110.87
Class 3	\$162.40
Class 4	\$217.50
Class 5	\$626.27

The current monthly commercial rates are based on commercial class designations. The current commercial class designations are shown in Table 1-4.

**Table 1-4
Commercial Classes**

Commercial Classes	Description
Class 1	Lodges (fraternal) without bars, churches, beauty shops, barber shops, T.V. shops, rock shops, jewelry stores, accounting, legal, medical, real estate, insurance, dental offices, and miscellaneous small shops. Motels, hotels, and apartments with fewer than 10 units and RV Parks with fewer than 10 spaces.
Class 2	Lodges (fraternal) without bars, package stores without bars, service stations, garages, small grocery stores, body shops, small cafes, laundries, florists, and small merchandising businesses. Motels, hotels, and apartments with 10 to 20 units and RV Parks with 10 to 20 spaces.
Class 3	Bars and package stores in conjunction with bars, medium sized store buildings, medium sized restaurants and cafes and governmental offices. Motels, hotels, and apartments with 21 to 30 units and RV Parks with 21 to 30 spaces.
Class 4	Department stores, drug stores and banks. Motels, hotels, and apartments with 31 to 40 units and RV Parks with 31 to 40 spaces.
Class 5	Large restaurants, large grocery stores, hospitals, trailer parks. Motels, hotels, and apartments with more than 40 units and RV Parks with more than 40 spaces.

Commercial Dumpster Collection (Recycle)

Additionally, the City offers a recycling dumpster collection service for commercial customers. Customers can choose either a 1.5 or 3 cubic yard dumpster container, to be serviced up to six times per week. The City does not currently charge a fee for this service.

Collection Center

The City also operates a collection center for residents, private haulers, commercial waste haulers, small C&D (construction and demolition) loads, yard waste, and tree branches. The current rates for the collection center are shown in Table 1-5.

Table 1-5
Collection Center Current Rates

Categories	Drop-Off Tiers					
Residential	0-200 lbs	201-400 lbs	401-600 lbs	601-800 lbs	801+ lbs (per ton)	
MSW	\$6.00	\$11.22	\$13.32	\$18.84	\$60.00	
Yard waste	\$6.00	\$11.22	\$13.32	\$18.84	\$60.00	
Commercial	0-100 lbs	101-350 lbs	351-650 lbs	651-1,000 lbs	1,001-1,999 lbs	2,000+ lbs (per ton)
C&D	\$20.00	\$30.00	\$40.00	\$50.00	\$60.00	\$65.00
Yard waste	\$20.00	\$30.00	\$40.00	\$50.00	\$60.00	\$65.00
Tree Branches	0-200 lbs	201-400 lbs	401-600 lbs	601+ lbs (per ton)		
	\$3.50	\$7.00	\$10.50	\$35.00		

Project Approach

The goal of a cost of service and rate design study is to determine the solid waste fees required to adequately recover the costs of providing services. NewGen developed a series of key tasks that provided the foundation for the conduct of the Study. The methodology is discussed in Section 2 of this report. NewGen utilized the following sources of information regarding the City's current system and financial requirements.

Data Request

NewGen submitted a detailed data request to the City to collect historical and background information on operations and practices. The information requested included:

- Detailed Financial Reports and Budgets
- Solid Waste Policies and Ordinances
- Customer and Container Counts
- Personnel Rosters
- Solid Waste Tonnage Reports
- Fleet Inventory Operating Costs

Project Meetings

The Project Team of Parkhill and NewGen held a kickoff meeting with City staff to initiate the Study. This meeting served as a forum to confirm the scope of services, discuss the data already collected, and finalize the solid waste and recycling service categories to be analyzed in the cost-of-service analysis.

Parkhill and NewGen also held numerous virtual meetings with the City staff throughout the course of the project to discuss, plan, and finalize the cost of service analysis.

Section 2

COST OF SERVICE ANALYSIS

This section describes the tasks involved in conducting the solid waste cost of service analysis for the City. Before describing each of the tasks in detail, NewGen has provided below a brief overview of the overall cost of service analysis methodology. This section of the Report also quantifies the cost of service-based rates for solid waste services.¹

Methodology Overview

This overview provides the background necessary to understand how data compiled in each task provides the information required to determine the cost of service and fees required to recover the cost of service.

- **Development of the “Test Year”** – The first task in conducting the cost-of-service analysis is the development of an annual revenue requirement for a Test Year. The revenue requirement represents the total revenue that the solid waste operation will need to recover during a year to fund all expenses incurred in providing solid waste services. NewGen worked with City staff to select a period FY (Fiscal Year) 2024 that reflected the most recent budget, adjusted for one-time expenditures, etc. so as to reflect the “normal” annualized costs of operating the solid waste utility.
- **Development of the Revenue Requirement Forecast** – After developing the revenue requirement for the Test Year, NewGen worked with City staff to project changes in costs due to inflation, salary increases, new equipment, customer growth, etc. This resulted in the five-year revenue requirement forecast. NewGen’s cost of service and rate design forecast was focused on a five-year period (FY 2024 – FY 2028).
- **Allocation of Costs to Service Categories** – NewGen worked with City staff to assign and allocate costs to the appropriate service categories. The service categories represent the primary solid waste services provided by the City and are listed in this section of the Report, titled Allocation of Costs to Service Categories.
- **Allocation to Customer Classes** – NewGen grouped the service categories based on the customer classes that will recover each service categories’ costs. The customer classes include poly cart customers, commercial dumpster customers, and collection center customers.
- **Determination of Billing Units** – NewGen identified the appropriate billing units for each customer class. For example, the poly cart customers are charged per poly cart, so the number of poly carts are utilized as the billing units for this customer class.
- **Calculation of the Cost of Service** – NewGen distributed the costs for each customer class across the appropriate number of billing units to determine the cost of service for each customer class.

¹ It is important to note that the cost of service based rate may not be the actual rate charged, but it is an essential component in establishing the rates charged residential and commercial customers based on both the cost of the services, operational considerations, and City policy.

Development of the Revenue Requirement

Selection of the Test Year

In developing the Test Year revenue requirement for the City, NewGen used the FY 2024 interim budget as the basis for the Test Year. NewGen compared the FY 2024 interim budget to historical expenses and budgets for FY 2021 and FY 2022. Through this comparison and with input from City staff, NewGen made adjustments to ensure that the Test Year would reflect expenses that occur on a regular basis. All adjustments to the FY 2024 interim budget made in developing the Test Year are detailed in Appendix, Schedule 1.

Development of the Revenue Requirement Forecast

In addition to developing the Test Year revenue requirement, NewGen forecasted the annual revenue requirement for FY 2024 through FY 2028. In order to develop this forecast, NewGen projected how costs would change over the years due to a variety of different inflation factors. The assumptions used to develop the five-year forecast include the annual inflation factors shown in Table 2-1. These factors were developed based on NewGen’s experience in the conduct of financial forecasts, along with input from City staff.

**Table 2-1
Inflation Factors**

Inflation Factor	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
General	0.0%	2.5%	2.5%	2.5%	2.5%
Labor	0.0%	4.0%	4.0%	4.0%	4.0%
Benefits	0.0%	4.0%	4.0%	4.0%	4.0%
Utilities	0.0%	5.0%	5.0%	5.0%	5.0%
Capital Projects	0.0%	5.0%	5.0%	5.0%	5.0%
None	0.0%	0.0%	0.0%	0.0%	0.0%

Capital Improvement Plan

The revenue requirement incorporates funding for the Utility’s capital improvement plan scheduled to occur during the FY 2024 – FY 2028 forecast. Currently, the Utility has a number of capital expenses forecasted. These capital expenses include the collection center’s registration renewal, tipping floor improvements, and scale house facility improvements. NewGen has also incorporated a rolling stock replacement schedule in the capital improvement plan. The City should closely monitor the age of their fleet and assess whether the forecasted costs for vehicle replacement are sufficient on an annual basis. To the extent that additional capital projects should be considered, the proposed rates may need to be increased beyond NewGen’s recommendations in Section 3.

Table 2-2 summarizes the capital improvement plan and 5-year average annual rolling stock replacement costs forecasted for FY 2024 – FY 2028. A detailed capital improvement plan and rolling stock replacement forecast are provided in Appendix, Schedule 2 and Schedule 3.

Table 2-2
Capital Improvement Plan/Rolling Stock

	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Rolling Stock	\$236,322	\$236,322	\$236,322	\$236,322	\$236,322
Collection Center Registration Renewal	20,800	-	-	-	-
Solid Waste Tipping Floor Improvements	-	135,000	-	-	-
Solid Waste Scale House Facility Improvements	-	-	35,000	-	-
Total	\$257,122	\$371,322	\$271,322	\$236,322	\$236,322

Debt

The revenue requirement also incorporates any existing debt issues of the Utility. To the extent that any additional debt is issued, the proposed rates may need to be increased beyond NewGen’s recommendations in Section 3.

Table 2-3 lists the Utility’s current Capital One Public Funding debt issue for FY 2024 – FY 2028. A debt schedule is provided in Appendix, Schedule .

Table 2-3
Debt

Capital One Public Funding	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Principal	\$105,000	\$110,000	\$110,000	\$-	\$-
Interest Payment 1	6,419	4,345	2,173	-	-
Interest Payment 2	6,419	4,345	2,173	-	-
Total Payment	\$117,838	\$118,690	\$114,345	\$-	\$-

Revenue Requirement

Table 2-4 shows the revenue requirement for the five-year forecast. The detailed composition of the forecast is provided in Appendix, Schedule 5.

Table 2-4
Solid Waste Revenue Requirement Forecast

	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Total Revenue Requirement	\$2,101,950	\$2,325,231	\$2,300,946	\$2,235,231	\$2,322,601

Section 2

The City provides a wide variety of solid waste services to its customers. To determine the cost for each service, there is a need to allocate costs to service categories that represent the primary solid waste services provided. These categories were determined through a detailed series of discussions with City staff and are shown below.

- Poly Cart Collection
- Commercial Dumpster Trash Collection
- Commercial Dumpster Recycling Collection
- Cart Maintenance & Delivery
- Disposal/Hauling
- Collection Center – Garbage
- Administration
- Collection Center – Recycling

Identification of the total costs for each service category was a critical step in determining adequate rates that reflect the cost of providing the various services. These costs were isolated by service category in order to fully recover the total revenue requirement by matching those customers that utilize the service with the actual cost for that service. Table 2-5 identifies the cost of providing each service for FY 2024 through FY 2028.

Table 2-5
Revenue Requirement by Service Category

Service Category	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Poly Cart	\$152,736	\$156,242	\$162,195	\$151,998	\$157,433
Commercial Dumpster Trash Collection	350,724	355,026	364,784	338,427	347,098
Commercial Dumpster Recycling Collection	84,333	85,366	87,713	81,376	83,463
Cart Maintenance & Delivery	64,287	66,059	67,897	69,804	71,782
Disposal/Hauling	590,133	656,059	692,306	730,556	770,920
Collection Center - Garbage Operations	308,707	437,678	335,277	274,967	281,777
Administration	313,627	326,100	338,988	352,303	366,061
Collection Center - Recycling, etc.	237,404	242,701	251,786	235,799	244,066
Total Revenue Requirement	\$2,101,950	\$2,325,231	\$2,300,946	\$2,235,231	\$2,322,601

1. Any minor arithmetic deviation is due to rounding.

Allocation to Customer Classes

After calculating the costs for each service category over the five-year period, NewGen allocated the costs for the various service categories to each respective customer class. This process identifies the appropriate customers to be charged for each service provided. Table 2-6 identifies how the service categories were grouped and the cost recovery basis for each service category.

**Table 2-6
Recovery Basis for Service Categories**

Service Category	Recovery Basis
Poly Cart	Poly Cart Collection
Commercial Dumpster Trash Collection	Commercial Refuse Dumpsters
Commercial Dumpster Recycling Collection	Commercial Recycling Dumpsters
Cart Maintenance & Delivery	Poly Cart Collection
Disposal/Hauling	Distributed to customer classes based on tons disposed by each class.
Collection Center - Garbage Operations	Distributed to customer classes based on tons disposed by each class.
Administration	Distributed to all customer classes based on revenue requirement ¹
Collection Center - Recycling, etc.	Poly Cart Collection

1. Costs are distributed proportionally based on the customer classes respective portion of the revenue requirement.

Determination of Billing Units

In order to calculate the appropriate rates, NewGen determined the number of annual billing units for the various customer classes. NewGen received billing data for each customer class from City staff and determined the cost of service by dividing the revenue requirement for each service category by the appropriate number of billing units. In general, billing unit forecasts were provided by City staff.

Poly Cart Collection

In most cases, the number of households represents the most appropriate billing unit for the purpose of recovering the cost of service for poly carts. The projected poly cart units for the five-year forecast are shown in Table 2-7. The poly cart unit growth projections shown in Table 2-7 assume a 0.5% annual growth. These growth projections were developed by City staff based on historical customer growth patterns and are conservative.

**Table 2-7
Poly Cart Units**

	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Poly Cart Units	3,189	3,204	3,220	3,236	3,252

Commercial Dumpster Collection (Refuse)

The City provides commercial customers with refuse collection via dumpsters up to 3 cubic yards in size. The City bills these customers a monthly fee based upon their designated customer class. The City requested NewGen to come up with a monthly fee based on the size of the container collected, the frequency of collection, and the number of containers.² Therefore, the billing units for commercial refuse collection consist of three components:

- **Number of Containers:** Used to recover administration costs.
- **Annual Collections:** Used to recover the cost of collection operations.
- **Annual Disposal Capacity:** Measured in cubic yards and used to recover disposal costs based on cubic yards (CY) of container capacity.

Table 2-8 shows the projected billing units for the commercial dumpsters.

**Table 2-8
Commercial Refuse Dumpsters Carts Billing Units Forecast**

Billing Units	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Commercial Refuse Dumpsters	372	372	372	372	372
Annual Dumpster Collections	59,696	59,696	59,696	59,696	59,696
Dumpster Disposal Capacity (CY)	156,702	156,702	156,702	156,702	156,702

Commercial Dumpster Collection (Recycle)

The City provides commercial customers with recycling collection via dumpsters up to 3 cubic yards in size. The City does not bill these customers a monthly fee. The City requested NewGen to come up with a monthly fee based on the size of the container collected, the frequency of collection, and the number of containers. The City sells the collected recycling materials and is not charged a processing fee. Therefore, the billing units for commercial recycle collection consist of two components:

- **Number of Containers:** Used to recover administration costs.
- **Annual Collections:** Used to recover the cost of collection operations.

Table 2-9 shows the projected billing units for the commercial recycle dumpsters.

**Table 2-9
Commercial Recycle Dumpsters Billing Units Forecast**

Billing Units	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Commercial Recycling Dumpsters	90	90	90	90	90
Annual Dumpster Collections	9,152	9,152	9,152	9,152	9,152

² In conversations between NewGen and City staff, NewGen mentioned that the current commercial dumpster billing methodology used by T or C is not standard within the industry. Therefore, the City asked that NewGen develop a billing structure for dumpsters that was common within the industry. The methodology described on the following pages is standard within the industry, and one that Mr. Dave Yanke, the project manager for this Study, has used for countless clients over the past 25+ years.

Collection Center

Additionally, the City also operates a collection center for residents, private haulers, commercial waste haulers, small commercial and demolition (C&D) loads, yard waste, and tree branches.³ The billing units for the collection center consists of two different billing factors:

- Pounds of waste brought to the collection center that are billed using the tiered rate structure.
- Tons brought to the collection center that are billed using the per ton rate.

Table 2-10 shows the projected billing units for the collection center.

Table 2-10
Collection Center Billing Units Forecast

Billing Units	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Annual Tiered Tonnage (billed in pounds)	1,016	1,021	1,026	1,031	1,036
Annual Per Ton Tonnage	4,214	4,235	4,256	4,278	4,299
Annual Collection Center Tonnage	5,230	5,256	5,282	5,309	5,335

1. Any minor arithmetic deviation is due to rounding.

Disposal

Disposal units are based on the annual tons delivered to the SCSWA landfill. The projected annual tons being disposed of, by customer class, are shown in Table 2-11. The projections were developed based on the annual growth rate assigned to each collection service.

Table 2-11
Tonnage Forecast

	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Disposal Tonnage					
Poly Carts	2,401	2,413	2,425	2,437	2,449
Commercial Refuse Dumpster	1,630	1,638	1,646	1,654	1,663
Commercial Recycling Dumpster	0	0	0	0	0
Collection Center	5,230	5,256	5,282	5,309	5,335
Total Disposal Tonnage ¹	9,261	9,307	9,353	9,400	9,447

1. Any minor arithmetic deviation is due to rounding.

Calculation of the Cost of Service

NewGen determined the cost of service for each of the solid waste services provided by the City. It is important to note that the cost of service based rates are not necessarily the rates NewGen recommends be adopted by the City. In Section 3 of this report, NewGen provides its rate guidelines and

³ All solid waste delivered to the Collection Center is then loaded on to 18-wheeler long-haul trucks and transported to South Central Solid Waste Authority's (SCSWA) landfill in Las Cruces for disposal.

Section 2

recommendations based on the following factors: NewGen’s cost of service analysis; the City’s policies; and NewGen’s solid waste rate experience.

Poly Cart Collection Service

The total poly cart service revenue requirement for the five-year forecast is shown in Table 2-12. A detailed examination of the residential revenue requirement in each year of the forecast is provided in Appendix, Schedule 7.

The total poly cart revenue requirement includes:

- All direct costs identified in Table 2-5.
- A proportional share of the administration costs (based on the percentage of the total revenue requirement the direct costs represent).
- A proportional share of disposal costs (based on the percentage of total tonnage poly cart collection service represents).
- A proportional share of collection center – garbage operations costs (based on the percentage of total tonnage poly cart collection service represents).
- Collection center recycling costs (based on the rationale that the collection center is mainly for residents to drop-off recycling).

Table 2-12 shows the projected revenue requirement for poly cart customers.

**Table 2-12
Poly Cart Revenue Requirement**

Service Category	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Poly Cart	\$152,736	\$156,242	\$162,195	\$151,998	\$157,433
Cart Maintenance & Delivery	64,287	66,059	67,897	69,804	71,782
Disposal/ Hauling	152,999	170,091	179,489	189,406	199,870
Administration	120,563	122,107	129,290	134,396	139,613
Collection Center - Garbage Operations	80,036	113,473	86,925	71,288	73,054
Collection Center - Recycling, etc.	237,404	242,701	251,786	235,799	244,066
Total Revenue Requirement¹	\$808,026	\$870,674	\$877,582	\$852,691	\$885,819

1. Any minor arithmetic deviation is due to rounding.

The monthly cost of service for residential customers is shown in Table 2-13.

**Table 2-13
Poly Cart Monthly Cost of Service**

Service Category	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
95-gallon cart	\$21.11	\$22.65	\$22.71	\$21.96	\$22.70

1. Any minor arithmetic deviation is due to rounding.

Commercial Dumpster Collection

The total commercial dumpster revenue requirement and cost of service are shown in Table 2-14. The detail is provided in Appendix, Schedule 8. The total dumpster collection revenue requirement includes:

- All direct costs identified in Table 2-5.
- A proportional share of the administration costs (based on the percentage of the total revenue requirement the direct costs represent).
- A proportional share of disposal costs (based on the percentage of total tonnage dumpster collection service represents).
- A proportional share of collection center – garbage operations costs (based on the percentage of total tonnage dumpster collection service represents).

**Table 2-14
Commercial Dumpsters Revenue Requirement and Cost of Service**

Service Category	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Commercial Trash Collection	\$350,724	\$355,026	\$364,784	\$338,427	\$347,098
Commercial Recycling Collection	84,333	85,366	87,713	81,376	83,463
Disposal/ Hauling	103,852	115,454	121,833	128,564	135,667
Administration	104,038	103,234	109,427	111,655	115,217
Collection Center - Garbage Operations	54,327	77,023	59,002	48,389	49,587
Total Revenue Requirement	\$697,274	\$736,103	\$742,759	\$708,412	\$731,032
Billing Units	462	462	462	462	462
Annual Collections	68,848	68,848	68,848	68,848	68,848
Annual Capacity	156,702	156,702	156,702	156,702	156,702
Container Cost	\$18.77	\$18.62	\$19.74	\$20.14	\$20.78
Cost per Collection	\$7.11	\$7.52	\$7.43	\$6.80	\$6.97
Disposal Cost per Cubic Yard	\$0.66	\$0.74	\$0.78	\$0.82	\$0.87

1. Any minor arithmetic deviation is due to rounding.

To determine the monthly cost of service for a refuse container, the different component costs should be summed as follows:

- Cost per Container: \$18.77 per month (in FY 2024) for administrative costs for each dumpster; PLUS
- Cost per Collection: \$7.11 (in FY 2024) times the number of collections per week, times 4.33;⁴ PLUS
- Cost per Cubic Yard of Capacity: \$0.66 (in FY 2024) times the capacity of the container times the number of collections per week, times 4.33.

To determine the monthly cost of service for a recycle container, the different component costs should be summed as follows:

- Cost per Container: \$18.77 (in FY 2024) for each dumpster PLUS
- Cost per Collection: \$7.11 (in FY 2024) times the number of collections per week, times 4.33.⁴

⁴ 52 weeks per year / 12 months = 4.33 weeks per month

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The example below utilizes the components listed above to generate a monthly cost of service for a 1.5 CY dumpster collected 3 times per week.

Table 2-15
Example Monthly Cost of Service

Cost Component	Cost per Unit	Multiplier	Totals
Container Cost	\$18.77/container	1 container * 3	\$18.77 ¹
Collection Cost	\$7.11/collection	3 collections per week * 4.33	\$91.70 ¹
Disposal Cost	\$0.66/CY of capacity	1.5 CY container * 3 collections per week * 4.33	\$12.82 ¹
Monthly cost to serve 1.5 CY refuse container 3 times per week			\$123.29
Container Cost	\$18.77/container	1 container * 3	\$18.77 ¹
Collection Cost	\$7.11/collection	3 collections per week * 4.33	\$91.70 ¹
Monthly cost to serve 1.5 CY recycle container 3 times per week²			\$110.46

1. Product may vary from total due to rounding. The dumpster rate matrix for each container size and collection frequency can be found in the Report in Appendix, Schedule 11.
2. Disposal is not included in the cost of service for recycling as the Utility sells their recycled materials.

Collection Center

Table 2-16 lists the projected cost of service for collection center operations for the five-year forecast. The details are provided in Appendix, Schedule 9. The cost of service includes:

- A proportional share of the administration costs (based on the percentage of the total revenue requirement the direct costs represent).
- A proportional share of disposal costs (based on the percentage of total tonnage the collection center service represents).
- A proportional share of collection center – garbage operations costs (based on the percentage of total tonnage the collection center service represents).

Table 2-16
Collection Center Revenue Requirement and Cost Per Ton

Service Category	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Disposal/ Hauling	\$333,281	\$370,514	\$390,985	\$412,587	\$435,382
Collection Center - Garbage Operations	174,345	247,181	189,350	155,289	159,136
Administration	89,025	100,759	100,270	106,252	111,232
Total Revenue Requirement	\$596,651	\$718,454	\$680,605	\$674,127	\$705,750
Revenue Requirement with Revenue Offset	\$466,209	\$587,360	\$548,856	\$541,719	\$572,680
Annual Billed Collection Center Tonnage	4,214	4,235	4,256	4,278	4,299
Cost Per Ton	\$110.63	\$138.69	\$128.95	\$126.64	\$133.21

1. Any minor arithmetic deviation is due to rounding.

Section 3 KEY FINDINGS AND RECOMMENDATIONS

This section provides NewGen’s FY 2024 – FY 2028 rate guidelines and recommendations for the solid waste services provided by the City.

Revenue Reconciliation from Current Rates

Prior to considering any rate changes, it is beneficial to evaluate the revenue projected under the current rates for the five-year forecast. Table 3-1 shows the forecasted revenue recovery from current rates, which is projected to over-recover the revenue requirement by approximately \$165,813 in FY 2024. Table 3-1 also shows the forecasted revenue recovery from current rates is projected to under-recover the revenue requirement by approximately \$(17,557) in FY 2028 if there are no rate increases implemented during the next five years.

Based on this projected under-recovery, it is critical that the City put in place an equitable and transparent rate strategy that addresses the City’s primary solid waste user fee mechanisms. The following section provides NewGen’s recommended approach regarding what rate increases should be made over the next five years, for all customer classes, to place the City on a path to secure financial sustainability.

**Table 3-1
Revenue Recovery from Current Rates**

	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Revenue Requirement	\$2,101,950	\$2,325,231	\$2,300,946	\$2,235,231	\$2,322,601
Revenue from Rates	2,267,763	2,276,757	2,286,176	2,295,605	2,305,043
Over/(Under) Recovery ¹	\$165,813	\$(48,475)	\$(14,770)	\$60,374	\$(17,557)
Cumulative Over/(Under) ¹	\$165,813	\$117,339	\$102,569	\$162,943	\$145,386

1. Any minor arithmetic deviation is due to rounding.

Rate Recommendations

Proposed Poly Cart Rates

NewGen recommends that the City keep their current residential and commercial poly cart rates unchanged at the current rates as they are currently recovering their cost of service. These rates should not need to be raised during the FY 2024 to FY 2028 forecast period.

Proposed Commercial Dumpster Rates

NewGen recommends that the City reconfigure their dumpster fee structure from a class designation (Class 1 -5) to a dumpster rate matrix which considers the number of containers, the size of the container provided and the frequency of collection. This is the most equitable methodology, and is widely used within the solid waste industry by both municipalities and by private waste hauling companies. The



Section 3

following commercial refuse dumpster rate matrix in Table 3-2 is recommended to be implemented at the start of FY 2025. Please refer to Appendix, Schedule 11 for a detailed listing of commercial refuse dumpster service rate increases through FY 2028.

**Table 3-2
Proposed FY 2025 Commercial Refuse Dumpster Rates**

Container Size	Collection Frequency					
	1	2	3	4	5	6
1.5 CY	\$69.57	\$88.45	\$123.29	\$158.13	\$192.96	\$227.80
3 CY	\$69.57	\$96.99	\$136.11	\$175.22	\$214.34	\$253.45

NewGen recommends the City begin to implement a similar dumpster rate structure for recycling dumpsters as well. The following commercial recycling dumpster rate matrix in Table 3-3 is recommended to be implemented at the start of FY 2025. Please refer to Appendix, Schedule 11 for a detailed listing of commercial recycling dumpster service rate increases through FY 2028.

**Table 3-3
FY 2025 Commercial Recycle Dumpster Proposed Rates**

Container Size	Collection Frequency					
	1	2	3	4	5	6
1.5 CY	\$30.00	\$60.00	\$90.00	\$120.00	\$150.00	\$180.00
3 CY	\$30.00	\$60.00	\$90.00	\$120.00	\$150.00	\$180.00

NewGen recommends that the City engage in a communication outreach effort with the commercial customers who will be affected by the new rate structure implementation (flyers, workshops, etc.). In addition, it is important that the City monitors any changes in the number of dumpsters and frequency of pick ups being provided to commercial customers over the next 12 – 18 months. Due to the current rate structure used by the City, as the City moves to a more cost-based system, NewGen believes some folks may find they are paying for more “collection capacity” than they actually need, and may reduce the size of dumpster or frequency of collection.

To be conservative, and prepare for such an event, NewGen has factored in a 30% decrease in dumpsters collected by the City when designing the rates, to prevent an under-recovery. To the extent that fewer dumpster customers “downsize” their collection frequency, the City may be able to slightly reduce the rate increases in FY 2027 and/or FY 2028.

Proposed Collection Center Rates

The City is significantly under-recovering the cost to operate the collection center, and to haul and dispose of its waste at the SCSWA landfill. It is essential that the City increase the tipping fee charged for all waste coming into the collection center to recover the “true cost” of operating the facility.

Therefore, NewGen recommends an increase of the per ton rate to \$90 per ton in FY 2025, increased to \$105 per ton in FY 2026, and finally increased to \$115 per ton in FY 2027.

NewGen also recommends a standardization of the collection center’s rates that are charged for smaller loads brought into the collection center (0-200 pounds, etc.). Standardization of the collection center’s

rates would mean that residential, commercial, and yard waste customers would all pay the same disposal rates. Since there is no difference in the type of waste and it costs the same to transport and dispose of the waste it makes sense the rates be the same. It would also simplify the billing process when the materials are being recorded and billed at the scale house, with one standardized rate structure for all customers.

The recommended rates for FY 2025 are detailed in Tables 3-4. This table shows the standardized rate structure for all trash coming across the scale at the collection center. Please refer to Appendix, Schedule 12 for a detailed listing of the collection center’s rate increases through FY 2028.

**Table 3-4
FY 2025 Collection Center Proposed Rates**

Categories	Drop-Off Tiers					
All Trash	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$9.00	\$18.00	\$27.00	\$36.00	\$54.00	\$90.00

Revenue Recovery from Proposed Rates

Table 3-5 shows the forecasted revenue recovery from proposed rates, which will ensure the solid waste utility’s financial integrity through FY 2028, and also allow the Utility to set aside any “excess revenues” in a reserve for future capital expenditures or unexpected expenses.

Details of the forecasted revenue recovery and forecasted reserves can be found in Appendix, Schedule 13 and Schedule 14.

**Table 3-5
Revenue Recovery from Proposed Rates**

	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Revenue Requirement	\$2,101,950	\$2,325,231	\$2,300,946	\$2,235,231	\$2,322,601
Revenue from Rates	2,267,763	2,436,458	2,578,523	2,693,493	2,744,650
Over/(Under) Recovery ¹	\$165,813	\$111,226	\$277,577	\$458,262	\$422,049
Cumulative Over/(Under) ¹	\$165,813	\$277,040	\$554,616	\$1,012,878	\$1,434,927

1. Any minor arithmetic deviation is due to rounding.

NewGen
Strategies & Solutions

Parkhill



APPENDIX SCHEDULES

Appendix

COST OF SERVICE SCHEDULES

List of Schedules

- Schedule 1: Test Year
- Schedule 2: 10-Year Capital Improvement Plan
- Schedule 3: Rolling Stock
- Schedule 4: Debt
- Schedule 5: Five-Year Forecast
- Schedule 6: Revenue Requirement Summary
- Schedule 7: Poly Cart Cost of Service
- Schedule 8: Dumpster Refuse and Recycle Cost of Service
- Schedule 9: Collection Center Cost of Service
- Schedule 10: Over/(Under) at Current Rates
- Schedule 11: Dumpster Proposed Rates
- Schedule 12: Collection Center Proposed Rates
- Schedule 13: Over/(Under) at Proposed Rates
- Schedule 14: Reserves

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Test Year

Line No.	Account Number	Description	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Actual	FY 2023 Current Budget	FY 2024 Interim Budget	Adjustments	Test Year	Inflation Factor	Allocation Factor	Notes
1	Expense Department: 3904 - Solid Waste												
2	505-3904-40110	FULL TIME WAGES-SOLID WASTE DIVI	\$ 449,259	\$ 414,809	\$ 424,320	\$ 406,227	\$ 497,300	\$ 508,061		\$ 508,061	Labor	Personnel Expense	1
3	505-3904-40125	OVERTIME WAGES-SOLID WASTE DIV	4,500	919	4,500	427	4,500	4,500		4,500	Labor	Personnel Expense	
4	505-3904-40140	DELAYED COMPENSATION-SOLID WASTE	-	-	4,913	4,913	479	2,000		2,000	Labor	Personnel Expense	
5	505-3904-41205	FICA-REGULAR-SOLID WASTE DIVISION	28,288	24,357	26,587	24,321	31,112	31,903		31,903	General	Personnel Expense	
6	505-3904-41210	FICA-MEDICARE-SOLID WASTE DIVISION	6,616	5,697	6,218	5,688	7,276	7,461		7,461	General	Personnel Expense	
7	505-3904-41215	PERA-SOLID WASTE DIVISION	44,027	40,180	41,583	39,175	51,222	54,871		54,871	General	Personnel Expense	
8	505-3904-41225	HEALTH INSURANCE-SOLID WASTE DIV	92,628	92,628	97,481	77,896	97,481	59,422		59,422	General	Personnel Expense	
9	505-3904-41226	RETIREE INSURANCE	13,478	12,307	12,730	11,992	14,919	15,242		15,242	General	Personnel Expense	
10	505-3904-41235	UNEMPLOYMENT INSURANCE-SOLID WASTE	3,225	181	648	-	648	648		648	General	Personnel Expense	
11	505-3904-41240	WORKER'S COMP ASSESSMENT	130	108	120	99	120	120		120	General	Personnel Expense	
12	505-3904-41785	WORKER'S COMP. PREMIUMS	9,634	9,634	12,801	12,800	14,000	10,000		10,000	General	Personnel Expense	
13	505-3904-42620	UNIFORM/LINEN-SOLID WASTE DIVISION	5,000	3,259	5,000	3,906	5,000	7,000		7,000	General	Personnel Expense	
14	505-3904-42720	EMPLOYEE TRAINING-SOLID WASTE DIV	1,663	-	5,625	550	10,625	8,000	2,000	10,000	General	Personnel Expense	2
15	505-3904-43316	GAS & OIL	40,000	37,310	71,000	61,347	70,000	90,000		90,000	Utilities	Fuel	
16	505-3904-43403	REGULAR BUILDING MAINT	6,000	2,973	35,071	22,454	8,700	10,000		10,000	General	Collection Center - Garbage Operations	
17	505-3904-43465	RENT OF EQUIPMENT	3,500	2,342	4,000	1,831	4,000	4,000		4,000	General	Administration	
18	505-3904-43735	POSTAGE & MAIL SERVICES	50	-	50	-	50	-		-	General	Administration	
19	505-3904-43740	PRINTING/PUBLISHING	1,000	575	1,000	-	1,000	1,000		1,000	General	Administration	
20	505-3904-43770	SUBSCRIPTION & DUES	950	800	1,000	750	1,000	1,000		1,000	General	Personnel Expense	
21	505-3904-43775	TELEPHONE	4,000	2,142	4,000	1,986	4,000	4,000		4,000	General	Personnel Expense	
22	505-3904-43780	UTILITIES	25,633	25,630	25,000	15,192	25,000	25,000		25,000	Utilities	Administration	
23	505-3904-43815	SOFTWARE LIC/SOFTWARE UPDATE	26,446	14,009	15,000	14,566	29,400	30,000	(15,000)	15,000	General	Collection Center - Garbage Operations	2
24	505-3904-43999	OPERATING COSTS	2,500	2,447	3,655	3,654	25	-		-	General	Administration	
25	505-3904-44606	OFFICE SUPPLIES	6,250	1,987	3,000	956	3,000	3,000		3,000	General	Administration	
26	505-3904-44607	FIELD SUPPLIES-SOLID WASTE DIVISION	34,500	11,357	58,751	33,934	36,611	45,000		45,000	General	Collection Center - Garbage Operations	
27	505-3904-44613	NON-CAPITAL ITEMS	30,057	28,784	5,000	1,158	35,664	35,000		35,000	General	Administration	
28	505-3904-44615	SAFETY EQUIPMENT	5,000	4,752	5,000	4,794	5,000	5,000		5,000	General	Personnel Expense	
29	505-3904-45601	WASTE DISPOSAL	804,704	726,797	800,000	754,957	800,000	900,000	(309,867)	590,133	General	Disposal/Hauling	3
30	505-3904-45796	FRANCHISE TAX	5,594	5,593	5,904	5,904	6,000	8,000		8,000	General	Collection Center - Garbage Operations	
31	505-3904-46731	PROPERTY INSURANCE-SOLID WASTE DIV	9,601	9,601	11,130	9,601	11,130	11,130		11,130	General	Administration	
32	505-3904-46732	GENERAL LIABILITY INSURANCE	6,586	6,586	25,305	6,389	11,521	12,000		12,000	General	Administration	
33	505-3904-46733	VEHICLE INSURANCE	18,487	18,487	19,191	8,910	12,000	12,000		12,000	General	Commercial Trash Collection	
34	505-3904-46794	GOVT GROSS RECEIPTS TAX	85,861	84,799	88,893	88,893	74,836	75,000		75,000	General	Administration	4
35	505-3904-47410	MAINTENANCE CONTRACTS	81,676	2,491	-	-	-	-		-	General	Administration	
36	505-3904-47415	MAINTENANCE--REPAIRS GROUNDS -ROADWAYS	-	-	2,496	212	32,600	15,000		15,000	General	Administration	
37	505-3904-47420	MAINTENANCE-VEHICLE/EQUIP-SOLID WAS	87,473	83,374	122,000	109,263	120,952	121,000		121,000	General	Maintenance	
38	505-3904-48596	AUDIT CONTRACT	10,000	9,709	10,000	9,709	10,000	10,000		10,000	General	Administration	
39	505-3904-48598	PROFESSIONAL SERVICES	12,000	11,818	11,824	11,818	13,000	15,000		15,000	General	Administration	
40	505-3904-48599	OTHER CONTRACTUAL SERVICES	62,567	30,954	47,016	35,390	186,000	211,000	(171,000)	40,000	General	Administration	2
41	505-3904-80810	OTHER CAPITAL EQUIPMENT-VEHICLES	250,000	238,983	239,841	-	239,841	120,000	(120,000)	-	Capital	Administration	5
42	505-3904-80845	CAPITAL IMPROVEMENTS EQUIPMENT	7,395	7,395	148,768	148,478	250,000	-	-	-	Capital	CIP	5
43	Total Solid Waste Dept. Expenses		\$ 2,286,278	\$ 1,975,773	\$ 2,406,421	\$ 1,940,141	\$ 2,726,012	\$ 2,472,358	\$ (613,867)	\$ 1,858,491			
44	Existing Debt Service												
45		Capital One Public Funding	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 117,838		\$ 117,838	None	Existing Debt	
46	Total Debt Service		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 117,838	\$ -	\$ 117,838			
47	Proposed Debt Service												
48		None	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -	None	Proposed Debt	
49	Total Debt Service		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Test Year

Line No.	Account Number	Description	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Actual	FY 2023 Current Budget	FY 2024 Interim Budget	Adjustments	Test Year	Inflation Factor	Allocation Factor	Notes
50	Cash Capital Outlays												
51		Rolling Stock	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 236,322		\$ 236,322	None		Replacement
52		Collection Center Registration Renewal	-	-	-	-	-	20,800		20,800	None		Collection Center - Garbage Operations
53		Solid Waste Tipping Floor Improvements	-	-	-	-	-	-		-	None		Collection Center - Garbage Operations
54		Solid Waste Scale House Facility Improvements	-	-	-	-	-	-		-	None		Collection Center - Garbage Operations
55	Total Cash Capital Outlays		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 257,122	\$ -	\$ 257,122			
56	Total Expenses		\$ 2,286,278	\$ 1,975,773	\$ 2,406,421	\$ 1,940,141	\$ 2,726,012	\$ 2,847,317	\$ (613,867)	\$ 2,233,450			
57	Revenues												
58	505-3904-30154	GOVT. GROSS RECEIPTS-TR-JT UTILITY	\$ 68,513	\$ 73,313	\$ 77,487	\$ 77,480	\$ 83,927	\$ 83,000		\$ 83,000	None		Administration
59	505-3904-30312	GROSS RECEIPTS - ENVIRONMENTAL	87,700	90,332	101,791	101,792	200	-		-	None		Administration
60	505-3904-30315	GOVT GROSS RECEIPTS TAX	9,700	11,791	10,000	12,269	10,500	11,000		11,000	None		Administration
61	505-3904-32700	OTHER STATE GRANTS	-	7,970	-	-	-	-		-	None		Administration
62	505-3904-34355	TRANSFER STATION REVENUE	500,000	536,634	539,279	539,279	525,000	551,250	(551,250)	-	None		Collection Center - Garbage Operations
63	505-3904-34524	UTILITIES SERVICES-SOLID WASTE DIVI	1,522,500	1,591,966	1,704,835	1,704,681	1,678,556	1,762,500	(1,762,500)	-	None		Poly Cart
64	505-3904-35544	NON-PAYMENT PENALTY 8%-SOLID WASTE	4,000	6,181	9,440	9,441	4,200	4,500		4,500	None		Administration
65	505-3904-36410	NM STO INVESTMENT INCOME	-	620	700	593	2,700	8,000		8,000	None		Administration
66	505-3904-37546	MISC(RECYCLING)-SOLID WASTE DIVIS	32,000	27,883	43,562	43,562	33,600	25,000		25,000	None		Collection Center - Misc.
67	Total Revenue		\$ 2,224,413	\$ 2,346,691	\$ 2,487,094	\$ 2,489,097	\$ 2,338,683	\$ 2,445,250	\$ (2,313,750)	\$ 131,500			
68	Revenue Requirement		\$ 61,865	\$ (370,918)	\$ (80,673)	\$ (548,956)	\$ 387,329	\$ 402,067	\$ 1,699,883	\$ 2,101,950			

Footnotes:

- 1 Salary increase due to a salary study.
- 2 Adjustment made per conversation with City.
- 3 Disposal cost paid to South Central Solid Waste Authority.
- 4 5% of sanitation bills.
- 5 See schedule 2 for detailed capital improvement plan.

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
10-Year Capital Improvement Plan

Line No.	Project Listing	Fund Source	Project Year	Price	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028	Year 6 FY 2029	Year 7 FY 2030	Year 8 FY 2031	Year 9 FY 2032	Year 10 FY 2033	Notes
1	Rolling Stock	PAYG			\$ 236,322	\$ 236,322	\$ 236,322	\$ 236,322	\$ 236,322	\$ 237,560	\$ 398,742	\$ 64,325	\$ 67,541	\$ 437,619	1
2	Collection Center Registration Renewal	PAYG	FY 2024	20,800	20,800	-	-	-	-	26,547	-	-	-	-	2
3	Solid Waste Tipping Floor Improvements	PAYG	FY 2025	135,000	-	135,000	-	-	-	-	-	-	-	-	3
4	Solid Waste Scale House Facility Improvements	PAYG	FY 2026	35,000	-	-	35,000	-	-	-	-	-	-	-	4
5	TOTAL				\$ 257,122	\$ 371,322	\$ 271,322	\$ 236,322	\$ 236,322	\$ 264,107	\$ 398,742	\$ 64,325	\$ 67,541	\$ 437,619	

Footnotes

- 1 See Schedule 3.
- 2 Updated price provided by Parkhill via email on April 20, 2023. Registration renewal happens every 5 years.
- 3 Provided by Parkhill.
- 4 Provided by the City for fiscal years 2024-2028. ('ICIP 2024-2028.pdf')

City of Truth or Consequences, New Mexico
 Solid Waste Cost of Service Study
 Rolling Stock

Line No.	Purchase Year	Vehicle Description	Purchase Price	Front Line/ Back-Up	City Assumed Useful Life	NewGen Assumed Useful Life	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028	Year 6 FY 2029	Year 7 FY 2030	Year 8 FY 2031	Year 9 FY 2032	Year 10 FY 2033	Notes	
1	Front Line																	
2	2019	2019 Freightliner Trash Truck	\$ 185,209	F	5-6 YRS	7	\$ -	\$ -	\$ 260,608	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 366,701		
3	2021	2021 Freightliner 108SD	238,983	F	5-6 YRS	7	-	-	-	-	336,273	-	-	-	-	-		
4	2023	2023 Freightliner M2 106	239,841	F	5-6 YRS	7	-	-	-	-	-	-	337,480	-	-	-		
5	2017	2017 John Deere 310SL	99,794	F	5-6 YRS	5	140,420	-	-	-	-	179,216	-	-	-	-		
6	2022	2022 JOHN DEERE 410L BACKHOE	137,466	F	5-6 YRS	5	15,000	15,750	16,538	17,364	18,233	19,144	20,101	21,107	22,162	23,270	1	
7	2012	2012 Case Skid Loader	30,000	F	5-6 YRS	7	10,000	10,500	11,025	11,576	12,155	12,763	13,401	14,071	14,775	15,513	2	
8	2017	2017 Clark C 30D	36,742	F	5-6 YRS	7	40,000	6,000	6,300	6,615	6,946	7,293	7,658	8,041	8,443	8,865	3	
9	2017	2017 Chevy Silverado 1500	22,623	F	10-15 YRS	10	-	-	-	36,850	-	-	-	-	-	-		
10	2017	2017 Chevy Silverado 2500 HD	25,699	F	10-15 YRS	10	-	-	-	41,861	-	-	-	-	-	-		
11	2017	2017 Chevy Silverado 2500 HD	25,699	F	10-15 YRS	10	-	-	-	41,861	-	-	-	-	-	-		
12	2018	2018 Chevy Silverado	22,623	F	10-15 YRS	10	-	-	-	-	36,850	-	-	-	-	-		
13	Front Line Total							\$ 205,420	\$ 32,250	\$ 294,470	\$ 156,128	\$ 410,457	\$ 218,416	\$ 378,640	\$ 43,218	\$ 45,379	\$ 414,349	
14	Other Vehicles																	
15	2002	2002 Sterling Acterra	\$ 101,279	B	5-6 YRS	5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
16	1985	1985 F-700 (chipper truck)	40,501			10	-	-	-	-	-	-	-	-	-	-		
17	1996	1996 F-800 Flatbed with Crane	63,939			10	10,000	10,500	11,025	11,576	12,155	12,763	13,401	14,071	14,775	15,513	4	
18	2003	2003 HD Bandit Chipper 1890	48,533			10	5,000	5,250	5,513	5,788	6,078	6,381	6,700	7,036	7,387	7,757	5	
19	Other Vehicles Total							\$ 15,000	\$ 15,750	\$ 16,538	\$ 17,364	\$ 18,233	\$ 19,144	\$ 20,101	\$ 21,107	\$ 22,162	\$ 23,270	
20	Back-Up																	
21	1997	1997 Case Forklift 586E	\$ 40,785	B	5-6 YRS	5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
22	2008	2008 GMC T8500	155,274	B	5-6 YRS	7	-	-	-	-	-	-	-	-	-	-		
23	2011	2011 Autocar Xpeditor	234,969	B	5-6 YRS	7	-	-	-	-	-	-	-	-	-	-		
24	2013	2013 Caterpillar 420F Backhoe	99,047	B	5-6 YRS	5	-	-	-	-	-	-	-	-	-	-		
25	2015	2015 Peterbilt 320	244,410	B	5-6 YRS	7	-	-	-	-	-	-	-	-	-	-		
26	Back-Up Total							\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
27	Auction																	
28	1995	1995 Ford L8000	\$ 82,828	B	5-6 YRS	5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
29	2000	2000 International 4900	114,678	B	5-6 YRS	7	-	-	-	-	-	-	-	-	-	-		
30	2006	2006 GMC T8500	131,385	B	5-6 YRS	7	-	-	-	-	-	-	-	-	-	-		
31	Auction Total							\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
32	TOTAL							\$ 220,420	\$ 48,000	\$ 311,008	\$ 173,492	\$ 428,690	\$ 237,560	\$ 398,742	\$ 64,325	\$ 67,541	\$ 437,619	
33	5 Year Rolling Stock Average							\$ 236,322	\$ 236,322	\$ 236,322	\$ 236,322	\$ 236,322						
34	10 Year Rolling Stock Average							\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	\$ 238,740	

Note: City provided listing of rolling stock. Purchase price inflated by 5%. E.g. (Line 2: (\$185,209*(1+0.05)^7)=\$260,608)

Footnotes:

- 1 Put aside \$15k/year per conversation with City.
- 2 Put aside \$10k/year per conversation with City.
- 3 Replacing in FY 2024, end of CY 2023. (\$40k in FY 2024). Set aside \$6k/year going forward per conversation with City.
- 4 Put aside \$10k/year per conversation with City.
- 5 Put aside \$5k/year per conversation with City.

**City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Debt**

Line No.	Item	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028	Notes
1	Existing Debt						
2	Capital One Public Funding						1
3	Principal	\$ 105,000	\$ 110,000	\$ 110,000	\$ -	\$ -	
4	Interest Payment 1	6,419	4,345	2,173	-	-	
5	Interest Payment 2	6,419	4,345	2,173	-	-	
6	Total Existing Debt	\$ 117,838	\$ 118,690	\$ 114,345	\$ -	\$ -	

Footnotes:
1 For collection center.

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Five-Year Forecast

Line No.	Account Number	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028	Inflation Factor	Notes
1	Expense Department: 3904 - Solid Waste								
2	505-3904-40110	FULL TIME WAGES-SOLID WASTE DIVI	\$ 508,061	\$ 528,383	\$ 549,519	\$ 571,500	\$ 594,360	Labor	
3	505-3904-40125	OVERTIME WAGES-SOLID WASTE DIV	4,500	4,680	4,867	5,062	5,264	Labor	
4	505-3904-40140	DELAYED COMPENSATION-SOLID WASTE	2,000	2,080	2,163	2,250	2,340	Labor	
5	505-3904-41205	FICA-REGULAR-SOLID WASTE DIVISION	31,903	32,701	33,518	34,356	35,215	General	
6	505-3904-41210	FICA-MEDICARE-SOLID WASTE DIVISION	7,461	7,648	7,839	8,035	8,236	General	
7	505-3904-41215	PERA-SOLID WASTE DIVISION	54,871	56,243	57,649	59,090	60,567	General	
8	505-3904-41225	HEALTH INSURANCE-SOLID WASTE DIV	59,422	60,908	62,430	63,991	65,591	General	
9	505-3904-41226	RETIREE INSURANCE	15,242	15,623	16,014	16,414	16,824	General	
10	505-3904-41235	UNEMPLOYMENT INSURANCE-SOLID WASTE	648	664	681	698	715	General	
11	505-3904-41240	WORKER'S COMP ASSESSMENT	120	123	126	129	132	General	
12	505-3904-41785	WORKER'S COMP. PREMIUMS	10,000	10,250	10,506	10,769	11,038	General	
13	505-3904-42620	UNIFORM/LINEN-SOLID WASTE DIVISION	7,000	7,175	7,354	7,538	7,727	General	
14	505-3904-42720	EMPLOYEE TRAINING-SOLID WASTE DIV	10,000	10,250	10,506	10,769	11,038	General	
15	505-3904-43316	GAS & OIL	90,000	94,500	99,225	104,186	109,396	Utilities	
16	505-3904-43403	REGULAR BUILDING MAINT	10,000	10,250	10,506	10,769	11,038	General	
17	505-3904-43465	RENT OF EQUIPMENT	4,000	4,100	4,203	4,308	4,415	General	
18	505-3904-43735	POSTAGE & MAIL SERVICES	-	-	-	-	-	General	
19	505-3904-43740	PRINTING/PUBLISHING	1,000	1,025	1,051	1,077	1,104	General	
20	505-3904-43770	SUBSCRIPTION & DUES	1,000	1,025	1,051	1,077	1,104	General	
21	505-3904-43775	TELEPHONE	4,000	4,100	4,203	4,308	4,415	General	
22	505-3904-43780	UTILITIES	25,000	26,250	27,563	28,941	30,388	Utilities	
23	505-3904-43815	SOFTWARE LIC/SOFTWARE UPDATE	15,000	15,375	15,759	16,153	16,557	General	
24	505-3904-43999	OPERATING COSTS	-	-	-	-	-	General	
25	505-3904-44606	OFFICE SUPPLIES	3,000	3,075	3,152	3,231	3,311	General	
26	505-3904-44607	FIELD SUPPLIES-SOLID WASTE DIVISION	45,000	46,125	47,278	48,460	49,672	General	
27	505-3904-44613	NON-CAPITAL ITEMS	35,000	35,875	36,772	37,691	38,633	General	
28	505-3904-44615	SAFETY EQUIPMENT	5,000	5,125	5,253	5,384	5,519	General	
29	505-3904-45601	WASTE DISPOSAL	590,133	656,059	692,306	730,556	770,920	General	1
30	505-3904-45796	FRANCHISE TAX	8,000	8,200	8,405	8,615	8,831	General	
31	505-3904-46731	PROPERTY INSURANCE-SOLID WASTE DIV	11,130	11,408	11,693	11,986	12,285	General	
32	505-3904-46732	GENERAL LIABILITY INSURANCE	12,000	12,300	12,608	12,923	13,246	General	
33	505-3904-46733	VEHICLE INSURANCE	12,000	12,300	12,608	12,923	13,246	General	
34	505-3904-46794	GOVT GROSS RECEIPTS TAX	75,000	76,875	78,797	80,767	82,786	General	
35	505-3904-47410	MAINTENANCE CONTRACTS	-	-	-	-	-	General	
36	505-3904-47415	MAINTENANCE--REPAIRS GROUNDS -ROADWAYS	15,000	15,375	15,759	16,153	16,557	General	
37	505-3904-47420	MAINTENANCE-VEHICLE/EQUIP-SOLID WAS	121,000	124,025	127,126	130,304	133,561	General	
38	505-3904-48596	AUDIT CONTRACT	10,000	10,250	10,506	10,769	11,038	General	
39	505-3904-48598	PROFESSIONAL SERVICES	15,000	15,375	15,759	16,153	16,557	General	
40	505-3904-48599	OTHER CONTRACTUAL SERVICES	40,000	41,000	42,025	43,076	44,153	General	
41	505-3904-80810	OTHER CAPITAL EQUIPMENT-VEHICLES	-	-	-	-	-	Capital	
42	505-3904-80845	CAPITAL IMPROVEMENTS EQUIPMENT	-	-	-	-	-	Capital	
43	Total Solid Waste Dept. Expenses		\$ 1,858,491	\$ 1,966,719	\$ 2,046,779	\$ 2,130,409	\$ 2,217,779		
44	Existing Debt Service								
45		Capital One Public Funding	\$ 117,838	\$ 118,690	\$ 114,345	\$ -	\$ -	None	
46	Total Debt Service		\$ 117,838	\$ 118,690	\$ 114,345	\$ -	\$ -		
47	Proposed Debt Service								
48		None	\$ -	\$ -	\$ -	\$ -	\$ -	None	
49	Total Debt Service		\$ -	\$ -	\$ -	\$ -	\$ -		
50	Cash Capital Outlays								
51		Rolling Stock	\$ 236,322	\$ 236,322	\$ 236,322	\$ 236,322	\$ 236,322	None	
52		Collection Center Registration Renewal	20,800	-	-	-	-	None	
53		Solid Waste Tipping Floor Improvements	-	135,000	-	-	-	None	
54		Solid Waste Scale House Facility Improvements	-	-	35,000	-	-	None	
55	Total Cash Capital Outlays		\$ 257,122	\$ 371,322	\$ 271,322	\$ 236,322	\$ 236,322		
56	Total Expenses		\$ 2,233,450	\$ 2,456,731	\$ 2,432,446	\$ 2,366,731	\$ 2,454,101		

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Five-Year Forecast

Line No.	Account Number	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028	Inflation Factor	Notes
57	Revenues								
58	505-3904-30154	GOVT. GROSS RECEIPTS-TR-JT UTILITY	\$ 83,000	\$ 83,000	\$ 83,000	\$ 83,000	\$ 83,000	None	
59	505-3904-30312	GROSS RECEIPTS - ENVIRONMENTAL	-	-	-	-	-	None	
60	505-3904-30315	GOVT GROSS RECEIPTS TAX	11,000	11,000	11,000	11,000	11,000	None	
61	505-3904-32700	OTHER STATE GRANTS	-	-	-	-	-	None	
62	505-3904-34355	TRANSFER STATION REVENUE	-	-	-	-	-	None	
63	505-3904-34524	UTILITIES SERVICES-SOLID WASTE DIVI	-	-	-	-	-	None	
64	505-3904-35544	NON-PAYMENT PENALTY 8%-SOLID WASTE	4,500	4,500	4,500	4,500	4,500	None	
65	505-3904-36410	NM STO INVESTMENT INCOME	8,000	8,000	8,000	8,000	8,000	None	
66	505-3904-37546	MISC(RECYCLING)-SOLID WASTE DIVIS	25,000	25,000	25,000	25,000	25,000	None	
67	Total Revenue		\$ 131,500	\$ 131,500	\$ 131,500	\$ 131,500	\$ 131,500		
68	Revenue Requirement		\$ 2,101,950	\$ 2,325,231	\$ 2,300,946	\$ 2,235,231	\$ 2,322,601		

Footnotes:

1. Disposal cost paid to South Central Solid Waste Authority.

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Revenue Requirement Summary

Line No.	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
1 Poly Cart	\$ 152,736	\$ 156,242	\$ 162,195	\$ 151,998	\$ 157,433
2 Commercial Trash Collection	350,724	355,026	364,784	338,427	347,098
3 Commercial Recycle Collection	84,333	85,366	87,713	81,376	83,463
4 Cart Maintenance & Delivery	64,287	66,059	67,897	69,804	71,782
5 Disposal/ Hauling	590,133	656,059	692,306	730,556	770,920
6 Collection Center - Garbage Operations	308,707	437,678	335,277	274,967	281,777
7 Administration	313,627	326,100	338,988	352,303	366,061
8 Collection Center - Recycling, etc.	237,404	242,701	251,786	235,799	244,066
9 Total	\$ 2,101,950	\$ 2,325,231	\$ 2,300,946	\$ 2,235,231	\$ 2,322,601

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Poly Cart Cost of Service

Line No.	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
1	PolyCart	\$ 152,736	\$ 156,242	\$ 162,195	\$ 151,998	\$ 157,433
2	Cart Maintenance & Delivery	64,287	66,059	67,897	69,804	71,782
3	Disposal/ Hauling	152,999	170,091	179,489	189,406	199,870
4	Administration	120,563	122,107	129,290	134,396	139,613
5	Collection Center - Garbage Operations	80,036	113,473	86,925	71,288	73,054
6	Collection Center - Recycling, etc.	237,404	242,701	251,786	235,799	244,066
7	Total Revenue Requirement	\$ 808,026	\$ 870,674	\$ 877,582	\$ 852,691	\$ 885,819
Billing Units (Polycarts)						
8	Billing Units (Polycarts)					
9	Residential	3,091	3,106	3,122	3,138	3,154
10	Commercial	98	98	98	98	98
11	Total Polycarts	3,189	3,204	3,220	3,236	3,252
12	Total Cost Per Polycart	\$ 21.11	\$ 22.65	\$ 22.71	\$ 21.96	\$ 22.70
13	Total Revenue Requirement	\$ 808,026	\$ 870,674	\$ 877,582	\$ 852,691	\$ 885,819
14	Projected Polycart Revenues	\$ 1,345,780	\$ 1,352,024	\$ 1,358,685	\$ 1,365,345	\$ 1,372,006
15	Over/(Under)	\$ 537,755	\$ 481,351	\$ 481,103	\$ 512,654	\$ 486,187

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Dumpster Refuse and Recycle Cost of Service

Line No.	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
1	Direct Cost					
2	Commercial Trash Collection	\$ 350,724	\$ 355,026	\$ 364,784	\$ 338,427	\$ 347,098
3	Commercial Recycle Collection	84,333	85,366	87,713	81,376	83,463
4	Disposal/ Hauling	103,852	115,454	121,833	128,564	135,667
5	Administration	104,038	103,234	109,427	111,655	115,217
6	Collection Center - Garbage Operations	54,327	77,023	59,002	48,389	49,587
7	Total Direct Cost	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
8	Total Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
9	Billing Units and Costs Per Unit					
10	Container Cost					
11	# of Refuse Containers	372	372	372	372	372
12	# of Recycling Containers	90	90	90	90	90
		462	462	462	462	462
13	Monthly Fee Per Container					
14	Administration	\$ 18.77	\$ 18.62	\$ 19.74	\$ 20.14	\$ 20.78
15	Collections					
16	# of Annual Refuse Collections	59,696	59,696	59,696	59,696	59,696
17	# of Annual Recycling Collections	9,152	9,152	9,152	9,152	9,152
18	Total Collections	68,848	68,848	68,848	68,848	68,848
19	Fee per Collection	\$ 7.11	\$ 7.52	\$ 7.43	\$ 6.80	\$ 6.97
20	Disposal Costs					
21	Yards of Capacity (annual)	156,702	156,702	156,702	156,702	156,702
22	Fee per Yard	\$ 0.66	\$ 0.74	\$ 0.78	\$ 0.82	\$ 0.87

Refuse Rates						
FY 2024 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 53.61	\$ 88.45	\$ 123.29	\$ 158.13	\$ 192.96	\$ 227.80
3	\$ 57.88	\$ 96.99	\$ 136.11	\$ 175.22	\$ 214.34	\$ 253.45

FY 2025 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 55.69	\$ 92.76	\$ 129.83	\$ 166.89	\$ 203.96	\$ 241.03
3	\$ 60.44	\$ 102.26	\$ 144.08	\$ 185.90	\$ 227.72	\$ 269.54

FY 2026 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 56.70	\$ 93.66	\$ 130.62	\$ 167.58	\$ 204.54	\$ 241.50
3	\$ 61.71	\$ 103.69	\$ 145.67	\$ 187.64	\$ 229.62	\$ 271.59

FY 2027 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 54.67	\$ 89.21	\$ 123.74	\$ 158.27	\$ 192.81	\$ 227.34
3	\$ 59.97	\$ 99.79	\$ 139.62	\$ 179.44	\$ 219.27	\$ 259.09

FY 2028 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 56.35	\$ 91.93	\$ 127.50	\$ 163.07	\$ 198.64	\$ 234.22
3	\$ 61.94	\$ 103.10	\$ 144.25	\$ 185.41	\$ 226.57	\$ 267.72

Recycling Rates						
FY 2024 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
3	\$ 49.33	\$ 79.90	\$ 110.46	\$ 141.03	\$ 171.59	\$ 202.16

FY 2025 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 50.94	\$ 83.25	\$ 115.57	\$ 147.88	\$ 180.20	\$ 212.52
3	\$ 50.94	\$ 83.25	\$ 115.57	\$ 147.88	\$ 180.20	\$ 212.52

FY 2026 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 51.68	\$ 83.63	\$ 115.58	\$ 147.52	\$ 179.47	\$ 211.42
3	\$ 51.68	\$ 83.63	\$ 115.58	\$ 147.52	\$ 179.47	\$ 211.42

FY 2027 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 49.38	\$ 78.62	\$ 107.86	\$ 137.11	\$ 166.35	\$ 195.59
3	\$ 49.38	\$ 78.62	\$ 107.86	\$ 137.11	\$ 166.35	\$ 195.59

FY 2028 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 50.77	\$ 80.76	\$ 110.75	\$ 140.74	\$ 170.72	\$ 200.71
3	\$ 50.77	\$ 80.76	\$ 110.75	\$ 140.74	\$ 170.72	\$ 200.71

**City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Collection Center Cost of Service**

Line No.	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
1	Disposal/ Hauling	\$ 333,281	\$ 370,514	\$ 390,985	\$ 412,587	\$ 435,382
2	Collection Center - Garbage Operations	174,345	247,181	189,350	155,289	159,136
3	Administration	89,025	100,759	100,270	106,252	111,232
4	Total	\$ 596,651	\$ 718,454	\$ 680,605	\$ 674,127	\$ 705,750

5	Annual Billed Collection Center Tonnage ¹	4,214	4,235	4,256	4,278	4,299
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	# of Drop-Offs	Rate	FY 2023 Revenue	FY 2024 Revenue	FY 2025 Revenue	FY 2026 Revenue	FY 2027 Revenue	FY 2028 Revenue
Residential MSW/Yard waste								
0-200	5,235	\$ 6.00	\$ 31,412	\$ 31,569	\$ 31,727	\$ 31,886	\$ 32,045	\$ 32,205
201-400	2,428	11.22	27,237	27,373	27,510	27,648	27,786	27,925
401-600	1,156	13.32	15,396	15,473	15,551	15,628	15,706	15,785
601-800	689	18.84	12,984	13,049	13,114	13,180	13,246	13,312
Commercial C&D/Yard waste								
0-100	19	\$ 20.00	\$ 378	\$ 380	\$ 382	\$ 384	\$ 385	\$ 387
101-350	153	30.00	4,578	4,601	4,624	4,647	4,670	4,693
351-650	208	40.00	8,305	8,346	8,388	8,430	8,472	8,515
651-1000	186	50.00	9,322	9,369	9,415	9,463	9,510	9,557
1001-1999	282	60.00	16,892	16,977	17,062	17,147	17,233	17,319
Tree Branches								
0-200	271	\$ 3.50	\$ 949	\$ 953	\$ 958	\$ 963	\$ 968	\$ 973
201-400	196	7.00	1,372	1,379	1,386	1,393	1,400	1,407
401-600	92	10.50	967	972	977	982	987	992
Total CC Drop-Off Revenue Offset²			\$ 129,793	\$ 130,442	\$ 131,094	\$ 131,749	\$ 132,408	\$ 133,070
6	COS With Drop-Off Revenue Offset		\$ 466,209	\$ 587,360	\$ 548,856	\$ 541,719	\$ 572,680	
7	Cost Per Ton		\$ 110.63	\$ 138.69	\$ 128.95	\$ 126.64	\$ 133.21	

South Central Solid Waste Authority Disposal Rates Per Ton \$ 57.01 \$ 61.00 \$ 65.27 \$ 68.53 \$ 71.96 \$ 75.56
 Provided by SCSWA staff. 7% increase in 2024. (\$57.01*1.07=\$61.00) 7% increase in FY 2025 and 5% increase in FY 26, FY 27, & FY 28.

Footnote

1: Collection Center Tonnage = tons hauled away by SCSWA 9,261 tons - 4,031 polycart & dumpster tonnage- 1,016 tons in tiered rates.

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Over/(Under) at Current Rates

Line No.	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
Polycarts						
1	Polycart Cost of Service	\$ 808,026	\$ 870,674	\$ 877,582	\$ 852,691	\$ 885,819
2	Polycart Rates					
3	Residential	\$ 34.69	\$ 34.69	\$ 34.69	\$ 34.69	\$ 34.69
4	Commercial	\$ 50.22	\$ 50.22	\$ 50.22	\$ 50.22	\$ 50.22
5	Polycart Revenue					
6	Residential	\$ 1,286,721	\$ 1,292,966	\$ 1,299,626	\$ 1,306,287	\$ 1,312,947
7	Commercial	59,059	59,059	59,059	59,059	59,059
8	Total Polycart Revenue	\$ 1,345,780	\$ 1,352,024	\$ 1,358,685	\$ 1,365,345	\$ 1,372,006
9	Over/(Under) Current Rates	\$ 537,755	\$ 481,351	\$ 481,103	\$ 512,654	\$ 486,187
10	Cumulative Over/(Under)	\$ 537,755	\$ 1,019,105	\$ 1,500,208	\$ 2,012,862	\$ 2,499,048
Dumpster Collection						
11	Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
12	Total Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
13	Total Dumpster Revenues	\$ 539,112	\$ 539,947	\$ 540,781	\$ 541,616	\$ 542,451
14	Over/(Under) Current Rates	\$ (158,162)	\$ (196,157)	\$ (201,977)	\$ (166,795)	\$ (188,581)
15	Cumulative Over/(Under)	\$ (158,162)	\$ (354,319)	\$ (556,296)	\$ (723,092)	\$ (911,672)
Collection Center						
16	Collection Center COS	\$ 596,651	\$ 718,454	\$ 680,605	\$ 674,127	\$ 705,750
17	Total Collection Center Revenues	\$ 382,871	\$ 384,786	\$ 386,710	\$ 388,643	\$ 390,587
18	Over/(Under) Current Rates	\$ (213,779)	\$ (333,668)	\$ (293,895)	\$ (285,484)	\$ (315,163)
19	Cumulative Over/(Under)	\$ (213,779)	\$ (547,448)	\$ (841,343)	\$ (1,126,827)	\$ (1,441,990)
TOTAL OVER/(UNDER) AT CURRENT RATES						
20	Total Revenue Requirement	\$ 2,101,950	\$ 2,325,231	\$ 2,300,946	\$ 2,235,231	\$ 2,322,601
21	Total Project Revenue at Current Rates	2,267,763	2,276,757	2,286,176	2,295,605	2,305,043
22	Over/(Under) Current Rates	\$ 165,813	\$ (48,475)	\$ (14,770)	\$ 60,374	\$ (17,557)
23	Cumulative Over/(Under)	\$ 165,813	\$ 117,339	\$ 102,569	\$ 162,943	\$ 145,386

**City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Dumpster Proposed Rates**

FY 2024 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 69.57	\$ 88.45	\$ 123.29	\$ 158.13	\$ 192.96	\$ 227.80
3	\$ 69.57	\$ 96.99	\$ 136.11	\$ 175.22	\$ 214.34	\$ 253.45

FY 2024 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 30.00	\$ 60.00	\$ 90.00	\$ 120.00	\$ 150.00	\$ 180.00
3	\$ 30.00	\$ 60.00	\$ 90.00	\$ 120.00	\$ 150.00	\$ 180.00

% Increase 0%

FY 2025 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 69.57	\$ 88.45	\$ 123.29	\$ 158.13	\$ 192.96	\$ 227.80
3	\$ 69.57	\$ 96.99	\$ 136.11	\$ 175.22	\$ 214.34	\$ 253.45

FY 2025 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 30.00	\$ 60.00	\$ 90.00	\$ 120.00	\$ 150.00	\$ 180.00
3	\$ 30.00	\$ 60.00	\$ 90.00	\$ 120.00	\$ 150.00	\$ 180.00

% Increase 7.5%

FY 2026 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 74.79	\$ 95.08	\$ 132.53	\$ 169.98	\$ 207.44	\$ 244.89
3	\$ 74.79	\$ 104.27	\$ 146.32	\$ 188.37	\$ 230.41	\$ 272.46

% Increase 5.0%

FY 2026 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 31.50	\$ 63.00	\$ 94.50	\$ 126.00	\$ 157.50	\$ 189.00
3	\$ 31.50	\$ 63.00	\$ 94.50	\$ 126.00	\$ 157.50	\$ 189.00

% Increase 7.5%

FY 2027 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 80.40	\$ 102.21	\$ 142.47	\$ 182.73	\$ 223.00	\$ 263.26
3	\$ 80.40	\$ 112.09	\$ 157.29	\$ 202.49	\$ 247.69	\$ 292.90

% Increase 5.0%

FY 2027 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 33.08	\$ 66.15	\$ 99.23	\$ 132.30	\$ 165.38	\$ 198.45
3	\$ 33.08	\$ 66.15	\$ 99.23	\$ 132.30	\$ 165.38	\$ 198.45

% Increase 7.5%

FY 2028 Refuse Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 86.43	\$ 109.88	\$ 153.16	\$ 196.44	\$ 239.72	\$ 283.00
3	\$ 86.43	\$ 120.50	\$ 169.09	\$ 217.68	\$ 266.27	\$ 314.86

% Increase 5.0%

FY 2028 Recycling Rates						
Container	Collections per Week					
Size (yrd)	1	2	3	4	5	6
1.5	\$ 34.73	\$ 69.46	\$ 104.19	\$ 138.92	\$ 173.64	\$ 208.37
3	\$ 34.73	\$ 69.46	\$ 104.19	\$ 138.92	\$ 173.64	\$ 208.37

Dumpster Collection	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
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Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
Total Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
Total Dumpster Revenues	\$ 539,112	\$ 693,032	\$ 743,426	\$ 797,519	\$ 855,587
Over/(Under) Proposed Rates	\$ (158,162)	\$ (43,071)	\$ 667	\$ 89,108	\$ 124,555
Cumulative Over/(Under)	\$ (158,162)	\$ (201,233)	\$ (200,566)	\$ (111,459)	\$ 13,097

30% Dumpster Collection	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
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Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
Total Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032
Total Dumpster Revenues	\$ 539,112	\$ 485,123	\$ 520,398	\$ 558,264	\$ 598,911
Over/(Under) Proposed Rates	\$ (158,162)	\$ (250,981)	\$ (222,361)	\$ (150,148)	\$ (132,121)
Cumulative Over/(Under)	\$ (158,162)	\$ (409,143)	\$ (631,504)	\$ (781,652)	\$ (913,773)

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Collection Center Proposed Rates

CURRENT

Residential	Minimum Fee (lbs tiers)				Per Ton
	0-200	201-400	401-600	601-800	801+
MSW	\$ 6.00	\$ 11.22	\$ 13.32	\$ 18.84	\$ 60.00
Yard waste	\$ 6.00	\$ 11.22	\$ 13.32	\$ 18.84	\$ 60.00

Commercial	Minimum Fee By Lbs					Per Ton
	0-100	101-350	351-650	651-1,000	1,001-1,999	2,000+
C&D	\$ 20.00	\$ 30.00	\$ 40.00	\$ 50.00	\$ 60.00	\$ 65.00
Yard waste	\$ 20.00	\$ 30.00	\$ 40.00	\$ 50.00	\$ 60.00	\$ 65.00

Tree Branches	Min Fee (lbs tiers)			Per Ton
	0-200	201-400	401-600	601+
	\$3.50	\$7.00	\$10.50	\$ 35.00

Rate Increase \$ -

Year 1 FY 2024

Residential	Minimum Fee (lbs tiers)				Per Ton
	0-200	201-400	401-600	601-800	801+
MSW	\$ 6.00	\$ 11.22	\$ 13.32	\$ 18.84	\$ 60.00
Yard waste	\$ 6.00	\$ 11.22	\$ 13.32	\$ 18.84	\$ 60.00

Commercial	Minimum Fee By Lbs					Per Ton
	0-100	101-350	351-650	651-1,000	1,001-1,999	2,000+
C&D	\$ 20.00	\$ 30.00	\$ 40.00	\$ 50.00	\$ 60.00	\$ 65.00
Yard waste	\$ 20.00	\$ 30.00	\$ 40.00	\$ 50.00	\$ 60.00	\$ 65.00

Tree Branches	Min Fee (lbs tiers)			Per Ton
	0-200	201-400	401-600	601+
	\$3.50	\$7.00	\$10.50	\$ 35.00

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Collection Center Proposed Rates

Per Ton Rate Increase \$ 27.00

Year 2 FY 2025

	Minimum Fee (lbs tiers)					Per Ton
Residential	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00
Yard waste	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00

	Minimum Fee (lbs tiers)					Per Ton
Commercial	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00
Yard waste	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00

	Minimum Fee (lbs tiers)					Per Ton
Tree Branches	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 9.00	\$ 18.00	\$ 27.00	\$ 36.00	\$ 54.00	\$ 90.00

Per Ton Rate Increase \$ 15.00

Year 3 FY 2026

	Minimum Fee (lbs tiers)					Per Ton
Residential	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00
Yard waste	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00

	Minimum Fee (lbs tiers)					Per Ton
Commercial	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00
Yard waste	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00

	Minimum Fee (lbs tiers)					Per Ton
Tree Branches	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 10.50	\$ 21.00	\$ 31.50	\$ 42.00	\$ 63.00	\$ 105.00

**City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Collection Center Proposed Rates**

Per Ton Rate Increase \$ 10.00

Year 4 FY 2027

Residential	Minimum Fee (lbs tiers)					Per Ton
	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

Commercial	Minimum Fee (lbs tiers)					Per Ton
	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

Tree Branches	Minimum Fee (lbs tiers)					Per Ton
	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

Per Ton Rate Increase \$ -

Year 5 FY 2028

Residential	Minimum Fee (lbs tiers)					Per Ton
	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
MSW	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

Commercial	Minimum Fee (lbs tiers)					Per Ton
	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
C&D	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00
Yard waste	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

Tree Branches	Minimum Fee (lbs tiers)					Per Ton
	0-200	201-400	401-600	601-800	801-1,200	1,200+ lbs
	\$ 11.50	\$ 23.00	\$ 34.50	\$ 46.00	\$ 69.00	\$ 115.00

Collection Center	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
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1	Collection Center COS	\$ 596,651	\$ 718,454	\$ 680,605	\$ 674,127	\$ 705,750
2	Total Collection Center Revenues	\$ 382,871	\$ 599,311	\$ 699,440	\$ 769,884	\$ 773,733
3	Over/(Under) Proposed Rates	\$ (213,779)	\$ (119,143)	\$ 18,835	\$ 95,756	\$ 67,983
4	Cumulative Over/(Under)	\$ (213,779)	\$ (332,923)	\$ (314,088)	\$ (218,332)	\$ (150,348)

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Over/(Under) at Proposed Rates

Line No.	Description	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028	Notes
Polycarts							
1	Polycart Cost of Service	\$ 808,026	\$ 870,674	\$ 877,582	\$ 852,691	\$ 885,819	
2	Polycart Rates						
3	Residential	\$ 34.69	\$ 34.69	\$ 34.69	\$ 34.69	\$ 34.69	
4	Commercial	\$ 50.22	\$ 50.22	\$ 50.22	\$ 50.22	\$ 50.22	
5	Polycart Revenue						
6	Residential	\$ 1,286,721	\$ 1,292,966	\$ 1,299,626	\$ 1,306,287	\$ 1,312,947	
7	Commercial	\$ 59,059	\$ 59,059	\$ 59,059	\$ 59,059	\$ 59,059	
8	Total Polycart Revenue	\$ 1,345,780	\$ 1,352,024	\$ 1,358,685	\$ 1,365,345	\$ 1,372,006	
9	Over/(Under) Proposed Rates	\$ 537,755	\$ 481,351	\$ 481,103	\$ 512,654	\$ 486,187	
10	Cumulative Over/(Under)	\$ 537,755	\$ 1,019,105	\$ 1,500,208	\$ 2,012,862	\$ 2,499,048	
Dumpster Collection							
11	Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032	
12	Total Dumpster COS	\$ 697,274	\$ 736,103	\$ 742,759	\$ 708,412	\$ 731,032	
13	Total Dumpster Revenues	\$ 539,112	\$ 485,123	\$ 520,398	\$ 558,264	\$ 598,911	1,2
14	Over/(Under) Proposed Rates	\$ (158,162)	\$ (250,981)	\$ (222,361)	\$ (150,148)	\$ (132,121)	
15	Cumulative Over/(Under)	\$ (158,162)	\$ (409,143)	\$ (631,504)	\$ (781,652)	\$ (913,773)	
Collection Center							
16	Collection Center COS	\$ 596,651	\$ 718,454	\$ 680,605	\$ 674,127	\$ 705,750	
17	Total Collection Center Revenues	\$ 382,871	\$ 599,311	\$ 699,440	\$ 769,884	\$ 773,733	
18	Over/(Under) Proposed Rates	\$ (213,779)	\$ (119,143)	\$ 18,835	\$ 95,756	\$ 67,983	
19	Cumulative Over/(Under)	\$ (213,779)	\$ (332,923)	\$ (314,088)	\$ (218,332)	\$ (150,348)	
TOTAL OVER/(UNDER) AT PROPOSED RATES							
20	Total Revenue Requirement	\$ 2,101,950	\$ 2,325,231	\$ 2,300,946	\$ 2,235,231	\$ 2,322,601	
21	Total Project Revenue at Proposed Rates	2,267,763	2,436,458	2,578,523	2,693,493	2,744,650	
22	Over/(Under) Proposed Rates	\$ 165,813	\$ 111,226	\$ 277,577	\$ 458,262	\$ 422,049	
23	Cumulative Over/(Under)	\$ 165,813	\$ 277,040	\$ 554,616	\$ 1,012,878	\$ 1,434,927	
Footnotes:							
1 Dumpster revenues assumed a 30% reduction in the number of dumpsters served.							
2 If the number of dumpsters served and the configuration (frequency of pickup and size) remain unchanged, listed below would be the dumpster collection recovery.							
24	Total Dumpster Revenues	\$ 539,112	\$ 693,032	\$ 743,426	\$ 797,519	\$ 855,587	
25	Over/(Under) Proposed Rates	\$ (158,162)	\$ (43,071)	\$ 667	\$ 89,108	\$ 124,555	
26	Cumulative Over/(Under)	\$ (158,162)	\$ (201,233)	\$ (200,566)	\$ (111,459)	\$ 13,097	

City of Truth or Consequences, New Mexico
Solid Waste Cost of Service Study
Reserves

Line No.	Fund Account	Year 1 FY 2024	Year 2 FY 2025	Year 3 FY 2026	Year 4 FY 2027	Year 5 FY 2028
1	O&M Costs (excluding debt)	\$ 2,115,613	\$ 2,338,041	\$ 2,318,101	\$ 2,366,731	\$ 2,454,101
2	90 days of O&M Costs	\$ 521,658	\$ 576,503	\$ 571,587	\$ 583,577	\$ 605,121
3	Current Reserve Balance	\$ -	\$ 165,813	\$ 277,040	\$ 554,616	\$ 1,012,878
4	Solid Waste Over/(Under) Recovery	165,813	111,226	277,577	458,262	422,049
5	Ending Reserve Balance	\$ 165,813	\$ 277,040	\$ 554,616	\$ 1,012,878	\$ 1,434,927
6	Excess Reserves	\$ -	\$ -	\$ -	\$ 429,301	\$ 829,807
7	90 Day Reserve Goal Met	<input type="radio"/> No	<input type="radio"/> No	<input type="radio"/> No	<input checked="" type="radio"/> Yes	<input checked="" type="radio"/> Yes

NewGen
Strategies & Solutions

Parkhill



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CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: H.2

SUBJECT: Discussion/Action: Resolution No. 11 24/25 Amendment to City Park Rental fees.
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: August 7, 2024
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: OJ Hechler, Community Services Director and Angela A. Torres, City Clerk

Summary/Background:

This is an amendment to our park rental fee Resolution to include the use of jumping balloons at various city parks with city approval.

Recommendation:

Approval of Resolution No. 11 24/25

Attachments:

- Resolution No. 11 24/25

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

None.

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-2024

RESOLUTION NO. 11 24/25

A RESOLUTION OF THE CITY OF TRUTH OR CONSEQUENCES CITY COMMISSION ADOPTING A RESOLUTION FOR FEES, DEPOSITS AND REGULATIONS FOR USE OF THE CITY PARKS.

WHEREAS, the City of Truth or Consequences operates and maintains various City Parks, Rodeo Arena, Sports Complex, Tennis Courts, etc., and;

WHEREAS, the City of Truth or Consequences operates and maintains the City Parks for the enjoyment of the public, and;

WHEREAS, the City Parks are sometimes used by the public for commercial or private purposes, and;

WHEREAS, the City of Truth or Consequences finds it necessary to collect fees, and deposits in order to cover operational costs, and to provide on-going maintenance of the City Parks:

The following are the fees and deposits the City will charge for use of the City Parks:

Those who wish to use a park on a first come, first serve basis are not required to pay a user fee. However, private and commercial events that are expected to bring in a large number of people will be required to pay user fees.

RALPH EDWARDS PARK:

Reserving a Park Shelter:
(Utilities Not included)

Small Shelter - up to 2 hours:	\$20.00
2 hours to 4 hours:	\$30.00
4 hours to all day	\$40.00
(Refundable Deposit) per rental:	\$25.00

Large Shelter: up to 2 hours:	\$25.00
2 hours to 4 hours:	\$35.00
4 hours to all day:	\$45.00
(Refundable Deposit) per rental:	\$25.00

Reserving Gazebo:
(Utilities not included)

Up to 4 hours:	\$30.00
4 hours to 8 hours:	\$50.00
(Refundable Deposit) per rental:	\$25.00

Use of Utilities:

Electricity:	\$7 per outlet per day
	\$50 per day south pedestals
Water Fees:	\$10 single hose bib per day
	\$25 per event (Multiple hose bibs)

JUMPING BALLOONS

Reserving Designated Area for Jumping Balloon: \$25.00 and requires liability insurance (Refundable Deposit) per rental: \$100.00

Jumping Balloons/Bouncy Houses/Dunk Tanks, etc. are only allowed in designated areas approved by the city. Set-up must be pre-approved by the city and prior to any events.

INFLATABLE WATER SLIDES ARE NOT ALLOWED

Commercial Event Application: Event Reservation: \$50.00
Electricity: \$50.00 per event
Water Fees: \$10.00 per hose bib per day
(Refundable Deposit) per reservation: \$100.00
Does not include group shelters or Gazebo

- Set-up and tear-down will be the responsibility of the renter.

FAMILY PARK:

Reserving a Park Shelter: Small Shelter - up to 2 hours: \$20.00
(Utilities not included) 2 hours to 4 hours: \$30.00
4 hours to all day \$40.00
(Refundable Deposit) per rental: \$25.00

Large Shelter - up to 2 hours: \$25.00
2 hours to 4 hours: \$35.00
4 hours to all day \$45.00
(Refundable Deposit) per rental: \$25.00

Use of Utilities: Electricity: \$7 per outlet per day

JUMPING BALLOONS

Jumping Balloons/Bouncy Houses/Dunk Tanks, etc. require liability insurance and a \$100.00 refundable deposit.

Commercial Event Application: Event Reservation: \$50.00
 Electricity: \$35.00 per event
 (Refundable Deposit) per reservation: \$100.00
Does not include group shelters

- Set-up and tear-down will be the responsibility of the renter.

HEALING WATERS PLAZA:

Reserving the Pergola: Up to 2 hours: \$25.00
(Utilities not included) 2 hours to 4 hours: \$35.00
 4 hours to all day: \$45.00

Deposit (Non-Commercial Events) Refundable Deposit fee Per Rental: \$25.00

Use of Utilities: Electricity: \$7 per outlet per day

Commercial Event Application: Event Reservation: \$50.00 (**Does not include pergola**)
 Electricity: \$50.00 per event
 (Refundable Deposit) per reservation: \$100.00

- Set-up and tear-down will be the responsibility of the renter.

EVELYN RENFRO PARK:

USE OF UTILITIES: Electricity: \$7 per outlet per day
 Water Fees: \$10 single hose bib per day

LOUIS ARMIJO SPORTS COMPLEX :

Use of Field Lights: \$25.00 per day

Men/Women Sports Leagues: \$150.00 per team per season (includes Field Lights)

Youth League Teams: \$100.00 per team per season (includes Field Lights)

Guest Tournaments (Men/Women): \$200.00 (Up to 3 consecutive days)

Refundable Deposit: \$50.00 per event

Use of Conference Room: \$15.00 per hour up to 3 hours
 \$50.00 over 3 hours
 (Refundable Deposit) per rental \$25.00

Use of Concession Stand: \$15.00 per hour up to 3 hours
 \$50.00 over 3 hours
 \$100.00 per season
 (Refundable Deposit) per rental \$50.00

- Adult Sports Leagues must submit By-Laws with application for season use.
- A season being: spring, summer, fall, winter (3-4 Months).
- All leagues must provide a season schedule at the time event is booked.
- Set-up and tear-down will be the responsibility of the renter.

ROTARY PARK:

Reserving a Park Shelter: Small Shelter - up to 2 hours: \$20.00
 2 hours to 4 hours: \$30.00
 4 hours to all day \$40.00
 (Refundable Deposit) per rental: \$25.00

 Large Shelter - up to 2 hours: \$25.00
 2 hours to 4 hours: \$35.00
 4 hours to all day \$45.00
 (Refundable Deposit) per rental: \$25.00

Use of Utilities: Electricity: \$7 per outlet per day

Commercial Event Application: Event Reservation: \$50.00
 Electricity: \$35.00 per event
 (Refundable Deposit) per reservation: \$100.00
 Does not include group shelters

- Set-up and tear-down will be the responsibility of the renter.

TENNIS COURTS:

Use of tennis court lights: \$10.00 per use (no later than 11 PM)
Reserving the tennis courts: two court enclosure- \$20.00 per day
 (Refundable Deposit) per rental: \$25.00

RODEO ARENA:

Use of Arena Lights: \$25.00 per day
Use of Arena: \$100 per event

Refundable Deposit	\$40 Local Youth Group \$100.00 per event
PA System:	\$25.00 per day (if available)
Additional Tractor Work:	\$100.00 per day
Overnight use of stalls:	\$10 per stall per night + \$25 single fee deposit
RV Hookup:	\$20 per RV Hookup per day (electricity and water)

Liability Insurance Certificate: Renters may be required to submit a Certificate of Liability Insurance naming the City of Truth or Consequences as additional insured for a minimum of \$1,000,000 Per Occurrence. A Hold Harmless Agreement is required to be signed by all applicants.

Additional Items:

Bleachers:	\$50.00 per set (includes delivery)
Folding Chairs:	\$1.00 per chair
Tables:	\$5.00 per table (Refundable Deposit) per rental \$50.00

- The fee for bleachers may be waived by the City Manager for community events that provide a significant public benefit.
- Rentals of bleachers, chairs, and tables will be per event not to exceed four days. (The location of the event will be noted on the Rental Agreement Form)

NOTE:

Jumping Balloons/Bouncy Houses/Dunk Tanks, etc. may be allowed in other City parks with approval from the City. Set-up must be pre-approved by the City prior to any events.

Reserving Designated Area: \$25.00 and requires liability insurance
(Refundable Deposit) per rental: \$100.00

A Commercial Event Application: is for the use of a portion of a park for events that are expected to draw a large number of people due to their nature, interest, location, promotion, or any combination of similar influences that are to be held in a City Park. This includes but not necessarily limited to vendors, festivals, solicitations, or performances. Vendors selling goods

on public property must have a City business license. **All Commercial Event Applications must be approved by the City Manager.**

The cleaning/damage deposit will be deposited in a City account, and will be refunded if the facility is cleaned after the event and the facility has been returned to prior condition to the satisfaction of the City. If the amount of deposit is greater than the cost of cleaning or damage, the difference will be refunded. If the cost of cleaning or damage is greater than the amount of deposit the renter will be charged accordingly.

Note: The City Manager or his/her designee may impose other use regulations as he/she may deem necessary as long as those regulations do not subvert the intent of this policy. Any complaints for public affray may affect your ability to use City Parks.

NOW THEREFORE, BE IT RESOLVED by the City of Truth or Consequences Governing Body, that the fees, deposits and regulations described herein are hereby enacted.

BE IT FURTHER RESOLVED that nothing in the Resolution shall prohibit the use or access of City Parks by the public at large for free.

PASSED, APPROVED AND AMENDED this 14th day of August, 2024.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

By: _____
Rolf Hechler, Mayor

ATTEST:

Angela A. Torres, City Clerk-Treasurer



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: H.3

SUBJECT: Discussion/Action - Resolution 12 24/25 Approval of the State of New Mexico Environment Department Capital Appropriation Project Water Distribution Line Grant Agreement and Authorizing the Assignment of Authorized Officers and Agents

DEPARTMENT: Community Development

DATE SUBMITTED: August 6, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez Assistant City Manager

Summary/Background:

The city received a Capital Appropriation in the amount of \$4,400,000.00 for water system improvements. Funds will be overseen by New Mexico Environment Dept.

Recommendation:

Approval of Resolution 12 24/25 and Grant Agreement

Attachments:

- Grant Agreement
-

Fiscal Impact (Finance): Yes

\$4,400,000.00

Legal Review (City Attorney): Yes

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC agendas 8-14-24

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
CAPITAL APPROPRIATION PROJECT
T OR C WATER DISTRIBUTION LINE RPLC
SAP 24-I2460-GF**

THIS AGREEMENT between the New Mexico Environment Department hereinafter called the “Department” or NMED, and City of Truth or Consequences hereinafter called the “Grantee” becomes effective on the date signed by the NMED.

RECITALS

WHEREAS, in the Laws of 2024, Chapter 66, Section 20, Subsection 106 the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, NMED is empowered pursuant to Section 74-1-6 B, NMSA 1978 to contract in its own name.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

SAP 24-I2460-GF \$4,400,000.00 APPROPRIATION REVERSION DATE: June 30, 2028

Laws of 2024, Chapter 66, Section 20, Subsection 106, Four Million Four Hundred Thousand Dollars, (\$4,400,000.00), from the General Fund to plan, design and construct water system improvements, including replacement of water distribution lines, in Truth or Consequences in Sierra county;

The Grantee’s total reimbursements shall not exceed Four Million Four Hundred Thousand Dollars, \$4,400,000.00 (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”)¹, if

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

applicable, Four Million Four Hundred Thousand Dollars, \$4,400,000.00 (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued, and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third-Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

² "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third-party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee shall request approval of its obligation(s) by submitting a Notice of Obligation form as provided by the Department. The Grantee's submission of documentation of all Third-Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The Grantee shall submit to the Department one copy of all Third-Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
- b. The Grantee acknowledges and agrees that if it chooses to enter into a Third-Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third-Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed on their Resolution of Signatory Authority as their representatives with all matters concerning this Agreement.

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

NMED Program Administrator

NMENV-cpbsap@state.nm.us

505-670-3418

505-670-3615

NMED Project Manager

Name: Steven Deal

Email: steven.deal@env.nm.gov

Telephone: 505-670-2926

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above-named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2028 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended, and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

If the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration. Additionally, the Grantee shall certify on the Request for Payment form that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee a minimum of thirty (30) days' written notice of any changes to the information the Grantee is required to report.

Quarterly reports are due on the last day of each quarter. Quarter end reporting periods are September 30th, December 31st, March 31st, and June 30th.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

The Grantee shall respond to such requests for additional information within a reasonable amount of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form provided by the Department. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third-party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of execution of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred, or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third-party contractor or vendor; or
- (ii) No more than twenty (20) days from date of Early Termination; or
- (iii) For reverting projects, no more than twenty (20) days after June 30 reversion unless advised in writing differently.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to the Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
- (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
- (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
- (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age, or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

- (i) The Grantee has the legal authority to receive and expend the Project's funds.

- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct, and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third-Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans, and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

- A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.
- B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.
- C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be

required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred because of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the SO CENTRAL SWA may immediately terminate this Agreement by giving Contractor written notice of such termination. The SO CENTRAL SWA's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the SO CENTRAL SWA or the New Mexico Environment Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the SO CENTRAL SWA or the Department"

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a New Mexico Environment Department Grant Agreement. Should the New Mexico Environment Department early terminate the grant agreement, the SO CENTRAL SWA may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the SO CENTRAL SWA] only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor.
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
 3. timely submit all required financial reports to its budgetary oversight agency (if any);
- and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.
- B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:
1. suspend new or further obligations pursuant to Article VI(A) of this Agreement.
 2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance.
 3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
 4. terminate this Agreement pursuant to Article V(A) of this Agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

Authorization Page
T OR C WATER DISTRIBUTION LINE RPLC SAP 24-I2460-GF

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

City of Truth or Consequences

Entity Name

Signature of Official with Authority to Bind Grantee

By: Rolf Hechler

(Print Name)

Its: Mayor

(Title)

8-14-2024

Date

New Mexico Environment Department

Judith L. Kahl, P.E., Bureau Chief, NMED Construction Programs Bureau
Signed pursuant to the February 19, 2024 Secretary of Environment Delegation Order

Exhibit 1 – Request for Payment
 Not for NMED use. NMED Disbursement Form is below.

STATE OF NEW MEXICO CAPITAL GRANT PROJECT Request for Payment Form Exhibit 1

I. Grantee Information (Make sure information is complete & accurate)	II. Payment Computation
A. Grantee: _____ B. Address: _____ (Complete Mailing, including Suite, if applicable) _____ City, State, Zip C. Contact Name/Phone #: _____ D. Grant No.: _____ E. Project Title: _____ F. Grant Expiration Date: _____	A. Payment Request No. _____ B. Grant Amount: \$ 0.00 C. AIPP Amount (if Applicable): \$ 0.00 D. Funds Requested to Date: \$ 0.00 E. Amount Requested this Payment: \$ 0.00 F. Reversion Amount (if Applicable): \$ 0.00 G. Grant Balance: \$ 0.00 H. <input type="checkbox"/> GF <input type="checkbox"/> GOB <input type="checkbox"/> STB (attach wire if first draw) I. <input type="checkbox"/> Final Request for Payment (if Applicable)

III. Fiscal Year : 2024 (July 1, 2023-June 30, 2024)
 (The State of NM Fiscal Year is July 1, 201X through June 30, 201X of the following year)

IV. **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

_____ Grantee Fiscal Officer or Fiscal Agent (if applicable)	_____ Grantee Representative
_____ Printed Name	_____ Printed Name
_____ Date:	_____ Date:

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loo No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

_____ Division Fiscal Officer	_____ Date	_____ Division Project Manager	_____ Date
----------------------------------	---------------	-----------------------------------	---------------

Exhibit 2 – Notice of Obligation

Not for NMED Use, Contact Project Manager

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, **Project Manager**

FROM: Grantee Entity: _____

Official Representative: _____
Signature

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: **\$ 0.00**

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: **Project Manager**

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

New Mexico Environment Department (NMED)
Capital Appropriations Certification Document
Article IX. A. (ii) and (iii)
T OR C WATER DISTRIBUTION LINE RPLC - SAP 24-12460-GF

Payment Request No _____

I certify that payment to all vendors on the above referenced payment request were paid no more than five (5) days after receiving reimbursement from NMED.

Official Representative, Signed Name, Printed Name, Date

**NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
NMED DISBURSEMENT REQUEST
SPECIAL APPROPRIATIONS PROGRAM (SAP)**

A. NAME OF ENTITY _____

C. DISBURSEMENT REQUEST NUMBER _____

B. PROJECT NUMBER _____

D. GRANT AMOUNT _____

	PREVIOUS EXPENDITURES		CURRENT EXPENDITURES		CUMULATIVE		FUNDS REMAINING	
	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS	NMED PROGRAM	OTHER FUNDS
Engineer Fees	\$ 0.00	\$ 0.00	\$ 0.00		\$ 0.00	\$ 0.00		
<i>Other Professional</i>	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Service Fees	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Inspection Fees	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Property Acquisition	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Construction Cost	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Planning Cost	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Equipment	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Other Costs (specify)	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
Contingencies	\$ 0.00		\$ 0.00		\$ 0.00	\$ 0.00		
TOTAL	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

Article IX.A. (iii). By checking this box you are stating that payment has NOT been paid to the vendors associated with this request. Upon receipt of payment from NMED, certification of payment will be sent within 10 days from the date of receiving reimbursement.

Article IX. A. (ii). By checking this box you are certifying that the vendors associated with this request have been paid.

Certification: Under penalty of law, I certify that all the above expenditures are true and correct and are for appropriate purposes in accordance with the terms and conditions of the pertinent Loan/Grant Agreement; that all of the above expenses are properly documented, and are actual invoices; that payment has not been received; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

Reporting Certification: I hereby certify to the best of my knowledge and belief, that the database reporting is up to date; to include the accuracy of the expenditures and grant balance, project status, project phase, achievements and milestones, and in compliance with Article VIII of the Capital Outlay Grant Agreement.

Signature of Official Representative: X	Typed or Printed Name:	Phone:	Date:
--	------------------------	--------	-------

A RESOLUTION AUTHORIZING THE ASSIGNMENT OF AUTHORIZED OFFICER(S) AND AGENT(S)
Resolution 12 24/25

Whereas, the City Commission of the City of Truth or Consequences of Sierra County of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as Project Number SAP 24-I2460-GE

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Rolf Hechler, Mayor, or successor is authorized to sign the Grant Agreement for this project, and

Angie Gonzales – City Manager and Traci Alavarez – Assistant City Manager, or successor is the OFFICAL REPRESENTATIVE(S) who is authorized to sign all other documents necessary to fulfill the Grant Agreement and the requirements (Project Description, Disbursements and to act as the project contact), and

Traci Alavarez, Assistant City Manager, or successor is the Capital Projects Monitoring System (CPMS) contact who is designated to update the CPMS database monthly per Article VIII. A. of the Intergovernmental Grant Agreement.

Traci Alvarez - Assistant City Manager, or successors is the CONTACT who is designated to receive Notice of Obligations (NOO□S).

PASSED, APPROVED, AND ADOPTED: August 14th, 2024

Rolf Hechler, Mayor, City of Truth or Consequences, NM

(Signature)

Date

(SEAL)

ATTEST:

(Municipal Clerk)

Name of Grantee: T OR C WATER Project Number: SAP 24-I2460-GF

Current Authorized Signatures (submit with Signature Resolution, update when necessary)

Authorized to Sign Agreement			
Name	Rolf Hechler	Name	
Title	Mayor	Title	
Signature		Signature	
Address	505 Sims Street T or C, NM 87901	Address	
Email	rhechler@torcnm.org	Email	
Phone	575-894-6673	Phone	
Official Representatives authorized to sign Disbursement Requests and all other documents.			
Name	Angie Gonzales	Name	
Title	City Manager	Title	
Signature		Signature	
Address	505 Sims Street T or C, NM 87901	Address	
Email	agonzales@torcnm.org	Email	
Phone	575-894-6673	Phone	
Alternate Official Representative, to sign Disbursement Requests and all other documents and act as the Point of Contact.			
Name	Traci Alvarez	Name	
Title	Assistant City Manager	Title	
Signature		Signature	
Address	505 Sims Street T or C, NM 87901	Address	
Email	talvarez@torcnm.org	Email	
Phone	575-952-0565	Phone	
Designated Agent or Employee that will make monthly CPMS updates			
Name	Traci Alvarez	Name	
Title	Assistant City Manager	Title	
Signature		Signature	
Address	505 Sims Street T or C, NM 87901	Address	
Email	talvarez@torcnm.org	Email	
Phone	575-952-0565	Phone	
Notice of Obligations (NOO's)			
Name	Traci Alvarez	Name	
Title	Assistant City Manager	Title	
Signature	No Signature Required	Signature	No Signature Required
Address	505 Sims Street T or C, NM 87901	Address	
Email	talvarez@torcnm.org	Email	
Phone	575-952-0565	Phone	

**ATTACHMENT B
TECHNICAL REQUIREMENTS
NEW MEXICO ENVIRONMENT DEPARTMENT
CAPITAL OUTLAY**

ARTICLE 1 REVIEW

Upon execution of the grant agreement, the Grantee will follow the procedures listed below unless waived in writing by the New Mexico Environment Department (NMED) (payment may be withheld if any of these procedures are not followed by the Grantee).

- A. The Grantee must submit copies to NMED of all executed contracts entered into by the Grantee and related to the project for the creation of a notice of obligation. Only approved eligible expenditures incurred **after** the effective date of the Grant Agreement shall be reimbursed or paid from these funds.
- B. If grant funds are used for construction, a site certificate must be submitted prior to project bid advertisement that certifies all necessary easements, rights-of-way, and/or property upon or through which the project is being constructed have been obtained. The Site Certificate must be signed by an attorney, engineer, surveyor, or title abstractor.
- C. If grant funds are used for construction, the Grantee will submit notice of the award and a copy of the executed construction contract documents.
- D. The Grantee will provide a full-time construction inspector during construction of the project unless NMED determines that part time inspection is adequate for the project. This must be requested and approved by NMED prior to the start of construction.
- E. All daily construction inspection reports shall be made available to the NMED upon request.
- F. Notwithstanding the inspections performed by the Grantee and its engineer, NMED will have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans but will be a general NMED review as described in Article 2 below.

ARTICLE 2 NMED OVERSIGHT

NMED oversight is only for purposes of compliance with applicable state grant requirements, procedures, statutes, and regulations. NMED approval will not be interpreted as a warranty or guarantee of any kind. Responsibility for the design of the project will lie solely with the engineer of record. All defects and their correction will be the responsibility of the Grantee and its contractors and engineers or consultants. Any questions raised by NMED during its inspections and reviews shall be resolved exclusively by the Grantee. The Grantee and its contractors and engineers or consultants will remain responsible for the completion and success of the project. No action by NMED shall relieve the owner, engineer, or contractor of legal responsibilities for the overall integrity of the project, adequacy of the design, safety, or compliance with all applicable regulations.

ARTICLE 3 **CLOSEOUT**

- A. The project will not be considered complete until the work as defined in this agreement has been fully performed, and finally and unconditionally accepted by the Grantee and the engineer of record.
- B. If the grant funds are used for purchase of equipment, final payment will be made after receipt of the equipment and equipment title, if applicable. Appraisal reports are required for the purchase of used equipment.
- C. If the grant funds are used for construction, final payment will be made after the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:
 - i. A certificate of substantial completion including punch list items.
 - ii. A final certified construction pay request prepared by the Grantee's project engineer and approved by the Grantee.
 - iii. A written consent of the surety, if any, to final payment.
 - iv. Complete and legally effective releases or waivers (satisfactory to the Grantee) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished there under. In lieu thereof and as approved by the Grantee, contractor(s) may furnish receipts or releases in full; an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Grantee or its property might in any way be responsible, have been paid or otherwise satisfied.
 - v. Certification letter by the Grantee and contractor that the Labor Standards Contract Provisions have been met.
 - vi. Certification letter of project acceptance by the Grantee and the Grantee's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Grantee, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Grantee and contractors will be submitted to NMED.
 - vii. Certification letter from the Grantee confirming receipt and acceptance of the record drawings and operation and maintenance manuals.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.1

SUBJECT: Discussion/Action – Revised Parcel Survey for Property Appraisal

DEPARTMENT: Community Development

DATE SUBMITTED: August 5, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez Assistant City Manager

Summary/Background:

Parcel 3022079305341 did not have designated trail easement, so parcel survey did not reflect the trail. Survey has been redone to account for a 10ft maintenance easement for the trail. Revised survey was presented to Commission on 6-12-24. Commission requested to speak with surveyor pertaining to possible parcel amendment options. David Senn, Chaparral Surveying will be available to answer questions for the Commission

Recommendation:

Review revised Survey and determine if further parcel amendments are requested

Attachments:

- Survey
-

Fiscal Impact (Finance): TBD

[Click here to enter text.](#)

Legal Review (City Attorney): Yes

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

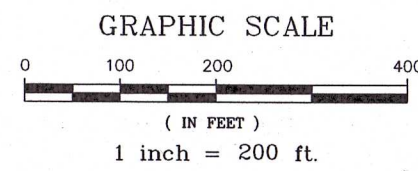
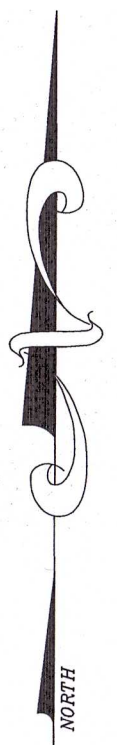
Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

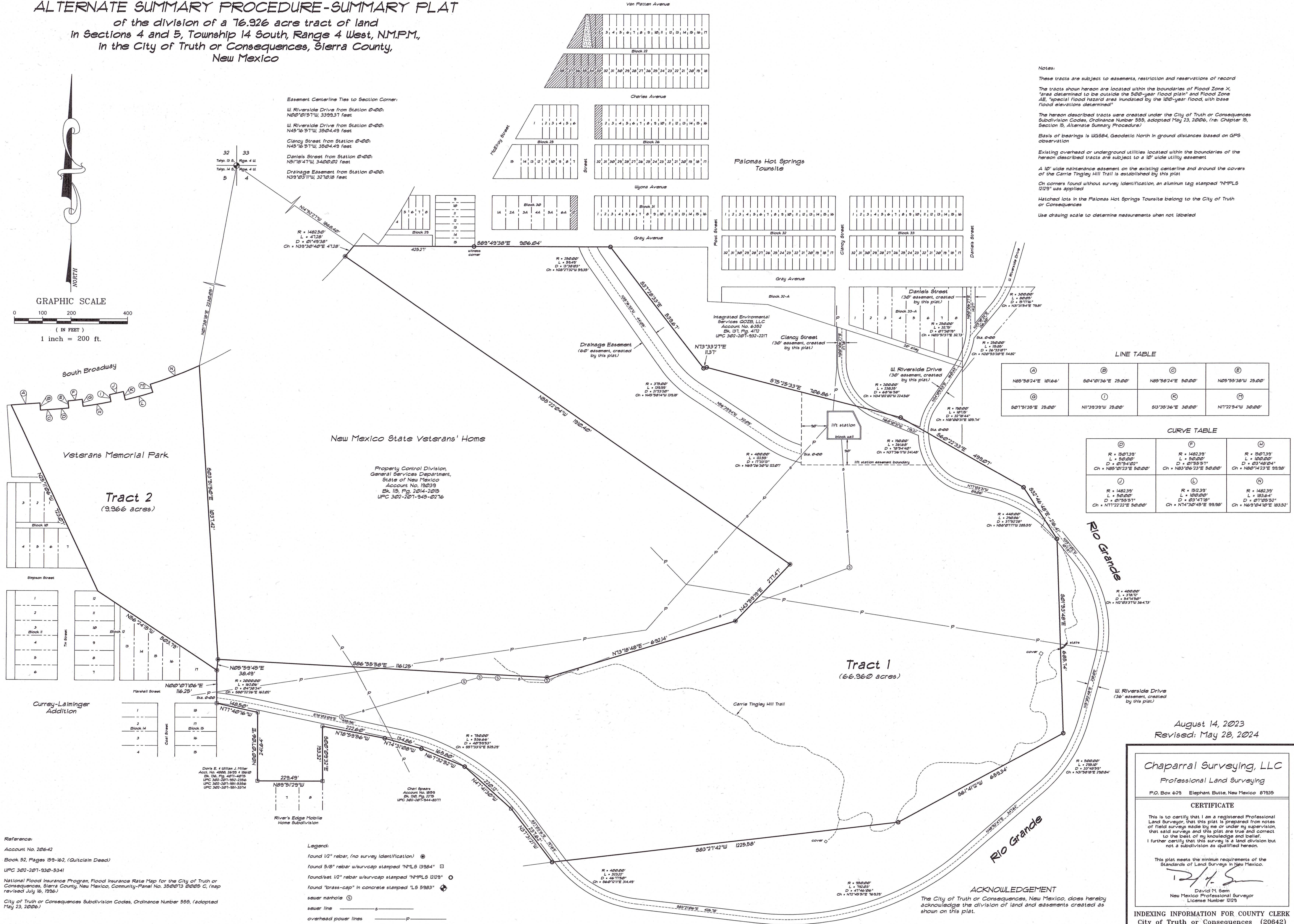
Approved Denied Other: -

File Name: CC agendas 8-14-24

ALTERNATE SUMMARY PROCEDURE-SUMMARY PLAT
of the division of a 76.926 acre tract of land
in Sections 4 and 5, Township 14 South, Range 4 West, N.M.P.M.,
in the City of Truth or Consequences, Sierra County,
New Mexico



Easement Centerline Ties to Section Corner:
W. Riverside Drive from Station 0+00:
N20°01'51"W, 3393.37 feet
W. Riverside Drive from Station 0+00:
N45°16'51"W, 3504.49 feet
Clancy Street from Station 0+00:
N45°16'51"W, 3504.49 feet
Daniels Street from Station 0+00:
N51°18'41"W, 3400.02 feet
Drainage Easement from Station 0+00:
N39°03'11"W, 3210.18 feet



Notes:
These tracts are subject to easements, restriction and reservations of record.
The tracts shown hereon are located within the boundaries of Flood Zone X, area determined to be outside the 500-year flood plain and Flood Zone AE, special flood hazard area inundated by the 100-year flood, with base flood elevations determined.
The hereon described tracts were created under the City of Truth or Consequences Subdivision Codes, Ordinance Number 555, adopted May 13, 2006, (re: Chapter 15, Section 15, Alternate Summary Procedure).
Basis of bearings is UG584, Geodetic North in ground distances based on GPS observation.
Existing overhead or underground utilities located within the boundaries of the hereon described tracts are subject to a 10' wide utility easement.
A 10' wide maintenance easement on the existing centerline and around the covers of the Carrie Tingley Hill Trail is established by this plat.
Ch corners found without survey identification, an aluminum tag stamped "NMPFS 12129" was applied.
Hatched lots in the Palomas Hot Springs Townsite belong to the City of Truth or Consequences.
Use drawing scale to determine measurements when not labeled.

LINE TABLE

(A)	(B)	(C)	(E)
N85°58'24"E 1016.6'	S04°10'36"E 75.00'	N85°58'24"E 50.00'	N05°55'38"W 75.00'
S07°51'35"E 75.00'	N17°39'39"W 25.00'	S13°35'36"E 30.00'	N17°22'54"W 30.00'

CURVE TABLE

(D)	(F)	(H)
R = 1507.13' L = 50.00' D = 07°51'02" Ch = N85°20'23"E 50.00'	R = 1482.33' L = 50.00' D = 07°55'51" Ch = N83°06'23"E 50.00'	R = 1507.13' L = 100.00' D = 03°48'04" Ch = N80°14'23"E 99.98'
(J)	(L)	(N)
R = 1482.33' L = 50.00' D = 07°55'51" Ch = N17°22'22"E 50.00'	R = 1523.33' L = 100.00' D = 03°41'18" Ch = N14°30'45"E 99.98'	R = 1482.33' L = 100.00' D = 07°05'52" Ch = N6°19'04"W 103.92'

References:
Account No. 20642
Book 52, Pages 159-162, (Quitclaim Deed)
UPC 302-207-330-5341
National Flood Insurance Program, Flood Insurance Rate Map for the City of Truth or Consequences, Sierra County, New Mexico, Community-Panel No. 350013 0025 C, (map revised July 16, 1996)
City of Truth or Consequences Subdivision Codes, Ordinance Number 555, (adopted May 23, 2006)

Legend:
Found 1/2" rebar, (no survey identification) ●
Found 5/8" rebar w/survcap stamped "NMPFS 13984" □
Found 1/2" rebar w/survcap stamped "NMPFS 12129" ○
Found "brass-cap" in concrete stamped "LS 5383" ⊕
sewer manhole ⊙
sewer line ———
overhead power lines ———

ACKNOWLEDGEMENT
The City of Truth or Consequences, New Mexico, does hereby acknowledge the division of land and easements created as shown on this plat.
Mayor: _____ Date: _____

August 14, 2023
Revised: May 28, 2024

Chaparral Surveying, LLC
Professional Land Surveying
P.O. Box 629 Elephant Butte, New Mexico 87835

CERTIFICATE
This is to certify that I am a registered Professional Land Surveyor, that this plat is prepared from notes of field surveys made by me or under my supervision, that said surveys and this plat are true and correct to the best of my knowledge and belief. I further certify that this survey is a land division but not a subdivision as qualified herein.

This plat meets the minimum requirements of the Standards of Land Surveys in New Mexico.

[Signature]
David M. Sam
New Mexico Professional Surveyor
License Number 12125

INDEXING INFORMATION FOR COUNTY CLERK
City of Truth or Consequences (20642)
Section 4 and Section 5
Township 14 South, Range 4 West, NMPM



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.2

SUBJECT: Discussion/Action: Approval of FY25 Clean and Beautiful Grant

DEPARTMENT: Community Services

DATE SUBMITTED: August 8, 2024

SUBMITTED BY: O.J. Hechler

WHO WILL PRESENT THE ITEM: O.J. Hechler, Community Service Director

Summary/Background: The City of Truth or Consequences is collaborating with Mainstreet and has been selected to receive a grant award of \$18,800.60 to aid in completing designated initiatives that consist of two cleanup events, providing access to proper waste disposal, preventing litter, painting of trash cans, recycled benches and tables, and other efforts to make our community cleaner.

Recommendation:

Approve grant agreement

Attachments:

- Award Letter
- Grant Agreement

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

[Click here to enter text.](#)

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24



STATE OF NEW MEXICO
Tourism Department

Lamy Building
491 Old Santa Fe Trail
Santa Fe, NM 87501
Phone: (505) 795-0343

Michelle Lujan Grisham
Governor

Howie Morales
Lt. Governor

Lancing Adams
Acting Cabinet Secretary

Jennifer Saavedra
Deputy Cabinet Secretary

July 18, 2024

Becca Eza
director@torcmainstreet.org

Traci Alvarez
talvarez@torcnm.org

Dear City of Truth or Consequences,

Thank you for your interest in the FY25 cycle of the New Mexico Tourism Department's Clean and Beautiful grant program. After careful assessment, the NMTD Tourism Development Division is delighted to announce that, the City of Truth or Consequences has been selected to receive a grant award of \$18,800.60 to aide in completing designated initiatives outlined in your FY25 grant application. Please know that we were very impressed by the level of commitment your organization has for the community.

Your grant application and projects illustrate your desire to beautify your community through sustainable tasks that encourage civic pride. It is our pleasure to recognize these efforts and together we will work with the City of Truth or Consequences to ensure that your projects are successful.

Please confirm your interest in participating via e-mail to Chantal Sandoval, Clean and Beautiful Program Coordinator at chantal.sandoval@td.nm.us **NO LATER THAN Thursday, July 25, 2024**, so that we may proceed with the grant agreement and next steps.

Best,

A handwritten signature in cursive script that reads "Holly Kelley".

Holly Kelley
Tourism Development Director
Holly.Kelley@td.nm.gov



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.3

SUBJECT: Discussion/Action: Extending the swimming pool season beyond Labor Day to a date yet to be determined.

DEPARTMENT: Swimming Pool

DATE SUBMITTED: August 8, 2024

SUBMITTED BY: O.J. Hechler

WHO WILL PRESENT THE ITEM: Ashley Galicia, Pool Supervisor

Summary/Background:

Swimming pool season is from Memorial Day through Labor Day. The pool still has lifeguards available to work beyond Labor Day with a modified schedule.

Recommendation:

Discuss and Approve

Attachments:

- Modified Pool Schedule

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

[Click here to enter text.](#)

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

J.A. HODGES



Municipal Swimming Pool

2024 Extended Schedule Starting September 3rd, 2024

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Lap Swim	_____	_____	7am – 10am	7am-10am	7am-10am	7am-10am	_____
Open Swim	_____	_____	10:30am – 1pm	10:30am-1pm	10:30am-1pm	10:30am-1pm	10:30am-1pm
Open Swim	_____	_____	_____	_____	_____	_____	1:30pm-4pm
Open Swim	_____	_____	5:30pm-8pm	_____	5:30pm-8pm	_____	_____

FEES PER SESSION:

Adults: \$5.00
 Youth/Senior: \$4.00
 2 & Under: FREE
 Non-Swimmers: \$2.00

**Schedule is subject to change!*

**EXPECT CLOSURES ONCE A MONTH FOR
 MAINTENANCE AND STAFF TRAINING**

*Private/party rentals available upon request depending on availability.

**Have Questions? Call us!
 (575) 894-6151**

PASS PRICES:

10 Punch pass All Ages \$35
 Adult Season Pass \$180
 Youth/Senior Season Pass \$145

*10 punch pass is valid 30 days from the date of purchase.
 Season passes are valid for one season (Memorial Day-Labor Day)



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.4

SUBJECT: Discussion/Update – City of T or C Comprehensive Plan Revision Update

DEPARTMENT: Community Development

DATE SUBMITTED: August 9, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez Assistant City Manager

Summary/Background:

Update Commission on status of CDBG Planning Grant Comprehensive Plan

Recommendation:

Update Only

Attachments:

- Comprehensive Plan/Downtown Master Plan/Affordable Housing Plan available for download
-

Fiscal Impact (Finance): N/A

[Click here to enter text.](#)

Legal Review (City Attorney): N/A

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC agendas 8-14-24



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.5

SUBJECT: Discussion/Action – Aging & Long-term Services Department (ALTSD) Junior Bill Appropriations Agreement

DEPARTMENT: Community Development

DATE SUBMITTED: August 9, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez Assistant City Manager

Summary/Background:

SJOA has received a Junior Bill Appropriation in the amount of \$35,000.00. Funds will be used to reimburse various expenses associated with the SJOA. City is the Fiscal Agent for these funds.

Recommendation:

Approved Agreement

Attachments:

- Junior Bill Appropriation Agreement
-

Fiscal Impact (Finance): Yes

City will receive funds and distribute to SJOA

Legal Review (City Attorney): Yes

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC agendas 8-14-24

Aging & Long-Term Services Department (ALTSD)
Junior Bill Appropriations Agreement

APPROPRIATION RECIPIENT: City of Truth or Consequences

<u>APPROPRIATION NUMBER:</u> 6200000000	<u>APPROPRIATION AMOUNT:</u> \$35,000	<u>REVERSION DATE:</u> June 30, 2025
--	--	---

APPROPRIATION LANGUAGE
for senior meal sites

Grant funds unexpended by June 30, 2025, will be reverted to the State of New Mexico's general fund.

APPROPRIATION REIMBURSEMENT

The appropriation funds will be disbursed through a reimbursement process. The Appropriation Recipient will submit to the ALTSD Exhibit A: Request for Payment Form, along with supporting document(s) that evidence the expenses to be reimbursed. The ALTSD will review these documents to ensure all reimbursed expenses reflect the intent and purpose of the appropriation language. All expenditures for which the Appropriation Recipient requests reimbursement must occur prior to the reversion date.

CERTIFICATION

I hereby certify that :

1. Shall only use the appropriation funds to carry out or perform activities described in appropriation language.
2. Shall comply with the State Procurement Code and the execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the project.
3. Shall ensure that the appropriation funds only benefit entities in accordance with applicable law, including, but not limited to Article IX, Section 14 of the Constitution of the State of New Mexico, "Anti-Donation Clause."
4. Shall follow the procedure described in "Appropriation Reimbursement" section for reimbursement of appropriated funds.

Entity Rolf Hechler - Mayor - City of Truth or Consequences

Date

Entity Crystal Walton - Executive Director - Sierra Joint Office on Aging

Date

APPROVAL

In accordance with the authority conferred on the Aging & Long-Term Services Department by the statute appropriating these funds, I hereby approve this certification for appropriation number 6200000000 in the amount of .

ALTSD Agency

Date



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.6

SUBJECT: Discussion/Action – Acceptance of USDA Letter of Conditions WSPI-2 (Water System Performance Improvements 2) Project and Authorization for Predevelopment Financing

DEPARTMENT: Community Development

DATE SUBMITTED: August 9, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez Assistant City Manager

Summary/Background:

Project was partially obligated by USDA previously (Loan \$2,673,000.00/Grant \$1,652,891.01) this is the remaining grant obligation (\$5,574,109.00)

The project includes open trench replacement of approximately 5,257-LF of 6-inch waterline with an 8-inch line east of the Main Street District area on East Riverside Dr. as well as replacement of approximately 8,726-LF of 6-inch with a 10-inch waterline towards Williamsburg creating a loop starting from S. Broadway and Iron Street going south, turning east on Veater street and North on Platinum St to end back on S Broadway St. All the waterline replacements will be 3 to 5 feet and run parallel to the existing water lines with 3' wide by 4' deep trench. No additional land requirements are required for the replacement of the water lines, and all new water lines are within the existing right-of-way. The project also includes the installation of new meter cans, water service lines, and connections to the existing system. Site work will include roadway asphalt removal and replacement as needed.

Recommendation:

Accept: USDA Letter of Conditions for WSPI-2 and authorization for Predevelopment Financing

Attachments:

- Notice of Obligations 1 and 2
- Letters of Conditions 1 and 2
- WSPI 2 PER Amendment – (WSPI-2 PER available to download under the Water Department webpage on the City website at <https://torcnm.org>)

Fiscal Impact (Finance): Yes

\$9,900,000.01 (\$2,673,000 Loan/\$7,227,000.01 Grant)

Legal Review (City Attorney): Yes

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC agendas 8-14-24

REQUEST FOR OBLIGATION OF FUNDS

INSTRUCTIONS-TYPE IN CAPITALIZED ELITE TYPE IN SPACES MARKED () Complete Items 1 through 29 and applicable Items 30 through 34. See FMI.			
1. CASE NUMBER ST CO BORROWER ID 36-026-*****0144		LOAN NUMBER	FISCAL YEAR 2024
2. BORROWER NAME City of Truth or Consequences		3. NUMBER NAME FIELDS (1, 2, or 3 from Item 2)	
		4. STATE NAME New Mexico	
		5. COUNTY NAME Sierra	
GENERAL BORROWER/LOAN INFORMATION			
6. RACE/ETHNIC CLASSIFICATION 1 - WHITE 2 - BLACK 3 - AIAN 4 - HISPANIC 5 - API	7. TYPE OF APPLICANT 1 - INDIVIDUAL 2 - PARTNERSHIP 3 - CORPORATION 4 - PUBLIC BODY 5 - ASSOC. OF FARMERS 6 - ORG. OF FARMERS 7 - NONPROFIT-SECULAR 8 - NONPROFIT-FAITH BASED 9 - INDIAN TRIBE 10 - PUBLIC COLLEGE/UNIVERSITY 11 - OTHER		8. COLLATERAL CODE 1 - REAL ESTATE SECURED 2 - REAL ESTATE AND CHATTEL 3 - NOTE ONLY OR CHATTEL ONLY 4 - MACHINERY ONLY 5 - LIVESTOCK ONLY 6 - CROPS ONLY 7 - SECURED BY BONDS 8 - RLF ACCT
9. EMPLOYEE RELATIONSHIP CODE 1 - EMPLOYEE 2 - MEMBER OF FAMILY 3 - CLOSE RELATIVE 4 - ASSOC.	10. SEX CODE 1 - MALE 2 - FEMALE 3 - FAMILY UNIT 4 - ORGAN MALE OWNED 5 - ORGAN FEMALE OWNED 6 - PUBLIC BODY	11. MARITAL STATUS 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED/DIVORCED)	12. VETERAN CODE 1 - YES 2 - NO
13. CREDIT REPORT 1 - YES 2 - NO	14. DIRECT PAYMENT (See FMI)	15. TYPE OF PAYMENT 1 - MONTHLY 2 - ANNUALLY 3 - SEMI-ANNUALLY 4 - QUARTERLY	16. FEE INSPECTION 1 - YES 2 - NO
17. COMMUNITY SIZE 1 - 10 000 OR LESS (FOR SFH AND HPG ONLY) 2 - OVER 10,000	18. USE OF FUNDS CODE (See FMI)		
COMPLETE FOR OBLIGATION OF FUNDS			
19. TYPE OF ASSISTANCE 171 (See FMI)	20. PURPOSE CODE 9	21. SOURCE OF FUNDS	22. TYPE OF ACTION 1 - OBLIGATION ONLY 2 - OBLIGATION/CHECK REQUEST 3 - CORRECTION OF OBLIGATION
23. TYPE OF SUBMISSION 1 - INITIAL 2 - SUBSEQUENT	24. AMOUNT OF LOAN	25. AMOUNT OF GRANT \$5,574,109.00	
26. AMOUNT OF IMMEDIATE ADVANCE	27. DATE OF APPROVAL MO DAY YR	28. INTEREST RATE 0 %	29. REPAYMENT TERMS
COMPLETE FOR COMMUNITY PROGRAM AND CERTAIN MULTIPLE-FAMILY HOUSING LOANS			
30. PROFIT TYPE 1 - FULL PROFIT 2 - LIMITED PROFIT 3 - NONPROFIT			
COMPLETE FOR EM LOANS ONLY		COMPLETE FOR CREDIT SALE-ASSUMPTION	
31. DISASTER DESIGNATION NUMBER (See FMI)	32. TYPE OF SALE 1 - CREDIT SALE ONLY 2 - ASSUMPTION ONLY 3 - CREDIT SALE WITH SUBSEQUENT LOAN 4 - ASSUMPTION WITH SUBSEQUENT LOAN		
FINANCE OFFICE USE ONLY		COMPLETE FOR FP LOANS ONLY	
33. OBLIGATION DATE MO DA YR	34. BEGINNING FARMER/RANCHER (See FMI)		

If the decision contained above in this form results in denial, reduction or cancellation of USDA assistance, you may appeal this decision and have a hearing or you may request a review in lieu of a hearing. Please use the form we have included for this purpose.

Position 2

ORIGINAL - Borrower's Case Folder COPY 1 - Finance Office COPY 2 - Applicant/Lender COPY 3 - State Office

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0062. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

CERTIFICATION APPROVAL

For All Farmers Programs

EM, OL, FO, and SW Loans

This loan is approved subject to the availability of funds. If this loan does not close for any reason within 90 days from the date of approval on this document, the approval official will request updated eligibility information. The undersigned loan applicant agrees that the approval official will have 14 working days to review any updated information prior to submitting this document for obligation of funds. If there have been significant changes that may affect eligibility, a decision as to eligibility and feasibility will be made within 30 days from the time the applicant provides the necessary information.

If this is a loan approval for which a lien and/or title search is necessary, the undersigned applicant agrees that the 15-working-day loan closing requirement may be exceeded for the purposes of the applicant's legal representative completing title work and completing loan closing.

35. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

Financial assistance is subject to: 1) Availability of funds 2) Letter of Conditions dated 07/30/2024, 3) Letter of Intent to meet Conditions dated 07/30/2024, 4) Closing Instruction issued by the US of General Counsel, and 5) This project is subject to BABAA requirements.

36. I HEREBY CERTIFY that I am unable to obtain sufficient credit elsewhere to finance my actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near my community for loans for similar purposes and periods of time. I agree to use the sum specified herein, subject to and in accordance with regulations applicable to the type of assistance indicated above, and request payment of such sum. I agree to report to USDA any material adverse changes, financial or otherwise, that occur prior to loan closing. I certify that no part of the sum specified herein has been received. I have reviewed the loan approval requirements and comments associated with this loan request and agree to comply with these provisions.

(For FP loans at eligible terms only) If this loan is approved, I elect the interest rate to be charged on my loan to be the lower of the interest rate in effect at the time of loan approval or loan closing. If I check "NO", the interest rate charged on my loan will be the rate specified in Item 28 of this form. YES NO

WARNING: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

Date July 30, 2024

Angie Gonzales, City Manager (Signature of Applicant)

Date _____, 20____

(Signature of Co-Applicant)

37. I HEREBY CERTIFY that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, and by this document, subject to the availability of funds, the Government agrees to advance such amount to the applicant for the purpose of and subject to the availability prescribed by regulations applicable to this type of assistance.

(Signature of Approving Official)

Typed or Printed Name: Christine Griego

Date Approved: _____

Title: Community Program Director

38. TO THE APPLICANT: As of this date _____, this is notice that your application for financial assistance from the USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the USDA. If you have any questions contact the appropriate USDA Servicing Office.



Rural Development

July 30, 2024

New Mexico
State Office

One Sun Plaza
100 Sun Ave NE
Suite 130
Albuquerque, NM
87109

Voice (505) 761-4950
Fax (855) 543-9499

City of Truth or Consequences
Amanda Forrister, Mayor
505 Sims Street
Truth or Consequences, NM 87901

SUBJECT: Letter of Conditions
Project Name: Water System Performance Improvements - 2
CFDA NUMBER: 10.770 -
Water and Waste Disposal Loans and Grants
(Section 306C)

Agency Loan: \$2,673,000
Agency Grant: \$1,652,891.01 – Section 306(C), Colonias
Agency Grant: \$5,574,109 – Section 306(C), Colonias

Dear Mayor Forrister:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA Rural Development (RD), both of which are referred to throughout this letter as the Agency. Any changes in project cost, source of funds, scope of project, or any other significant changes in the project or applicant must be reported to and concurred with by the Agency by written amendment to this letter. This includes any significant changes in the Applicant's financial condition, operation, organizational structure or executive leadership. Any changes made without Agency concurrence shall be cause for discontinuing processing of the application.

This letter does not constitute loan and grant approval, nor does it ensure that funds are or will be available for the project. The funding is being processed on the basis of a loan not to exceed \$2,673,000 and a grant not to exceed \$7,227,000.01. The loan and grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds" is signed by the Agency approval official.

The applicant will ensure projects are completed in a timely, efficient, and economical manner. You must meet all conditions set forth under Section III – Requirements Prior to Advertising for Bids within 1 year of this letter. If you do not meet the conditions of this letter, the Agency reserves the right to withdraw Agency funding.

USDA is an equal opportunity provider, employer, and Lender.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: mail at U.S. Department of Agriculture, Office of the Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

If you agree to meet the conditions set forth in this letter and desire further consideration, be given to your application, please complete and return the following forms within 1 days:

Form RD 1942-46, "Letter of Intent to Meet Conditions"
Form RD 1940-1, "Request for Obligation of Funds"

All parties may access information and regulations referenced in this letter at our website located at: [Water and Environmental Programs | Rural Development \(usda.gov\)](https://www.usda.gov/water-and-environmental-programs/rural-development)

The conditions are as follows:

SECTION I - PROJECT SCOPE

1. Project Description – Funds will be used to rehabilitate the City of Truth or Consequences' water distribution system by replacing roughly 13,983 linear feet of existing water lines with new and larger diameter sized pipe as well as the installation of new meter cans and water service lines.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER), prepared by Wilson & Company, Engineers & Architects, Inc. amended August 16, 2023, as concurred with by the Agency.

2. Project Funding – The Agency is offering the following funding for your project:

Agency Loan -	\$ 2,673,000
Agency Grant -	\$ 7,227,000.01
TOTAL PROJECT COST -	\$ 9,900,000.01

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Prior to loan closing, any increase in non-Agency funding will be applied first as a reduction to Agency grant funds, up to the total amount of the grant, and then as a reduction to Agency loan funds.

The applicant must certify that they have exhausted all other funding avenues and have no pending funding considerations from any other sources. Further, the applicant must certify that they do not intend to apply anywhere else for funding for this project. If, after obligation of Agency funds, other funding becomes available, the Agency reserves the right to deobligate any and all funding for this project and to re-underwrite. This may result in the offering of a different funding package to for this project.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and other funding sources. This evidence should include a copy of the commitment

letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

3. Project Budget – Funding from all sources has been budgeted for the estimated expenditures as follows:

<u>Project Costs:</u>	<u>Total Budgeted:</u>
Development	\$6,834,703
Contingency	\$683,470
GRT – Development	\$629,647
Engineering Fees	\$1,536,494
Includes:	
Engineering Admin.	\$186,000
Preliminary Engineering Report/ Environmental Report	\$60,000
Design	\$789,108
Construction Inspection	\$265,000
Construction Admin.	\$125,254
GRT - Engineering	\$111,132
Interest – Pre-Dev./Interim	\$171,252.01
Legal Fees - Local Attorney	\$44,434
 TOTAL	 \$9,900,000.01

Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. Obligated loan and/or grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to Agency grant funds first. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. An “Amended Letter of Conditions” will be issued for any changes to the total project budget.

4. Project Timeline – To ensure that the project proceeds in a timely manner, key processing milestones have been established in accordance with the PER or other Agency approved documentation. **Projects should be completed and Agency funds fully disbursed within three years of obligation.** By agreeing to the terms herein, you agree to comply with the milestones identified below. If, for any reason, one or more of the milestones cannot be met, you must notify the Agency in writing at least 30 days prior to the referenced date. Should your final completion date become more than three years after obligation the written request will follow the procedures outlined in Section VI of this letter, including the submission of not less than 90 days prior to the benchmark. The correspondence must contain a valid explanation as to why the milestone cannot be met and include a proposed revised project completion schedule. If the Agency agrees to the modification, a written confirmation will be issued. The Agency reserves the right to de-obligate loan and/or grant funds, or take other appropriate action, if the established or amended deadlines are not met.

<u>Milestone</u>	<u>Date</u>
Plans & Specifications, and Design Complete	11/2/2024
Initial Advertisement for Bids	1/01/2025
Award Contract(s)/Initiate Construction	3/3/2025
Substantial Completion	11/28/2025
Final Completion	12/31/2025

SECTION II – RATES & TERMS

5. Interest Rates and Loan Terms – The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, unless you request otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount. The payment due date will be established as the day that the loan closes.

Your loan will be scheduled for repayment over a period of 40 years. Payments will be equal monthly amortized installments, beginning one month after closing. For planning purposes, use a 2.125% interest which provides for a monthly payment of \$8,287. The precise payment amount will be based on the interest rate at which the loan is closed and may be different than the one above.

6. Security – The loan will be secured by a Revenue bond with first lien position in the amount of \$2,673,000. The bond will be fully registered as to both principal and interest in the name of the “United States of America, Acting through the United States Department of Agriculture.” Bond Counsel will be utilized in preparation of these documents.

The bond instrument and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or associated laws. There must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983.

Additional security requirements are contained in RUS Bulletin 1780-27, “Loan Resolution (Public Bodies) and RUS Bulletin 1780-12, “Water and Waste System Grant Agreement”. A draft of all security instruments, including draft bond resolution, must be reviewed, and concurred in by the Agency prior to advertising for bids. Bond/loan resolutions must be duly adopted and executed prior to loan closing.

The Grant Agreement will be executed prior to the first disbursement of grant funds. The grantee understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation the project.

7. Reserves – Reserves must be properly budgeted and set aside to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency repairs, to assist with debt service should the need arise, and for the replacement of assets which have a useful life less than the repayment period of the loan. The following reserves are required to be established as a condition of this loan:

- a. **Debt Service Reserve** – As a part of this Agency loan proposal, you must establish a debt service reserve fund equal to at least one annual loan installment that accumulates at the rate of 10% of one annual payment per year for ten years or until the balance is equal to one annual loan payment. For planning purposes, 10% of the proposed loan installment would equal \$832 per month; this amount should be deposited monthly until a total of \$99,890 has accumulated. Prior written concurrence from the Agency must be obtained before funds may be withdrawn from this account during the life of the loan. When funds are withdrawn during the life of the loan, deposits will continue as designated above until the fully funded amount is reached.
- b. **Short-Lived Asset Reserve** – In addition to the debt service reserve fund, you must establish a short-lived asset reserve fund. Based on the PER, you must deposit at least \$182,347 into the short-lived asset reserve fund annually for the life of the loan to pay for repairs and/or replacement of major system assets. It is your responsibility to assess your facility's short-lived asset needs on a regular basis and adjust the amount deposited to meet those needs.

SECTION III – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

8. Organization – The Bond Counsel transcripts of proceedings must show that your organization is a duly incorporated public body and has continued legal existence. Your organization must have the authority to own, construct, operate, and maintain the proposed facility, as well as for borrowing money, pledging security and raising revenues.

9. Suspension and Debarment Screening – You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal.

Principal –

- i. An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- ii. A consultant or other person, whether or not employed by the participant or paid with federal funds, who –
 1. Is in a position to handle federal funds;
 2. Is in a position to influence or control the use of those funds; or,
 3. Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

10. Environmental Requirements – At the conclusion of the proposal’s environmental review process, specific action(s) were determined necessary to avoid or minimize adverse environmental impacts.

The project, as proposed, has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and/or permits may apply or be required. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required.

11. Engineering Services – You have been required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance,” or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids and must approve any modifications to this agreement.

12. Contract Documents, Final Plans, and Specifications- All development will be completed by contract in accordance with applicable provisions of RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, (copy available upon request), and in compliance with all statutory requirements. You are responsible to share this with your engineer before pre-design.

- a. The plans and specifications and all proposals required by law must be approved by
- b. In preparing final design and providing service to the planned project area, you and your engineer will comply with all zoning and planning requirements of the appropriate governing bodies where service is to be provided.
- c. The Agency will need to concur in the plans and specifications prior to advertising for bids. The Agency may require an updated cost estimate if a significant amount of time has elapsed between the original project cost estimate and advertising for bids.
- d. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- e. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

13. Build America, Buy America (BABAA) Requirements - Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. all iron and steel permanently installed in the project are produced in the United States-- this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- b. all manufactured products permanently installed in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. all construction materials permanently installed are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The BABAA requirement applies to the entirety of an infrastructure project even if only a portion of the project is funded by Federal funds.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials

required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

Definitions

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Owners are ultimately responsible for compliance with the evidence standards as outlined in the Build America Buy America (BABAA) appendix to this Letter. Owners are required to maintain records as specified in their loan or grant agreement, but in all cases, they should maintain records for a minimum of three years after the final expenditure report. Minimum records include certifications from manufacturers, the architect/engineer, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR). Further guidance regarding certifications will be provided by the Agency.

14. Legal Services—A legal services agreement is required with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a “not to exceed” amount for the services, including reimbursable expenses. RUS Bulletin 1780-7, “Legal Services Agreement,” or similar format may be used. The Agency will provide concurrence prior to advertising for bids. Any changes to the fees or services spelled out in the original agreement must be reflected in an amendment to the agreement and have prior Agency concurrence.

15. Property Rights - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

- a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. **Form RD 442-20, “Right-of-Way Easement”** – This form, or similar format, may be used to obtain any necessary easements for the proposed project.
- c. **Form RD 442-21, “Right-of-Way Certificate”** – You will provide a certification on this form that all right-of-way requirements have been obtained for the proposed project.
- d. **Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”** – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

16. System Policies, Procedures, Contracts, and Agreements – The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.

- a. **Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

- #b. Water User Agreement** – Projects not involving mandatory connection require users to execute a Water Users Agreement. The draft agreement must receive Agency concurrence prior to advertising for bids. RUS Bulletin 1780-9, "Water Users Agreement," or similar format may be used.
- #c. Contracts for Other Services/Lease Agreement** – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.
- #d. Parity/Intercreditor Agreement** – Projects with parity liens must have in place a written agreement between the parity lenders. The draft agreement must receive Agency concurrence prior to advertising for bids.
- #e. Other agreements** with governments or other entities regarding joint operation of facilities, granting authority to Agency borrower for providing service within another entity's service area, etc. – Utility service Agreement with the Village of Williamsburg – The draft agreement must receive Agency concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements above must be submitted prior to loan closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

17. Closing Instructions – The Agency will prepare closing instructions as soon as the requirements of the previous paragraphs are complete, as well as a draft of the security instrument(s). Both your bond and legal counsel must comply with these instructions when closing the Agency loan/grant.

18. System Users – This letter of conditions is based upon your indication at application that there will be at least 2828 residential users, 514 non-residential users, on the existing system when construction is completed.

Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation, maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

If you are relying on mandatory connection requirements, you must provide evidence of the authorizing ordinance or statute along with your user certification.

19. Construction Account – A separate construction account is not required for project funds. However, the recipient must be able to separately identify, report and account for all Federal funds, including the receipt, obligation and expenditure of funds, in accordance with 2 CFR 200.305. These funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. **If the balances at the financial institution where federal funds will be deposited exceeds the FDIC insurance coverage, the excess amount must be collaterally secured up to 100 percent of the highest amount of funds expected to be deposited in the account at any one time, per the Department of Treasury regulations and requirements.**

20. Interim Financing – The Agency’s policy is to utilize interim financing for all loans exceeding \$500,000. Prepayment penalties on interim financing are not allowed. Borrowers are required to seek interim financing initially from private or cooperative lenders if funds can be borrowed at reasonable interest rates on an interim basis from those sources for the construction period. The fact that a commercial lender’s rates are higher than current Agency interest rates does not necessarily mean that the commercial rate is not reasonable.

21. Proposed Operating Budget – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O and M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, “Operating Budget,” or similar format may be utilized for this purpose. It is expected that O and M expenses will change over each successive year and user rates will need to be adjusted on a regular basis.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested, please contact our office for information.

22. Permits –The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents.

23. Risk and Resilience Assessment/Emergency Response Plan (RRA/ERP) –The Agency requires all financed water and wastewater systems to have a RRA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that an RRA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that an RRA/ERP has been completed prior to advertising for bids. Technical assistance is available in preparing these documents at no cost to you.

Before funds are drawn, you should have in place a cybersecurity plan, a supply chain plan, and a plan to comply with cybersecurity requirements of the National Institute of Science and Technology and the Cybersecurity and Infrastructure Security Administration. These items should be addressed in the RRA/ERP.

The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every five years at a minimum.

24. Bid Authorization - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.

SECTION IV - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

25. Disbursement of Agency Funds - Agency funds will be disbursed electronically into the construction account as they are needed. SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form,” must be completed and submitted to the Agency prior to commencement of construction.

The order of disbursement is as follows: 1) Applicant contribution, 2) other funding sources, 3) interim financing or Agency loan funds, and 4) Agency grant funds. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior the first disbursement. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. Agency Grant funds must not be disbursed prior to loan funds except as authorized in 7 CFR 1780.45(d).

Grant funds are to be deposited in an interest-bearing account (exception provided below) in accordance with 2 CFR Part 200 and interest in excess of \$500 per year remitted to the Agency.

The funds should be disbursed by the recipient immediately upon receipt, and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing accounts, unless:

- The recipient receives less than \$120,000 in Federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.

26. Bid Tabulation – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer's evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- a. **Cost Overruns** – If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds. Cost overruns exceeding 20 percent of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
- b. **Excess Funds** - If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and Letter of Conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

27. Suspension and Debarment Screening – In accordance with 2 CFR Part 180, Subpart C, as a condition of the transaction and the responsibilities to persons at the next lower tier with whom you enter into transactions, you must conduct screening for suspension and debarment of lower tier recipients (e.g., vendors, contractors, etc.).

28. Contract Review – Your attorney will certify that the executed contract documents, including performance and payment bonds, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with 7 CFR 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for concurrence. Construction cannot commence until the Agency has concurred in the construction contracts.

29. Final Rights of Way – Your attorney or title company must furnish a separate final title opinion or Title Insurance Policy on all real property related to the facility, now owned and to be acquired for this project, as of the day of loan closing or start of construction, whichever occurs first. Form RD 1927-10, “Final Title Opinion” may be used.

If any of the right-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed.

30. Insurance and Bonding Requirements - Prior to the start of construction or loan closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the borrower shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity bond coverage is maintained.

- a. **General Liability Insurance** – Include vehicular coverage.
- b. **Workers’ Compensation** – In accordance with appropriate State laws.
- c. **Guaranty or Fidelity Insurance**–Coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through “blanket” coverage providing protection for all appropriate employees. Each position is to be insured in an amount equal to the maximum amount of funds expected to be under the control of that position at any one time. The minimum coverage allowed will be an amount equal to the total annual debt service payment on the Agency loans. The coverage may be increased during construction based on the anticipated monthly advances.
- d. **National Flood Insurance** - If the project involves acquisition or construction in a designated special flood area, the community in which the acquisition or construction is situated must be currently participating in the national flood insurance program. Additionally, if the project involves acquisition or construction in designated special flood or mudslide prone areas, a flood insurance policy must be in place at the time of loan closing.
- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. The Agency will be listed as mortgagee on the policy when the Agency has a lien on the property. Prior to the acceptance of the facility from the

contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

The Agency is to be listed as “Other Insured” so as to receive notifications on all insurance, regardless of security. Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

31. Initial Civil Rights Compliance Review – The Agency will conduct an initial civil rights compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E. You are expected to comply with the completion of the review, including the furnishing of any documents, records, or other applicable material.

SECTION V – REQUIREMENTS PRIOR TO CLOSING

32. Interim Financing. Interim financing is being used. Generally, loan closing will occur near the end of construction when interim funds are fully disbursed. Documents detailed above from Sections II and III regarding security, electronic payments (Form 3550-28), and system policies, procedures, contracts, and agreements must be adopted and/or executed and submitted to the Agency prior to loan closing.

33. Electronic Payments – Payments will be made through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, “Authorization Agreement for Preauthorized Payments,” for all new and existing indebtedness to the Agency prior to loan closing.

34. Other Requirements – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to loan closing.

- a. **System for Award Management.** You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Renewal can be completed online at: <http://sam.gov>. This registration must be renewed and revalidated every 12 months for as long as there is an active loan, grant, or guaranteed loan with the Agency.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at <http://sam.gov>).

- b. **Litigation.** You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.

- c. **Certified Operator**. Evidence must be provided that your system has or will have a certified operator, as defined by applicable State or Federal requirements, available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

SECTION VI – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION

35. Construction Completion Timeframe – Following the benchmarks established in Section I, Item 4, Project Timeline, all projects should be completed and Agency funds fully disbursed within three years of the date of obligation. If funds are not disbursed within three years of obligation and you have not already done so per Section I, Item 4, you must submit a written request for extension of time to the Agency with adequate justification of the circumstances, including any beyond your control. The request must be submitted at least 90 days prior to the end of the three-year timeframe and include a revised estimated date of completion. The Agency will typically only allow one extension. Subsequent requests for waivers beyond the initial extension or requests that exceed five years from the initial date of obligation will be submitted to the RUS, Water and Environmental Programs for consideration. The Agency retains the right to de-obligate any loan and/or grant monies, or take other appropriate action, related to unliquidated funds that exceed the timeframes above and are not under an active extension.

36. Resident Inspector(s) – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must provide written concurrence. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the preconstruction conference.

37. Preconstruction Conference – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

38. Inspections - The Agency requires a preconstruction conference, pre-final, final, and warranty inspections. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the 11- month warranty period to address and/or resolve any outstanding warranty issues. The Agency will conduct an inspection with you of your records management system at the same time and will continue to inspect the facility and your records system every three years for the life of the loan. See Section VII of this letter.

39. Change Orders – A Change Order must be submitted for all modifications to the approved scope of work, including existing contracts. This includes non-physical modifications such as

any time extension requests. Prior written Agency concurrence is required for all Change Orders.

40. Payments – Prior Agency concurrence is required for all invoices and requests for payment before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner's written concurrence.

41. Use of Remaining Funds – As stated above, applicant contribution and connection or tap fees will be the first funds expended in the project. Funds remaining after all costs incident to the basic project have been paid or provided will be handled as follows:

- a. Funds remaining after the applicant contribution and connection fees may be considered in direct proportion to the amounts of funding obtained from each source. The use of Agency funding will be limited to eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
- b. Any reductions in the Agency funding will be first applied to the grant funds.
- c. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 30 days of final completion of project. Prior to actual cancellation, you, your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.
- d. Under no circumstances is it appropriate to use remaining funds as contributions to a new project outside the scope of the funded project.
- e. Loan funds that are not needed will be cancelled (de-obligated) prior to loan closing.

42. Technical, Managerial and Financial Capacity - It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for additional information.

43. Reporting Requirements Related to Expenditure of Funds -- An annual audit under 2 CFR 200 is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the

Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law and must be submitted within 9 months of your fiscal year end. Both the audit and accompanying management report must be submitted for review.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy of that agreement to the Agency prior to the advertisement of construction bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

SECTION VII – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

44. Prepayment and Extra Payments - Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

45. Annual Financial Reporting/Audit Requirements – You are required to submit an annual financial report at the end of each fiscal year. The annual report will be certified by the appropriate organization official, and will consist of financial information, a current rate schedule, and listing of board members with their terms. Financial statements must be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles (GAAP). The annual report will include separate reporting for each water and waste disposal facility, and itemized cash accounts by type (debt service, short-lived assets, etc.) under each facility. All records, books and supporting material are to be retained for three years after the issuance of the annual report. Technical assistance is available, at no cost, with preparing financial reports.

The type of financial information that must be submitted is specified below:

- a. **Audits** – An audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

See Section VI for additional information regarding audits.

- b. **Financial Statements** – If you expend less than \$750,000 in Federal financial assistance per fiscal year, you may submit financial statements in lieu of an audit which include, at a minimum, a balance sheet and an income and expense statement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information. The financial statements must be signed by the appropriate borrower official and submitted within 60 days of your fiscal year end.
- c. **Quarterly Reports** – Quarterly Income and Expense Statements will be required until the processing office waives this requirement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format to provide this information. The reports are to be signed by the appropriate borrower official and submitted within 30 days of each quarter’s end. The Agency will notify you in writing when quarterly reports are no longer required.

46. Annual Budget and Projected Cash Flow - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. The budget must be signed by the appropriate borrower official. Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format may be used.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system, as well as completing the annual budget.

47. Graduation - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines you can obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance. Your ability to refinance will be assessed every other year for those loans that are five years old or older.

48. Security/Operational Inspections – The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

49. System for Award Management. You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Further information can be found at paragraph 33 of this letter.

50. Risk and Resiliency Assessment/Emergency Response Plan (RRA/ERP) – The RRA/ERP is further outlined under Section III of this letter. You will be required to submit a certification to the servicing office every five years that the RRA/ERP is current and covers all sites related to the facility. The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It

should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. Technical assistance is available in preparing these documents at no cost to you.

51. Insurance. – Insurance requirements are further outlined in Section IV of this letter. You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.

52. Statutory and National Policy Requirements – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.
- b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
- c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 *et seq.*) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 *et seq.*) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation 4330-005, “Prohibition Against National

Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”

- f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.

53. Compliance Reviews and Data Collection – Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter.

If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

SECTION VIII – REMEDIES FOR NON-COMPLIANCE

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of Agency regulations, statutes, and other applicable policies.

We look forward to working with you to complete this project. If you have any questions, please contact Elizabeth Ybarra at (505) 761-4963 or by e-mail at elizabeth.ybarra@usda.gov.

Sincerely,

**ELIZABETH
YBARRA**

Digitally signed by ELIZABETH YBARRA
Date: 2024.08.02 15:59:09 -06'00'

Christine Griego by Elizabeth Ybarra Acting
Community Programs, Program Director

Attachments:

T or C_WSPI-2_Form RD 1942-46_Letter of Intent to Meet Conditions
T or C_WSPI-2_Form RD 1940-1_Request for Obligation of Funds_306(C)
T or C_WSPI-2_Form RD 1940-1_Request for Obligation of Funds_Loan

cc: USDA - Community Programs Director, Christine Griego
USDA - Community Programs Interim Engineer, Lam Ho
Angela Gonzales – City Manager – City of Truth or Consequences
Traci Alvarez – Asst. City Manager
Wilson & Company - Engineer

FORMS and BULLETINS:

- Form AD-3031 "Assurance Regarding Felony Convictions or Tax Delinquent Status for Corporate Applicants" – Item 30
- Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy" - Item 15
- Form RD 440-22, "Promissory Note" – Item 6
- Form RD 442-2, "Statement of Budget, Income and Equity" – Items 45 and 46
- Form RD 442-3, "Balance Sheet" – Item 45
- Form RD 442-7, "Operating Budget" – Item 20
- Form RD 442-20, "Right-of-Way Easement" – Item 14
- Form RD 442-21, "Right-of-Way Certificate" – Item 14
- Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way" – Item 14
- Form RD 1927-9, "Preliminary Title Opinion" – Item 14
- Form RD 1927-10, "Final Title Opinion" – Item 28
- Form RD 1940-1, "Request for Obligation of Funds" – Pages 1 and 2
- Form RD 1942-8, "Resolution of Members or Stockholders" – Item 6
- Form RD 1942-46, "Letter of Intent to Meet Conditions" – Page 2
- Form RD 3550-28, "Authorization Agreement for Preauthorized Payments" – Items 32 and 33
- Form UCC-1, "Financing Statement" – Item 6
- Form UCC-1Ad, "UCC Financing Statement Addendum" – Item 6
- SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form" – Item 24
- RUS Bulletin 1780-7, "Legal Services Agreement" – Item 13
- RUS Bulletin 1780-9, "Water Users Agreement" - Items 15 and 17
- RUS Bulletin 1780-12, "Water and Waste System Grant Agreement" – Item 6
- RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance" – Items 11 and 12
- RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)" – Item 6
- RUS Bulletin 1780-28, "Loan Resolution Security Agreement" – Item 6

Appendix A
(INSTRUCTIONS TO FIELD)

A. Reporting Total Compensation of Recipient Executives

In the rare instance in which all of the following apply, please contact your POB Specialist for language to include in the LOC:

1. The total Federal funding authorized to date under this award is \$30,000 or more;
2. In the preceding fiscal year, the applicant received—
 - (A) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

B. Subaward and Subrecipients

In the rare instance in which there is a subrecipient in the project, please contact your POB Specialist for language to include in the LOC:

Subrecipient means an entity that:

- i. Receives a subaward from the recipient under this award; and

- ii. Is accountable to the recipient for the use of the Federal funds provided by the subaward.
 - a. Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

Appendix B

Build America, Buy America Evidence Standards

Manufacturers

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative.

Architects and Engineers

Compliance with BABAA will be spelled out in agreements for services, construction contracts, and procurement contracts. Generally, the A/E contract should include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the Owner upon completion of the project. The architect or engineer will need to certify to this action at the project's end.

Resident Project Representative / Resident Inspector

As part of their duties, Resident Project Representative/Resident Inspector should be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They should photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

Contractors

Construction contract(s) must include a requirement to procure and install only items that comply with BABAA or are subject to an approved waiver. Contractors must provide manufacturers' certifications for all BABAA compliant items to the responsible party before a request for reimbursement to the Agency is made. At completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided.

Appendix B

Build America, Buy America Evidence Standards

Manufacturers

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REQUEST FOR OBLIGATION OF FUNDS

INSTRUCTIONS-TYPE IN CAPITALIZED ELITE TYPE IN SPACES MARKED ()			
Complete Items 1 through 29 and applicable Items 30 through 34. See FMI.			
1. CASE NUMBER ST CO BORROWER ID 36-026-*****0144		LOAN NUMBER	FISCAL YEAR 2023
2. BORROWER NAME City of Truth or Consequences		3. NUMBER NAME FIELDS (1, 2, or 3 from Item 2)	
		4. STATE NAME New Mexico	
		5. COUNTY NAME Sierra	
GENERAL BORROWER/LOAN INFORMATION			
6. RACE/ETHNIC CLASSIFICATION 1 - WHITE 2 - BLACK 3 - HISPANIC 4 - HISPANIC 5 - API	7. TYPE OF APPLICANT 1 - INDIVIDUAL 2 - PARTNERSHIP 3 - CORPORATION 4 - PUBLIC BODY 5 - ASSOC. OF FARMERS 6 - ORG. OF FARMERS 7 - NONPROFIT-REGULAR 8 - NONPROFIT-FAITH BASED 9 - INDIAN TRIBE 10 - PUBLIC COLLEGE/UNIVERSITY 11 - OTHER	8. COLLATERAL CODE 1 - REAL ESTATE SECURED 2 - REAL ESTATE AND CHATTEL 3 - NOTE ONLY OR CHATTEL ONLY 4 - MACHINERY ONLY 5 - LIVESTOCK ONLY 6 - CROPS ONLY 7 - SECURED BY BONDS 8 - RLF ACCT	9. EMPLOYEE RELATIONSHIP CODE 1 - EMPLOYEE 2 - MEMBER OF FAMILY 3 - CLOSE RELATIVE 4 - ASSOC.
10. SEX CODE 1 - MALE 2 - FEMALE 3 - FAMILY UNIT 4 - ORGAN MALE OWNED 5 - ORGAN FEMALE OWNED 6 - PUBLIC BODY	11. MARITAL STATUS 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED/DIVORCED)	12. VETERAN CODE 1 - YES 2 - NO	13. CREDIT REPORT 1 - YES 2 - NO
14. DIRECT PAYMENT 2 (See FMI)	15. TYPE OF PAYMENT 1 - MONTHLY 2 - ANNUALLY 3 - SEMI-ANNUALLY 4 - QUARTERLY	16. FEE INSPECTION 1 - YES 2 - NO	
17. COMMUNITY SIZE 1 - 10 000 OR LESS (FOR SFH AND HPG ONLY) 2 - OVER 10,000		18. USE OF FUNDS CODE (See FMI)	
COMPLETE FOR OBLIGATION OF FUNDS			
19. TYPE OF ASSISTANCE 061 (See FMI)	20. PURPOSE CODE 1	21. SOURCE OF FUNDS	22. TYPE OF ACTION 1 - OBLIGATION ONLY 2 - OBLIGATION/CHECK REQUEST 3 - CORRECTION OF OBLIGATION
23. TYPE OF SUBMISSION 1 - INITIAL 2 - SUBSEQUENT	24. AMOUNT OF LOAN \$2,673,000.00	25. AMOUNT OF GRANT	
26. AMOUNT OF IMMEDIATE ADVANCE	27. DATE OF APPROVAL MO DAY YR	28. INTEREST RATE 2.1250 %	29. REPAYMENT TERMS 40
COMPLETE FOR COMMUNITY PROGRAM AND CERTAIN MULTIPLE-FAMILY HOUSING LOANS			
30. PROFIT TYPE 1 - FULL PROFIT 2 - LIMITED PROFIT 3 - NONPROFIT			
COMPLETE FOR EM LOANS ONLY		COMPLETE FOR CREDIT SALE-ASSUMPTION	
31. DISASTER DESIGNATION NUMBER (See FMI)		32. TYPE OF SALE 1 - CREDIT SALE ONLY 2 - ASSUMPTION ONLY 3 - CREDIT SALE WITH SUBSEQUENT LOAN 4 - ASSUMPTION WITH SUBSEQUENT LOAN	
FINANCE OFFICE USE ONLY		COMPLETE FOR FP LOANS ONLY	
33. OBLIGATION DATE MO DA YR		34. BEGINNING FARMER/RANCHER (See FMI)	

If the decision contained above in this form results in denial, reduction or cancellation of USDA assistance, you may appeal this decision and have a hearing or you may request a review in lieu of a hearing. Please use the form we have included for this purpose.

Position 2

ORIGINAL - Borrower's Case Folder COPY 1 - Finance Office COPY 2 - Applicant/Lender COPY 3 - State Office

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0062. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

CERTIFICATION APPROVAL

For All Farmers Programs

EM, OL, FO, and SW Loans

This loan is approved subject to the availability of funds. If this loan does not close for any reason within 90 days from the date of approval on this document, the approval official will request updated eligibility information. The undersigned loan applicant agrees that the approval official will have 14 working days to review any updated information prior to submitting this document for obligation of funds. If there have been significant changes that may affect eligibility, a decision as to eligibility and feasibility will be made within 30 days from the time the applicant provides the necessary information.

If this is a loan approval for which a lien and/or title search is necessary, the undersigned applicant agrees that the 15-working-day loan closing requirement may be exceeded for the purposes of the applicant's legal representative completing title work and completing loan closing.

35. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

Financial assistance is subject to: 1) Availability of funds 2) Letter of Conditions dated 09/27/2023, 3) Letter of Intent to meet Conditions dated 09/27/2023, 4) Closing Instruction issued by the US of General Counsel, and 5) This project is subject to BABAA requirements.

36. I HEREBY CERTIFY that I am unable to obtain sufficient credit elsewhere to finance my actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near my community for loans for similar purposes and periods of time. I agree to use the sum specified herein, subject to and in accordance with regulations applicable to the type of assistance indicated above, and request payment of such sum. I agree to report to USDA any material adverse changes, financial or otherwise, that occur prior to loan closing. I certify that no part of the sum specified herein has been received. I have reviewed the loan approval requirements and comments associated with this loan request and agree to comply with these provisions.

(For FP loans at eligible terms only) If this loan is approved, I elect the interest rate to be charged on my loan to be the lower of the interest rate in effect at the time of loan approval or loan closing. If I check "NO", the interest rate charged on my loan will be the rate specified in Item 28 of this form. YES NO

WARNING: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

Date September 28, 2023

Angie Gonzales, City Manager

(Signature of Applicant)

Date _____, 20____

(Signature of Co-Applicant)

37. I HEREBY CERTIFY that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, and by this document, subject to the availability of funds, the Government agrees to advance such amount to the applicant for the purpose of and subject to the availability prescribed by regulations applicable to this type of assistance.

(Signature of Approving Official)

Typed or Printed Name: Christine Griego

Date Approved: _____

Title: Community Programs Director

38. TO THE APPLICANT: As of this date _____, this is notice that your application for financial assistance from the USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the USDA. If you have any questions contact the appropriate USDA Servicing Office.

REQUEST FOR OBLIGATION OF FUNDS

INSTRUCTIONS-TYPE IN CAPITALIZED ELITE TYPE IN SPACES MARKED () Complete Items 1 through 29 and applicable Items 30 through 34. See FMI.			
1. CASE NUMBER ST CO BORROWER ID 36-026-*****0144		LOAN NUMBER	FISCAL YEAR 2023
2. BORROWER NAME City of Truth or Consequences		3. NUMBER NAME FIELDS (1, 2, or 3 from Item 2)	
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14. DIRECT PAYMENT (See FMI)	15. TYPE OF PAYMENT 1 - MONTHLY 2 - ANNUALLY 3 - SEMI-ANNUALLY 4 - QUARTERLY	16. FEE INSPECTION 1 - YES 2 - NO	
17. COMMUNITY SIZE 1 - 10 000 OR LESS (FOR 8FH AND 2 - OVER 10,000 (HPG ONLY)		18. USE OF FUNDS CODE (See FMI)	
COMPLETE FOR OBLIGATION OF FUNDS			
19. TYPE OF ASSISTANCE 171 (See FMI)	20. PURPOSE CODE 1	21. SOURCE OF FUNDS	22. TYPE OF ACTION 1 - OBLIGATION ONLY 2 - OBLIGATION/CHECK REQUEST 3 - CORRECTION OF OBLIGATION
23. TYPE OF SUBMISSION 1 - INITIAL 2 - SUBSEQUENT	24. AMOUNT OF LOAN		25. AMOUNT OF GRANT \$1,652,891.00
26. AMOUNT OF IMMEDIATE ADVANCE	27. DATE OF APPROVAL MO DAY YR	28. INTEREST RATE 0 %	29. REPAYMENT TERMS
COMPLETE FOR COMMUNITY PROGRAM AND CERTAIN MULTIPLE-FAMILY HOUSING LOANS			
30. PROFIT TYPE 1 - FULL PROFIT 2 - LIMITED PROFIT 3 - NONPROFIT			
COMPLETE FOR EM LOANS ONLY		COMPLETE FOR CREDIT SALE-ASSUMPTION	
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If the decision contained above in this form results in denial, reduction or cancellation of USDA assistance, you may appeal this decision and have a hearing or you may request a review in lieu of a hearing. Please use the form we have included for this purpose.

Position 2

ORIGINAL - Borrower's Case Folder COPY 1 - Finance Office COPY 2 - Applicant/Lender COPY 3 - State Office

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CERTIFICATION APPROVAL

For All Farmers Programs

EM, OL, FO, and SW Loans

This loan is approved subject to the availability of funds. If this loan does not close for any reason within 90 days from the date of approval on this document, the approval official will request updated eligibility information. The undersigned loan applicant agrees that the approval official will have 14 working days to review any updated information prior to submitting this document for obligation of funds. If there have been significant changes that may affect eligibility, a decision as to eligibility and feasibility will be made within 30 days from the time the applicant provides the necessary information.

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Financial assistance is subject to: 1) Availability of funds 2) Letter of Conditions dated 09/27/2023, 3) Letter of Intent to meet Conditions dated 09/27/2023, 4) Closing Instruction issued by the US of General Counsel, and 5) This project is subject to BABAA requirements.

36. I HEREBY CERTIFY that I am unable to obtain sufficient credit elsewhere to finance my actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near my community for loans for similar purposes and periods of time. I agree to use the sum specified herein, subject to and in accordance with regulations applicable to the type of assistance indicated above, and request payment of such sum. I agree to report to USDA any material adverse changes, financial or otherwise, that occur prior to loan closing. I certify that no part of the sum specified herein has been received. I have reviewed the loan approval requirements and comments associated with this loan request and agree to comply with these provisions.

(For FP loans at eligible terms only) If this loan is approved, I elect the interest rate to be charged on my loan to be the lower of the interest rate in effect at the time of loan approval or loan closing. If I check "NO", the interest rate charged on my loan will be the rate specified in Item 28 of this form. YES NO

WARNING: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

Date September 28, 20 23

Angie Gonzales, City Manager

(Signature of Applicant)

Date _____, 20 _____

(Signature of Co-Applicant)

37. I HEREBY CERTIFY that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, and by this document, subject to the availability of funds, the Government agrees to advance such amount to the applicant for the purpose of and subject to the availability prescribed by regulations applicable to this type of assistance.

(Signature of Approving Official)

Typed or Printed Name: Christine Griego

Date Approved: _____

Title: Community Program Director

38. TO THE APPLICANT: As of this date _____, this is notice that your application for financial assistance from the USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the USDA. If you have any questions contact the appropriate USDA Servicing Office.

LETTER OF INTENT TO MEET CONDITIONS

Date 09-27-2023

TO: United States Department of Agriculture

Rural Development

(Name of USDA Agency)

100 Sun Avenue NE Suite 130
Albuquerque, NM 87109

(USDA Agency Office Address)

We have reviewed and understand the conditions set forth in your letter dated 09-27-2023 . It is our intent to meet all of them not later than 09-27-2024 .

City of Truth or Consequences

(Name of Association)

BY Angie Gonzales
Angie Gonzales, City Manager

(Title)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a persons is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015 and 0570-0062. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data, needed, and completing and reviewing the collection of information.



Rural Development

September 27, 2023

New Mexico
State Office

One Sun Plaza
100 Sun Ave NE
Suite 130
Albuquerque, NM
87109

Voice (505) 761-4950
Fax (855) 543-9499

City of Truth or Consequences
Amanda Forrister, Mayor
505 Sims Street
Truth or Consequences, NM 87901

SUBJECT: Letter of Conditions
Project Name: Water System Performance Improvements - 2
CFDA NUMBER: 10.770 -
Water and Waste Disposal Loans and Grants
(Section 306C)

Agency Loan: \$2,673,000
Agency Grant: \$1,652,000.01 – Section 306(C), Colonias

Dear Mayor Forrister:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA Rural Development (RD), both of which are referred to throughout this letter as the Agency. Any changes in project cost, source of funds, scope of project, or any other significant changes in the project or applicant must be reported to and concurred with by the Agency by written amendment to this letter. This includes any significant changes in the Applicant's financial condition, operation, organizational structure or executive leadership. Any changes made without Agency concurrence shall be cause for discontinuing processing of the application.

This letter does not constitute loan and grant approval, nor does it ensure that funds are or will be available for the project. The funding is being processed on the basis of a loan not to exceed \$2,673,000 and a grant not to exceed \$1,652,000. The loan and grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds" is signed by the Agency approval official.

The applicant will ensure projects are completed in a timely, efficient, and economical manner. You must meet all conditions set forth under Section III – Requirements Prior to Advertising for Bids within 1 year of this letter. If you do not meet the conditions of this letter, the Agency reserves the right to withdraw Agency funding.

USDA is an equal opportunity provider, employer, and Lender.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: mail at U.S. Department of Agriculture, Office of the Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

If you agree to meet the conditions set forth in this letter and desire further consideration be given to your application, please complete and return the following forms within 1 days:

Form RD 1942-46, "Letter of Intent to Meet Conditions"
Form RD 1940-1, "Request for Obligation of Funds"

All parties may access information and regulations referenced in this letter at our website located at: [Water and Environmental Programs | Rural Development \(usda.gov\)](https://www.usda.gov/water-and-environmental-programs/rural-development)

The conditions are as follows:

SECTION I - PROJECT SCOPE

1. Project Description – Funds will be used to rehabilitate the City of Truth or Consequences' water distribution system by replacing roughly 13,983 linear feet of existing water lines with new and larger diameter sized pipe as well as the installation of new meter cans and water service lines.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER), prepared by Wilson & Company, Engineers & Architects, Inc. amended August 16, 2023, as concurred with by the Agency.

2. Project Funding – The Agency is offering the following funding for your project:

Agency Loan -	\$ 2,673,000
Agency Grant -	\$ 1,652,891.01
TOTAL PROJECT COST -	\$ 4,325,891.01

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Prior to loan closing, any increase in non-Agency funding will be applied first as a reduction to Agency grant funds, up to the total amount of the grant, and then as a reduction to Agency loan funds.

The applicant must certify that they have exhausted all other funding avenues and have no pending funding considerations from any other sources. Further, the applicant must certify that they do not intend to apply anywhere else for funding for this project. If, after obligation of Agency funds, other funding becomes available, the Agency reserves the right to deobligate any and all funding for this project and to re-underwrite. This may result in the offering of a different funding package to for this project.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and other funding sources. This evidence should include a copy of the commitment

letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

3. Project Budget – Funding from all sources has been budgeted for the estimated expenditures as follows:

<u>Project Costs:</u>	<u>Total Budgeted:</u>
Development	\$2,609,441
Contingency	\$272,084.01
GRT – Development	\$237,297
Engineering Fees	\$1,807,466
Includes:	
Engineering Admin.	\$186,000
Preliminary Engineering Report/ Environmental Report	\$60,000
Design	\$759,473
GRT - Engineering	\$81,993
Interest – Pre-Dev./Interim	\$108,224
Legal Fees - Local Attorney	\$11,379
TOTAL	\$4,325,891.01

Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. Obligated loan and/or grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to Agency grant funds first. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. An “Amended Letter of Conditions” will be issued for any changes to the total project budget.

4. Project Timeline – To ensure that the project proceeds in a timely manner, key processing milestones have been established in accordance with the PER or other Agency approved documentation. **Projects should be completed and Agency funds fully disbursed within three years of obligation.** By agreeing to the terms herein, you agree to comply with the milestones identified below. If, for any reason, one or more of the milestones cannot be met, you must notify the Agency in writing at least 30 days prior to the referenced date. Should your final completion date become more than three years after obligation the written request will follow the procedures outlined in Section VI of this letter, including the submission of not less than 90 days prior to the benchmark. The correspondence must contain a valid explanation as to why the milestone cannot be met and include a proposed revised project completion schedule. If the Agency agrees to the modification, a written confirmation will be issued. The Agency reserves the right to de-obligate loan and/or grant funds, or take other appropriate action, if the established or amended deadlines are not met.

Milestone

Date

Plans & Specifications, and Design Complete	11/2/2024
Initial Advertisement for Bids	1/01/2025
Award Contract(s)/Initiate Construction	3/3/2025
Substantial Completion	11/28/2025
Final Completion	12/31/2025

SECTION II – RATES & TERMS

5. Interest Rates and Loan Terms – The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, unless you request otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount. The payment due date will be established as the day that the loan closes.

Your loan will be scheduled for repayment over a period of 40 years. Payments will be equal monthly amortized installments, beginning one month after closing. For planning purposes, use a 2.125% interest which provides for a monthly payment of \$8,287. The precise payment amount will be based on the interest rate at which the loan is closed and may be different than the one above.

6. Security – The loan will be secured by a Revenue bond with first lien position in the amount of \$2,673,000. The bond will be fully registered as to both principal and interest in the name of the “United States of America, Acting through the United States Department of Agriculture.” Bond Counsel will be utilized in preparation of these documents.

The bond instrument and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or associated laws. There must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983.

Additional security requirements are contained in RUS Bulletin 1780-27, “Loan Resolution (Public Bodies) and RUS Bulletin 1780-12, “Water and Waste System Grant Agreement”. A draft of all security instruments, including draft bond resolution, must be reviewed, and concurred in by the Agency prior to advertising for bids. Bond/loan resolutions must be duly adopted and executed prior to loan closing.

The Grant Agreement will be executed prior to the first disbursement of grant funds. The grantee understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation the project.

7. Reserves – Reserves must be properly budgeted and set aside to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated

emergency repairs, to assist with debt service should the need arise, and for the replacement of assets which have a useful life less than the repayment period of the loan. The following reserves are required to be established as a condition of this loan:

- a. **Debt Service Reserve** – As a part of this Agency loan proposal, you must establish a debt service reserve fund equal to at least one annual loan installment that accumulates at the rate of 10% of one annual payment per year for ten years or until the balance is equal to one annual loan payment. For planning purposes, 10% of the proposed loan installment would equal \$832 per month; this amount should be deposited monthly until a total of \$99,890 has accumulated. Prior written concurrence from the Agency must be obtained before funds may be withdrawn from this account during the life of the loan. When funds are withdrawn during the life of the loan, deposits will continue as designated above until the fully funded amount is reached.
- b. **Short-Lived Asset Reserve** – In addition to the debt service reserve fund, you must establish a short-lived asset reserve fund. Based on the PER, you must deposit at least \$ into the short-lived asset reserve fund annually for the life of the loan to pay for repairs and/or replacement of major system assets. It is your responsibility to assess your facility's short-lived asset needs on a regular basis and adjust the amount deposited to meet those needs.

SECTION III – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

8. Organization – The Bond Counsel transcripts of proceedings must show that your organization is a duly incorporated public body and has continued legal existence. Your organization must have the authority to own, construct, operate, and maintain the proposed facility, as well as for borrowing money, pledging security and raising revenues.

9. Suspension and Debarment Screening – You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal.

Principal –

- i. An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- ii. A consultant or other person, whether or not employed by the participant or paid with federal funds, who –
 1. Is in a position to handle federal funds;
 2. Is in a position to influence or control the use of those funds; or,
 3. Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

10. Environmental Requirements – At the conclusion of the proposal’s environmental review process, specific action(s) were determined necessary to avoid or minimize adverse environmental impacts.

The project, as proposed, has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and/or permits may apply or be required. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required.

11. Engineering Services – You have been required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance,” or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids and must approve any modifications to this agreement.

12. Contract Documents, Final Plans, and Specifications- All development will be completed by contract in accordance with applicable provisions of RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, (copy available upon request), and in compliance with all statutory requirements. You are responsible to share this with your engineer before pre-design.

- a. The plans and specifications and all proposals required by law must be approved by
- b. In preparing final design and providing service to the planned project area, you and your engineer will comply with all zoning and planning requirements of the appropriate governing bodies where service is to be provided.
- c. The Agency will need to concur in the plans and specifications prior to advertising for bids. The Agency may require an updated cost estimate if a significant amount of time has elapsed between the original project cost estimate and advertising for bids.
- d. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- e. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

13. Build America, Buy America (BABAA) Requirements - Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. all iron and steel permanently installed in the project are produced in the United States-- this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

- b. all manufactured products permanently installed in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. all construction materials permanently installed are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The BABAA requirement applies to the entirety of an infrastructure project even if only a portion of the project is funded by Federal funds.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials

required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

Definitions

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Owners are ultimately responsible for compliance with the evidence standards as outlined in the Build America Buy America (BABAA) appendix to this Letter. Owners are required to maintain records as specified in their loan or grant agreement, but in all cases, they should maintain records for a minimum of three years after the final expenditure report. Minimum records include certifications from manufacturers, the architect/engineer, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR). Further guidance regarding certifications will be provided by the Agency.

14. Legal Services—A legal services agreement is required with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a “not to exceed” amount for the services, including reimbursable expenses. RUS Bulletin 1780-7, “Legal Services Agreement,” or similar format may be used. The Agency will provide concurrence prior to advertising for bids. Any changes to the fees or services spelled out in the original agreement must be reflected in an amendment to the agreement and have prior Agency concurrence.

15. Property Rights - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

- a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. **Form RD 442-20, “Right-of-Way Easement”** – This form, or similar format, may be used to obtain any necessary easements for the proposed project.
- c. **Form RD 442-21, “Right-of-Way Certificate”** – You will provide a certification on this form that all right-of-way requirements have been obtained for the proposed project.
- d. **Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”** – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

16. System Policies, Procedures, Contracts, and Agreements – The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.

- a. **Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

- #b. Water User Agreement** – Projects not involving mandatory connection require users to execute a Water Users Agreement. The draft agreement must receive Agency concurrence prior to advertising for bids. RUS Bulletin 1780-9, "Water Users Agreement," or similar format may be used.
- #c. Contracts for Other Services/Lease Agreement** – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.
- #d. Parity/Intercreditor Agreement** – Projects with parity liens must have in place a written agreement between the parity lenders. The draft agreement must receive Agency concurrence prior to advertising for bids.
- #e. Other agreements** with governments or other entities regarding joint operation of facilities, granting authority to Agency borrower for providing service within another entity's service area, etc. – Utility service Agreement with the Village of Williamsburg – The draft agreement must receive Agency concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements above must be submitted prior to loan closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

17. Closing Instructions – The Agency will prepare closing instructions as soon as the requirements of the previous paragraphs are complete, as well as a draft of the security instrument(s). Both your bond and legal counsel must comply with these instructions when closing the Agency loan/grant.

18. System Users – This letter of conditions is based upon your indication at application that there will be at least 2828 residential users, 514 non-residential users, on the existing system when construction is completed.

Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation, maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

If you are relying on mandatory connection requirements, you must provide evidence of the authorizing ordinance or statute along with your user certification.

19. Construction Account – A separate construction account is not required for project funds. However, the recipient must be able to separately identify, report and account for all Federal funds, including the receipt, obligation and expenditure of funds, in accordance with 2 CFR 200.305. These funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. **If the balances at the financial institution where federal funds will be deposited exceeds the FDIC insurance coverage, the excess amount must be collaterally secured up to 100 percent of the highest amount of funds expected to be deposited in the account at any one time, per the Department of Treasury regulations and requirements.**

20. Interim Financing – The Agency's policy is to utilize interim financing for all loans exceeding \$500,000. Prepayment penalties on interim financing are not allowed. Borrowers are required to seek interim financing initially from private or cooperative lenders if funds can be borrowed at reasonable interest rates on an interim basis from those sources for the construction period. The fact that a commercial lender's rates are higher than current Agency interest rates does not necessarily mean that the commercial rate is not reasonable.

21. Proposed Operating Budget – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O and M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, "Operating Budget," or similar format may be utilized for this purpose. It is expected that O and M expenses will change over each successive year and user rates will need to be adjusted on a regular basis.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested, please contact our office for information.

22. Permits –The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents.

23. Risk and Resilience Assessment/Emergency Response Plan (RRA/ERP) –The Agency requires all financed water and wastewater systems to have a RRA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that an RRA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that an RRA/ERP has been completed prior to advertising for bids. Technical assistance is available in preparing these documents at no cost to you.

Before funds are drawn, you should have in place a cybersecurity plan, a supply chain plan, and a plan to comply with cybersecurity requirements of the National Institute of Science and Technology and the Cybersecurity and Infrastructure Security Administration. These items should be addressed in the RRA/ERP.

The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every five years at a minimum.

24. Bid Authorization - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.

SECTION IV - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

25. Disbursement of Agency Funds - Agency funds will be disbursed electronically into the construction account as they are needed. SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form,” must be completed and submitted to the Agency prior to commencement of construction.

The order of disbursement is as follows: 1) Applicant contribution, 2) other funding sources, 3) interim financing or Agency loan funds, and 4) Agency grant funds. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior the first disbursement. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. Agency Grant funds must not be disbursed prior to loan funds except as authorized in 7 CFR 1780.45(d).

Grant funds are to be deposited in an interest-bearing account (exception provided below) in accordance with 2 CFR Part 200 and interest in excess of \$500 per year remitted to the Agency.

The funds should be disbursed by the recipient immediately upon receipt, and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing accounts, unless:

- The recipient receives less than \$120,000 in Federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.

26. Bid Tabulation – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer’s evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- a. **Cost Overruns** – If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds. Cost overruns exceeding 20 percent of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
- b. **Excess Funds** - If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and Letter of Conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

27. Suspension and Debarment Screening – In accordance with 2 CFR Part 180, Subpart C, as a condition of the transaction and the responsibilities to persons at the next lower tier with whom you enter into transactions, you must conduct screening for suspension and debarment of lower tier recipients (e.g., vendors, contractors, etc.).

28. Contract Review – Your attorney will certify that the executed contract documents, including performance and payment bonds, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with 7 CFR 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for concurrence. Construction cannot commence until the Agency has concurred in the construction contracts.

29. Final Rights of Way – Your attorney or title company must furnish a separate final title opinion or Title Insurance Policy on all real property related to the facility, now owned and to be acquired for this project, as of the day of loan closing or start of construction, whichever occurs first. Form RD 1927-10, “Final Title Opinion” may be used.

If any of the right-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed.

30. Insurance and Bonding Requirements - Prior to the start of construction or loan closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the borrower shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity bond coverage is maintained.

- a. **General Liability Insurance** – Include vehicular coverage.
- b. **Workers’ Compensation** – In accordance with appropriate State laws.
- c. **Guaranty or Fidelity Insurance**—Coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through “blanket” coverage providing protection for all appropriate employees. Each position is to be insured in an amount equal to the maximum amount of funds expected to be under the control of that position at any one time. The minimum coverage allowed will be an amount equal to the total annual debt service payment on the Agency loans. The coverage may be increased during construction based on the anticipated monthly advances.
- d. **National Flood Insurance** - If the project involves acquisition or construction in a designated special flood area, the community in which the acquisition or construction is situated must be currently participating in the national flood insurance program. Additionally, if the project involves acquisition or construction in designated special flood or mudslide prone areas, a flood insurance policy must be in place at the time of loan closing.
- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. The Agency will be listed as mortgagee on the policy when the Agency has a lien on the property. Prior to the acceptance of the facility from the

contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

The Agency is to be listed as “Other Insured” so as to receive notifications on all insurance, regardless of security. Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

31. Initial Civil Rights Compliance Review – The Agency will conduct an initial civil rights compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E. You are expected to comply with the completion of the review, including the furnishing of any documents, records, or other applicable material.

SECTION V – REQUIREMENTS PRIOR TO CLOSING

32. Interim Financing. Interim financing is being used. Generally, loan closing will occur near the end of construction when interim funds are fully disbursed. Documents detailed above from Sections II and III regarding security, electronic payments (Form 3550-28), and system policies, procedures, contracts, and agreements must be adopted and/or executed and submitted to the Agency prior to loan closing.

33. Electronic Payments – Payments will be made through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, “Authorization Agreement for Preauthorized Payments,” for all new and existing indebtedness to the Agency prior to loan closing.

34. Other Requirements – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to loan closing.

- a. **System for Award Management.** You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Renewal can be completed online at: <http://sam.gov>. This registration must be renewed and revalidated every 12 months for as long as there is an active loan, grant, or guaranteed loan with the Agency.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at <http://sam.gov>).

- b. **Litigation.** You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.

- c. **Certified Operator**. Evidence must be provided that your system has or will have a certified operator, as defined by applicable State or Federal requirements, available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

SECTION VI – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION

35. Construction Completion Timeframe – Following the benchmarks established in Section I, Item 4, Project Timeline, all projects should be completed and Agency funds fully disbursed within three years of the date of obligation. If funds are not disbursed within three years of obligation and you have not already done so per Section I, Item 4, you must submit a written request for extension of time to the Agency with adequate justification of the circumstances, including any beyond your control. The request must be submitted at least 90 days prior to the end of the three-year timeframe and include a revised estimated date of completion. The Agency will typically only allow one extension. Subsequent requests for waivers beyond the initial extension or requests that exceed five years from the initial date of obligation will be submitted to the RUS, Water and Environmental Programs for consideration. The Agency retains the right to de-obligate any loan and/or grant monies, or take other appropriate action, related to unliquidated funds that exceed the timeframes above and are not under an active extension.

36. Resident Inspector(s) – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must provide written concurrence. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the preconstruction conference.

37. Preconstruction Conference – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

38. Inspections - The Agency requires a preconstruction conference, pre-final, final, and warranty inspections. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the 11- month warranty period to address and/or resolve any outstanding warranty issues. The Agency will conduct an inspection with you of your records management system at the same time and will continue to inspect the facility and your records system every three years for the life of the loan. See Section VII of this letter.

39. Change Orders – A Change Order must be submitted for all modifications to the approved scope of work, including existing contracts. This includes non-physical modifications such as

any time extension requests. Prior written Agency concurrence is required for all Change Orders.

40. Payments – Prior Agency concurrence is required for all invoices and requests for payment before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner's written concurrence.

41. Use of Remaining Funds – As stated above, applicant contribution and connection or tap fees will be the first funds expended in the project. Funds remaining after all costs incident to the basic project have been paid or provided will be handled as follows:

- a. Funds remaining after the applicant contribution and connection fees may be considered in direct proportion to the amounts of funding obtained from each source. The use of Agency funding will be limited to eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
- b. Any reductions in the Agency funding will be first applied to the grant funds.
- c. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 30 days of final completion of project. Prior to actual cancellation, you, your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.
- d. Under no circumstances is it appropriate to use remaining funds as contributions to a new project outside the scope of the funded project.
- e. Loan funds that are not needed will be cancelled (de-obligated) prior to loan closing.

42. Technical, Managerial and Financial Capacity - It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for additional information.

43. Reporting Requirements Related to Expenditure of Funds -- An annual audit under 2 CFR 200 is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the

Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law and must be submitted within 9 months of your fiscal year end. Both the audit and accompanying management report must be submitted for review.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy of that agreement to the Agency prior to the advertisement of construction bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

SECTION VII – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

44. Prepayment and Extra Payments - Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

45. Annual Financial Reporting/Audit Requirements – You are required to submit an annual financial report at the end of each fiscal year. The annual report will be certified by the appropriate organization official, and will consist of financial information, a current rate schedule, and listing of board members with their terms. Financial statements must be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles (GAAP). The annual report will include separate reporting for each water and waste disposal facility, and itemized cash accounts by type (debt service, short-lived assets, etc.) under each facility. All records, books and supporting material are to be retained for three years after the issuance of the annual report. Technical assistance is available, at no cost, with preparing financial reports.

The type of financial information that must be submitted is specified below:

- a. **Audits** – An audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

See Section VI for additional information regarding audits.

- b. **Financial Statements** – If you expend less than \$750,000 in Federal financial assistance per fiscal year, you may submit financial statements in lieu of an audit which include, at a minimum, a balance sheet and an income and expense statement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information. The financial statements must be signed by the appropriate borrower official and submitted within 60 days of your fiscal year end.
- c. **Quarterly Reports** – Quarterly Income and Expense Statements will be required until the processing office waives this requirement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format to provide this information. The reports are to be signed by the appropriate borrower official and submitted within 30 days of each quarter’s end. The Agency will notify you in writing when quarterly reports are no longer required.

46. **Annual Budget and Projected Cash Flow** - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. The budget must be signed by the appropriate borrower official. Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format may be used.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system, as well as completing the annual budget.

47. **Graduation** - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines you can obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance. Your ability to refinance will be assessed every other year for those loans that are five years old or older.

48. **Security/Operational Inspections** – The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

49. **System for Award Management**. You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Further information can be found at paragraph 33 of this letter.

50. **Risk and Resiliency Assessment/Emergency Response Plan (RRA/ERP)** – The RRA/ERP is further outlined under Section III of this letter. You will be required to submit a certification to the servicing office every five years that the RRA/ERP is current and covers all sites related to the facility. The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It

should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. Technical assistance is available in preparing these documents at no cost to you.

51. Insurance. – Insurance requirements are further outlined in Section IV of this letter. You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.

52. Statutory and National Policy Requirements – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.
- b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
- c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 *et seq.*) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 *et seq.*) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation 4330-005, “Prohibition Against National

Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”

- f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.

53. Compliance Reviews and Data Collection – Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter.

If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

SECTION VIII – REMEDIES FOR NON-COMPLIANCE

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of Agency regulations, statutes, and other applicable policies.

We look forward to working with you to complete this project. If you have any questions, please contact Elizabeth Ybarra at (505) 761-4963 or by e-mail at elizabeth.ybarra@usda.gov.

Sincerely,

**CHRISTINE
GRIEGO**

Digitally signed by CHRISTINE GRIEGO
Date: 2023.09.28 07:13:18 -06'00'

Christine Griego
Community Programs, Program Director

Attachments:

T or C_WSPI-2_Form RD 1942-46_Letter of Intent to Meet Conditions
T or C_WSPI-2_Form RD 1940-1_Request for Obligation of Funds_306(C)
T or C_WSPI-2_Form RD 1940-1_Request for Obligation of Funds_Loan

cc: USDA - Community Programs Director, Christine Griego
USDA - Community Programs Engineer, Eugenio Valdez
Angela Gonzales – City Manager – City of Truth or Consequences
Traci Alvarez – Asst. City Manager
Wilson & Company - Engineer

FORMS and BULLETINS:

- Form AD-3031 "Assurance Regarding Felony Convictions or Tax Delinquent Status for Corporate Applicants" – Item 30
- Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy" - Item 15
- Form RD 440-22, "Promissory Note" – Item 6
- Form RD 442-2, "Statement of Budget, Income and Equity" – Items 45 and 46
- Form RD 442-3, "Balance Sheet" – Item 45
- Form RD 442-7, "Operating Budget" – Item 20
- Form RD 442-20, "Right-of-Way Easement" – Item 14
- Form RD 442-21, "Right-of-Way Certificate" – Item 14
- Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way" – Item 14
- Form RD 1927-9, "Preliminary Title Opinion" – Item 14
- Form RD 1927-10, "Final Title Opinion" – Item 28
- Form RD 1940-1, "Request for Obligation of Funds" – Pages 1 and 2
- Form RD 1942-8, "Resolution of Members or Stockholders" – Item 6
- Form RD 1942-46, "Letter of Intent to Meet Conditions" – Page 2
- Form RD 3550-28, "Authorization Agreement for Preauthorized Payments" – Items 32 and 33
- Form UCC-1, "Financing Statement" – Item 6
- Form UCC-1Ad, "UCC Financing Statement Addendum" – Item 6
- SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form" – Item 24
- RUS Bulletin 1780-7, "Legal Services Agreement" – Item 13
- RUS Bulletin 1780-9, "Water Users Agreement" - Items 15 and 17
- RUS Bulletin 1780-12, "Water and Waste System Grant Agreement" – Item 6
- RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance" – Items 11 and 12
- RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)" – Item 6
- RUS Bulletin 1780-28, "Loan Resolution Security Agreement" – Item 6

Appendix A
(INSTRUCTIONS TO FIELD)

A. Reporting Total Compensation of Recipient Executives

In the rare instance in which all of the following apply, please contact your POB Specialist for language to include in the LOC:

1. The total Federal funding authorized to date under this award is \$30,000 or more;
2. In the preceding fiscal year, the applicant received—
 - (A) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

B. Subaward and Subrecipients

In the rare instance in which there is a subrecipient in the project, please contact your POB Specialist for language to include in the LOC:

Subrecipient means an entity that:

- i. Receives a subaward from the recipient under this award; and
- ii. Is accountable to the recipient for the use of the Federal funds provided by the subaward.
 - a. Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through

entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

Appendix B

Build America, Buy America Evidence Standards

Manufacturers

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative.

Architects and Engineers

Compliance with BABAA will be spelled out in agreements for services, construction contracts, and procurement contracts. Generally, the A/E contract should include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the Owner upon completion of the project. The architect or engineer will need to certify to this action at the project's end.

Resident Project Representative / Resident Inspector

As part of their duties, Resident Project Representative/Resident Inspector should be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They should photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

Contractors

Construction contract(s) must include a requirement to procure and install only items that comply with BABAA or are subject to an approved waiver. Contractors must provide manufacturers' certifications for all BABAA compliant items to the responsible party before a request for reimbursement to the Agency is made. At completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided.

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August 16, 2023

Elizabeth Ybarra
Community Programs Loan Specialist
U.S Department of Agriculture – Rural Development
One Sun Plaza
100 Sun Avenue NE, Suite 130
Albuquerque, NM 87109

Re: T or C Water System Performance Improvements-2 (WSPI-2) Amendment

Dear Ms. Ybarra,

This letter will constitute as an amendment to the Preliminary Engineer Report, entitled “Water System Performance Improvements 2” for the City of Truth or Consequences (City), New Mexico, dated November 2021.

BACKGROUND

The changes on this amendment were recommended by the engineer and approved by the city to be ultimately the most beneficial improvements to the existing water system. The original PER scope included the replacement of existing waterline and a new water source. This Amendment 1 removes the new water source, which revises the scope to only replacement of existing waterline. These design changes affect both what is to be constructed and the project cost. The amendment is also necessary to increase construction cost to address the inflation rate since the PER was issued and the post Covid material costs. This amendment does not change the intent of the original PER recommended alternative of managing the high-pressure surges that caused the aging infrastructure to fail resulting in a vast number of waterlines breaks every year. These changes help solve the system pressure and fire flow issues in more areas of the City and will reduce the high-pressure issues and pressure spikes that cause the aging infrastructure to fail, which leads to water lines breaks, water outages, and the loss of potable water. All changes were validated by the hydraulic model and were confirmed to improve upon the original most beneficial to the City.

CHANGE IN SCOPE

The following sections have been removed from the scope:

- Downtown Pipeline Replacement: Approximately 618 feet of 8” line will be installed on S Pershing St replacing existing 4” waterline, has been removed from the design as well as 4 service connection replacements. This area was determined to be sufficient by the hydraulic model, therefore was removed from the scope. **See (A) on Figure 14.A.**
- East Side Pipeline Replacement: Approximately 649 feet of 8” line will be installed on East Riverside Dr from the intersection from Cherry Ln to the crossing at Arrowhead Rd replacing existing 6” waterline, this modification also removes 5 service connection replacements, this line was determined to be adequate to manage the system pressure and has been removed from the scope. **See (B) on Figure 14.A.**
- North side Proposed well: removal of the installation of the water well located on Cemetery Road with all appurtenances, this modification removes the land acquisition for the new well, the hydrogeology well study and all electrical accessories. **See (C) on Figure 14.A.**

The following sections have been added to the scope:

- Lines east of the downtown area: Approximately 675 feet of 8" line will be installed on East Riverside Dr from Ash St to Cedar St. replacing existing 6" waterline. And installing an additional of 6 water meter connections. This section is included to improve pressures on the eastern side of the system and provide further redundancy and tie in current projects being developed on the downtown area. This work was previously specified in the PER for WSPI-1 See **(D) on Figure 14.A**, which was removed from that scope.

An updated exhibit (Figure 14. A), as well as the original PER design (Figure 14), shows the changes described above are attached.

NEW PROJECT SCOPE

The project includes open trench replacement of approximately 5,257-LF of 6-inch waterline with an 8-inch line east of the Main Street District area on East Riverside Dr. as well as replacement of approximately 8,726-LF of 6-inch with a 10-inch waterline towards Williamsburg creating a loop starting from S. Broadway and Iron Street going south, turning east on Veater street and North on Platinum St to end back on S Broadway St. All the waterline replacements will be 3 to 5 feet and running parallel to the existing water lines with 3' wide by 4' deep trench. No additional land requirements are required for the replacement of the water lines, and all new water lines are within the existing right-of-way. The project also includes the installation of new meter cans, water service lines, and connections to the existing system. Site work will include roadway asphalt removal and replacement as needed.

NEED FOR PROJECT

Health, Sanitation, Security Issues: In addition to the original health, sanitation, and security issues since the original PER was published in November 2020, the number of waterline breaks, and the potable water loses have increased significantly. The news article: "In drought-plagued New Mexico, a City loses nearly half its water - to leaky pipes" by Searchlight New Mexico, Independent Investigation Journalism on February 15, 2023, states "Aging water lines burst near-daily in Truth or Consequences, but funding for repairs has run dry.". Other highlights in the article states "In 2022, over 200 million gallons - a staggering 43 percent of the water in the system - was lost to leakage. Three years earlier, losses were at 28 percent. Not only does this show how quickly the system has been deteriorating, but "it's a sign of things to come," "Line breaks in the fragile system are a near-daily event, with over 400 repairs made last year.", and "We've had cars drive into sinkholes" after subsurface seepages destabilized the ground,". (Full article attached)

NBC News Article March 12, 2023: "In Truth or Consequences, N.M., leaking pipes cause millions of gallons of water to go down the drain amid drought", "System shutoffs have become routine in the desert city as workers patch up antiquated underground lines....". Other highlights in the article states "But amid a worsening regional drought, the town with the curious name is losing 200 million gallons of potable water a year because of antiquated underground pipes that leak, spit and sometimes gush 30 feet into the air, putting not only its nearly 6,000 residents at risk of having their water shut off but also threatening operations at the city's five public schools and its only hospital and nursing home. Schools have already been forced to close without warning several times over the last year as water is shut off while repairs are made, city officials said." and "Last week, they were responsible for fixing 14 broken lines, 11 of which occurred on a single day, wastewater director Arnulfo Castañeda said. Resident Susan Abts, 72, said her water was abruptly cut off last month after a break near her home caused a gusher to shoot 30 feet". Along with: "During previous hourslong water outages at Sierra Vista Hospital and Clinics, emergency room patients were turned away or taken 75 miles by ambulance to Las Cruces Officials at Sierra Vista said they have enough reserve water to last a few days, but after that, patients would have to be sent elsewhere.". (Full article attached)

City Dispatch Records: The existing system's water leaks from City dispatch records from January 2022 until September 2022. There was a total of 367 pipe leaks/breaks within this nine-month range. Past records show an average of 4.5 hours for the City crew to complete repairs. This has increased the amount of operation and maintenance costs allocated to emergency repairs in 2022. The City estimates that out of a 270-day period, the City crew worked 206 days in waterline repairs merely; these replacements not only increase the operation and maintenance but also increase the health and sanitation issue for the City's residents due to water outages.

ENVIRONMENTAL

The original PER was replacement of existing waterline and a new water source, and no environmental report was completed for this scope. This Amendment 1 removes the new water source, with the remaining scope now only including the replacement of existing waterline, which should meet the USDA NEPA categorical exclusion requirements. This amendment removes the new water source and modifies the waterline replacements to meet the design goals, which are depicted in Figure 14.A and labeled as "WSPI 2". The new waterlines are in previously disturbed areas within the City's rights-of-way but will need to be evaluated to meet the USDA NEPA requirements. The replacement waterlines will be increased in size to meet the City's existing system requirements and the City's design goals. If an environmental report will be required, the cost will need to be added to the total cost of the project.

COST ESTIMATE

By making these changes to the scope of the project, the new estimated total cost is \$9,900,000.00 which is approximately \$1,466,487.00 more than the original total estimate. The increase in cost is due to the construction cost increases since the original PER was published and the post Covid inflation. A detailed cost estimate is attached.

Sincerely,



Mark A. Nasi, PE

Sr. Water/Wastewater Project Manager
Wilson & Company, Inc., Engineers & Architects

Cc: Angie Gonzales, City Manager, City of Truth or Consequences
Traci Alvarez, Assistant City Manager, City of Truth or Consequences
Arnulfo Castaneda, Water/Wastewater Director, City of Truth or Consequences
Robert Garcia, P.E., State Engineer, New Mexico State Office, Rural Development, USDA
Brian J. Ambrogi, PE, Water Resources Operations Manager, Wilson & Company, Inc., Engineers & Architects
J. Alfredo Holguin, PE, Senior Project Manager, Wilson & Company, Inc., Engineers & Architects
Daniela Ducon. IT, MSEE, Water & Wastewater Designer, Wilson & Company, Inc., Engineers & Architects

Attachments: Figure 14 – Original PER Recommend Alternative
Figure 14.A – Amendment 1 revised modification
Engineers Estimate of Probable Cost
News Article's

FIGURE 14

Original PER Recommend Alternative

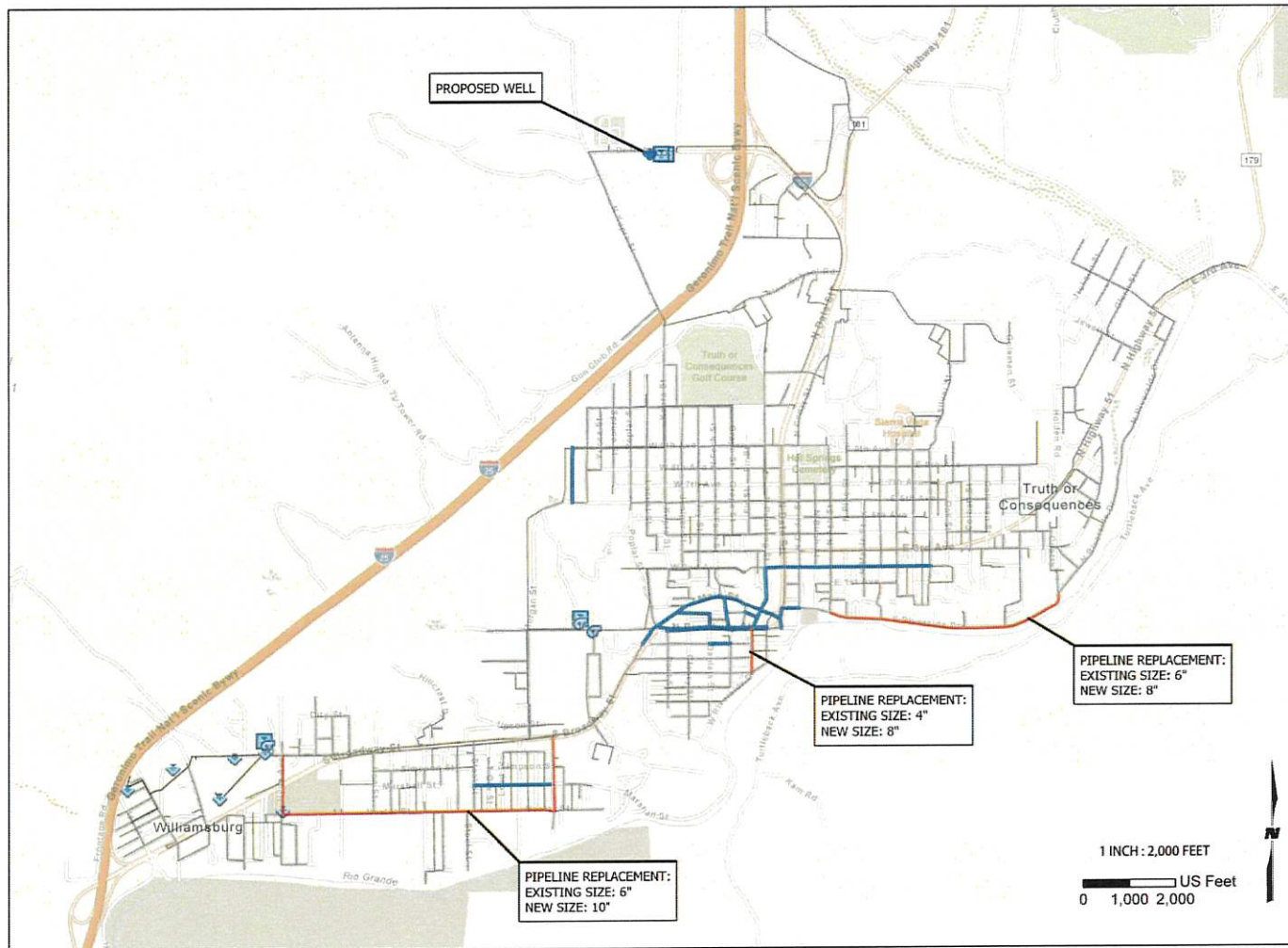
PRELIMINARY
ENGINEERING REPORT

WATER SYSTEM IMPROVEMENTS



Legend

- Proposed Well
- Well
- Booster Station
- Tank
- Existing Waterline
- Funded Upgrades
- Recommended



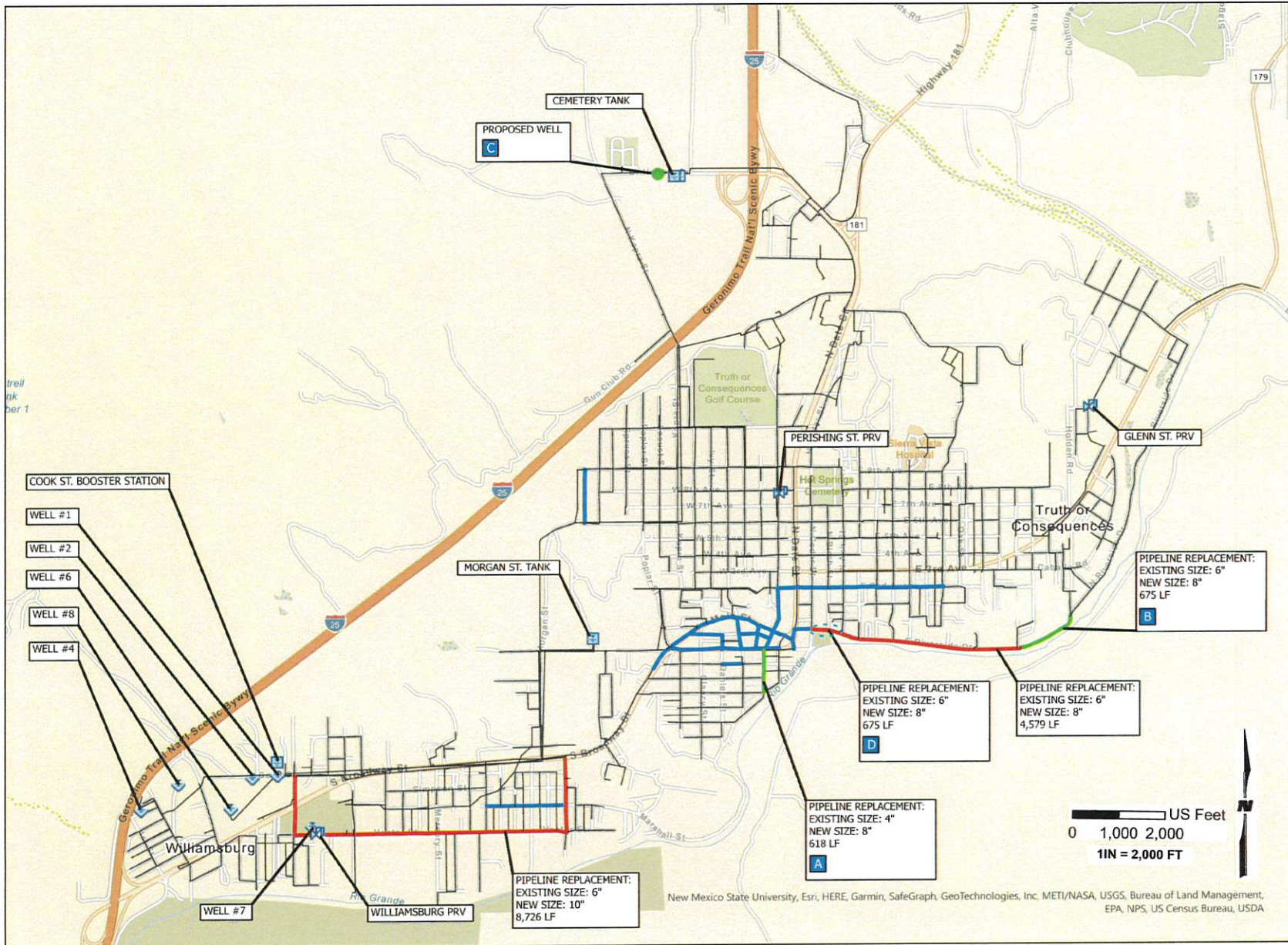
1 INCH : 2,000 FEET
0 1,000 2,000 US Feet



III-B, SYSTEM REDUNDANCY
AND HYDRAULIC
PERFORMANCE
ENHANCEMENTS
FIGURE 14

FIGURE 14.A

Amendment 1 revised modification



Legend

- PRVs
- Wells
- Tanks
- Existing Waterlines
- Removed from WISPI 2
- WISPI 1
- WISPI 2

FIGURE 14.A

COST
ESTIMATE
WSPI-2

Water System Performance Improvements 2 (WISPI-2)					
Open Trench Waterline					
ITEMS LIST	UNITS	QTY	UNIT COST	EXTEND COST	
General					
1	Mob/Demob. (7.5% of General Cost)	LS	1	\$406,389.45	\$406,389.45
2	Traffic Control (8% of General Cost)	LS	1	\$433,482.07	\$433,482.07
3	Construction Survey/Staking (2.17% of General Cost)	LS	1	\$117,582.01	\$117,582.01
4	SWPPP Preparation, Implementation, and Inspection (1% of General Cost)	LS	1	\$54,185.26	\$54,185.26
5	Materials Testing (0.2% of General Cost)	LS	1	\$27,092.63	\$27,092.63
6	Subsurface Utility Locating	LS	1	\$40,000.00	\$40,000.00
7	Utility Relocation	LS	1	\$40,000.00	\$40,000.00
8	AC Pipe Removal and Disposal	LS	1	\$0.00	\$0.00
Waterline					
9	8" Waterline C-900 DR-18 PVC Pipe Installed With Trenching and Backfill	LF	5254	\$100.00	\$525,400.00
10	10" Waterline C-900 DR-18 PVC Pipe Installed With Trenching and Backfill	LF	8726	\$125.00	\$1,090,750.00
11	Jack and Bore w/ 18-inch Casing pipe, CIP	LF	30	\$375.00	\$11,250.00
12	4-1/2' Fire Hydrant w/ piping valves, and connection	EA	28	\$10,000.00	\$279,080.00
13	6" Gate Valves w/ Valve Can, CIP	EA	8	\$3,000.00	\$24,000.00
14	8" Gate Valves w/ Valve Can, CIP	EA	25	\$3,800.00	\$95,000.00
15	10" Gate Valves w/ Valve Can, CIP	EA	74	\$4,000.00	\$296,000.00
16	Pressurized waterline connections, CIP	EA	23	\$11,500.00	\$264,500.00
17	Ductile Iron MJ Fittings, All Sizes, Class 25, CIP	LB	4700	\$3.00	\$14,100.00
18	Joint Restraints, CIP	EA	134	\$150.00	\$20,100.00
19	1" Water Service, New single connection to existing watermain, cip. SD 2362	EA	97	\$1,300.00	\$126,100.00
20	Water Meter Box Remove & Replace	EA	97	\$1,300.00	\$126,100.00
21	Dewatering of Trench, CIP	LF	6990	\$50.00	\$349,500.00
22	Valve/Pipeline abandonment	LS	1	\$37,129.00	\$37,129.00
23	Hydrant removal and abandonment	LS	1	\$11,819.04	\$11,819.04
Roadway					
32	Asphalt Roadway, Remove, Dispose and Replace with SP III, 3" Thick for Residential Streets, include Subgrade Prep, CIP	SY	6213	\$70.00	\$434,932.90
33	Asphalt Roadway, Remove, Dispose and Replace with SP III, 6" Thick for Arterial Streets, include Subgrade Prep, CIP	SY	4885	\$100.00	\$488,500.00
34	Excavate and Dispose of Unsuitable Material, CIP	CY	29310	\$15.00	\$439,650.00
35	Import of Engineered Fill	CY	29310	\$25.00	\$732,750.00
36	Geogrid Base Roadway Reinforcement	SY	4885	\$5.00	\$24,425.00
37	Remove and replace Curb and Gutter @ Services, CIP	LF	280	\$35.00	\$9,800.00
38	Remove and replace Sidewalk @ Services, CIP	CY	196	\$90.00	\$17,640.00
Construction Cost Subtotal:					\$6,537,257.36
2-YR Inflation @ 4.55% + Construction Cost Subtotal:					\$6,834,703.00
Contingency - 10%:					\$683,470.00
NMGRT @ 8.375%:					\$629,647.00
Interim Finance Interest:					\$101,847.75
TOTAL ESTIMATED CONSTRUCTION COST:					\$8,249,667.75
ENGINEERING SERVICES					
39	Bridge Loan @ 5.0%	LS	1	\$69,404.00	\$69,404.00
40	Additional Engineering - Data Collection*	LS	1	\$186,000.00	\$186,000.00
41	Preliminary Engineering Report-PER	LS	1	\$35,000.00	\$35,000.00
42	Environmental w/ Report	LS	1	\$25,000.00	\$25,000.00
44	Engineering Design Services	LS	1	\$751,817.00	\$751,817.00
45	Engineering - Bid Phase	LS	1	\$20,000.00	\$20,000.00
46	Engineering - Construction Inspection	LS	1	\$265,000.00	\$265,000.00
48	Engineering - Construction Management	LS	1	\$105,254.00	\$105,254.00
Engineering Services Subtotal:					\$1,457,475.00
Contingency					\$37,291.00
NMGRT @ 7.6250%:					\$111,132.00
Engineering Total:					\$1,605,898.00
FINANCING SERVICES					
49	Loan Origination Fee (No Fee From Local Bank)	LS	0	\$76,890.00	\$0.00
Financing Services Subtotal:					\$0.00
Contingency - 0%:					\$0.00
NMGRT @ 8.375%:					\$0.00
Legal Services Total:					\$0.00
LEGAL SERVICES					
50	Legal Fees - Project Attorney (City Attorney Used - Not Needed)	LS	0	\$10,000.00	\$0.00
51	Legal Fees - Bond Counsel	LS	1	\$21,000.00	\$21,000.00
Legal Services Subtotal:					\$41,000.00
Contingency - 0%:					\$0.00
NMGRT @ 8.375%:					\$3,434.00
Legal Services Total:					\$44,434.00
GRAND TOTAL:					\$9,900,000

NBC News Article March 12, 2023:

“In Truth or Consequences, N.M.,
leaking pipes cause millions of
gallons of water to go down the
drain amid drought”,

CLIMATE IN CRISIS

In Truth or Consequences, N.M., leaking pipes cause millions of gallons of water to go down the drain amid drought

System shutoffs have become routine in the desert city as workers patch up antiquated underground lines that include wooden pipes built in the 1800s.



— Workers repair a pipe Wednesday in Truth or Consequences, N.M., which lost 43% of its water supply last year because of leaking pipes the city says it cannot afford to fix permanently. Paul Ratje for NBC News

March 12, 2023, 6:00 AM MDT

By Deon J. Hampton

TRUTH OR CONSEQUENCES, N.M. – For centuries, Native American tribal leaders and others have trekked to this oasis to unwind and relax in the abundant hot springs that course underground, bubbling up through the crusty desert floor.

But amid a worsening regional drought, the town with the curious name is losing 200 million gallons of potable water a year because of antiquated underground pipes that leak, spit and sometimes gush 30 feet into the air, putting not only its nearly 6,000 residents at risk of having their water shut off but also threatening operations at the city's five public schools and its only hospital and nursing home.

Schools have already been forced to close without warning several times over the last year as water is shut off while repairs are made, city officials said.



— Water Department worker Andrew Curry repairs a pipe in Truth or Consequences, N.M., where new leaks spring up nearly every day. Paul Ratje for NBC News

The system is so old it includes wooden pipes built in the 1800s and is patched up by one worker from the city's Water Department and two others on loan from the sewer department. Last week, they were responsible for fixing 14 broken lines, 11 of which occurred on a single day, wastewater director Arnulfo Castañeda said.

Resident Susan Abts, 72, said her water was abruptly cut off last month after a break near her home caused a gusher to shoot 30 feet into the air.

"I'm concerned where this is going," she said.



— Jesus Baray, 33, the manager of El Faro restaurant in Truth or Consequences, N.M., says the family business' water is frequently shut off unexpectedly. Paul Ratje for NBC News

So is Jesus Baray, the manager of El Faro restaurant, which lost its water without warning three weeks ago while meals were being served and dishes were being washed. The downtown business was closed for two days.

"I understand to a certain point, but it keeps happening," Baray said. "That's the frustration."

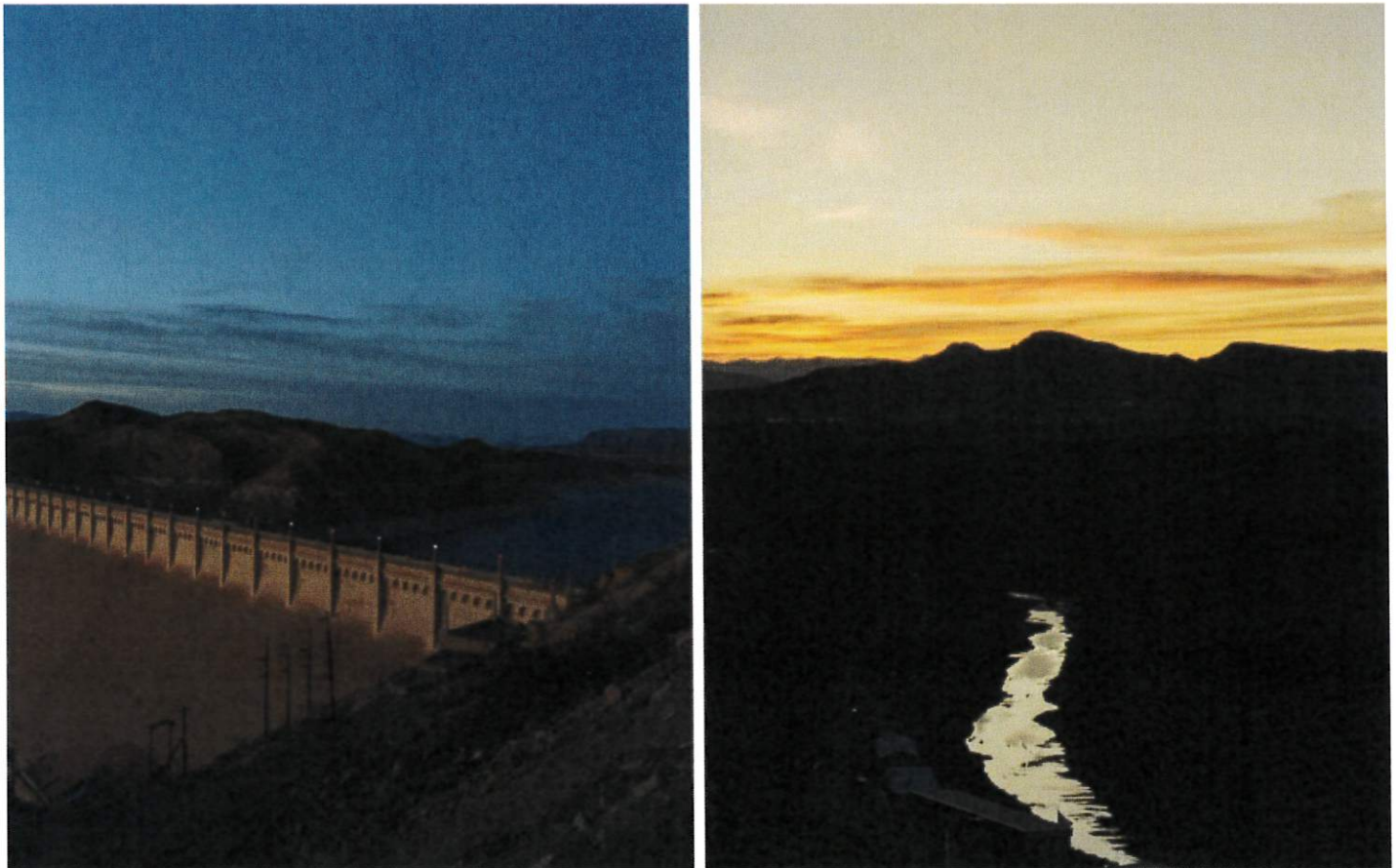
Last year, as many as 30 water pipes broke in one day. As the system continues to fail, water in some parts of the city could be shut off for a week at a time, City Manager Bruce Swingle said.

"It's a crisis," he said last week. "We're there."

A geographic divide

Millions of gallons, representing 43% of the city's supply, were lost in the last year as the West struggles under a drought so severe it threatens the power-generating capabilities of lakes Mead and Powell and is drying up the Colorado River, which provides much of the region's water.

The situation also reflects the geographic divide in the U.S. as rural communities compete with large metropolitan areas for a chunk of the \$555 billion in the federal [infrastructure bill](#) to upgrade the country's aging bridges, roads, levees and pipelines.



— After Elephant Butte Dam, the flow of the Rio Grande is greatly reduced, leaving a dry riverbed for most of the year in southern New Mexico. Paul Ratje for NBC News

Water officials in Truth or Consequences estimate it would cost \$150 million to overhaul or replace the deteriorating system. Even patching up the leaks more permanently would cost \$20 million, which the city says it can't afford.

Passed in 2021, the [Infrastructure Investment and Jobs Act](#) was hailed by federal officials as a once-in-a-generation investment aimed in part to improve “[communities that have too often been left behind.](#)”

But city officials said that seems to be happening in Truth or Consequences, which has received no response to its applications last year and this year for federal infrastructure money.

Small cities typically rely on federal grants to improve their infrastructure, but what they get usually isn't enough to cover an overhaul, said Ken Rainwater, who retired last year as a civil engineering professor at Texas Tech University.

“It costs money to maintain infrastructure,” he said.



— City manager Bruce Swingle, 62, in Truth or Consequences, N.M., which says it needs \$150 million to overhaul its aging water conveyance system. Paul Ratje for NBC News

Swingle said that as pipes collapse daily, he fears schools and health care providers could be at risk of biohazard conditions if there isn't enough water to wash hands or flush toilets in an unexpected, prolonged outage.

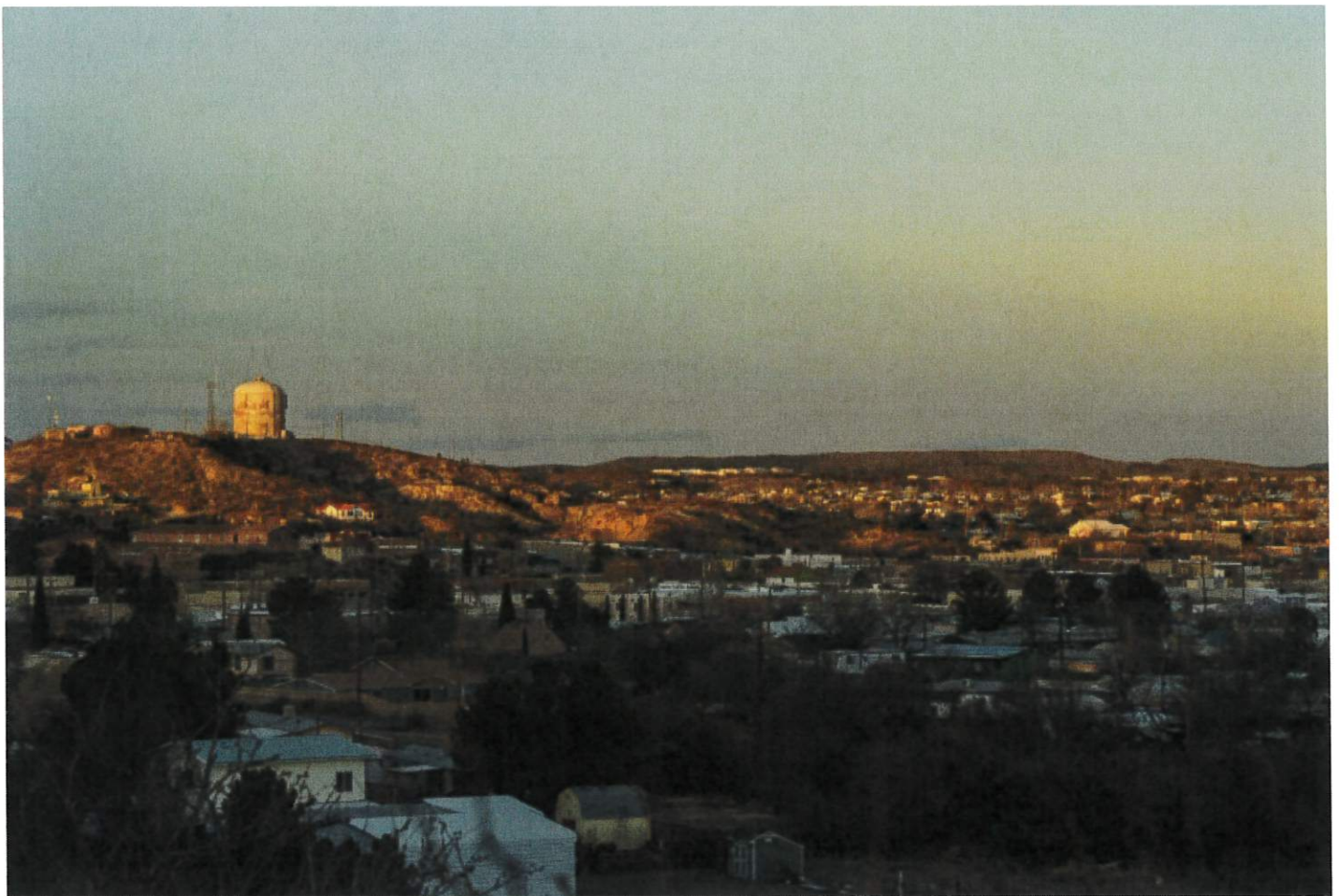
During previous hourslong water outages at Sierra Vista Hospital and Clinics, emergency room patients were turned away or taken 75 miles by ambulance to Las Cruces.

Officials at Sierra Vista said they have enough reserve water to last a few days, but after that, patients would have to be sent elsewhere.

"I can't imagine the hospital would have enough water for three days," said Swingle, who is also the chairman of the hospital's governing board.

Scott Williams, the administrator of the Sierra Health Care Center nursing home, said it does have an emergency plan, but he declined to say what it would do if water were shut off for a long time. He said the facility has enough reserve water for at least a few days.

Swingle predicts outages will become more frequent and last longer in the summer, when usage increases, placing even more pressure on the unreliable system.



— Truth or Consequences has been losing almost half of its water supply to excessive leakage caused by antiquated pipes' bursting. Paul Ratje for NBC News

Holiday tourism soars

The city can attract more than 100,000 visitors during holiday weekends as people flock to the hot springs and the state's largest lake, Elephant Butte, 5 miles from downtown. Any of them could suffer a medical emergency during an outage, Swingle said.

Originally known as Hot Springs, Truth or Consequences underwent a rebrand in 1950 when the radio game show "Truth or Consequences" vowed to broadcast its 10th-anniversary episode in the first U.S. city to change its name to the moniker. Hot Springs won the national contest.

Local lore holds that the prominent Apache leader Geronimo would soak in the hot springs after battle.

A present-day political leader, state Sen. Crystal Diamond, a Republican who represents the city, last month introduced [Senate Bill 359](#), which would allocate \$20 million from the state's general fund to help repair the pipes.

Diamond said she previously asked the office of Gov. Michelle Lujan Grisham, a Democrat, for money to fix the problem but never got a response. Lujan Grisham declined to comment.



— Susan Abts and Nancy Simpson shop together at a Bullocks Supermarket in Truth or Consequences, N.M., on Wednesday. Abts had her water off for days when a pipe burst on her street recently.

Paul Ratje for NBC News

The state Environment Department said it gave \$5.3 million to the city for its drinking water system, but Swingle said the money came from the federal government for a downtown water project unrelated to the collapsing pipelines.

Diamond, who insists there is enough money in state coffers to pay for the repairs, said: "I don't think they're taking this seriously.

"In rural and remote areas of New Mexico, when there's not a huge population, they just don't get the investment," she added. "Providing water is a public safety concern and should be prioritized."

Across the U.S., water main breaks occur every two minutes, with an estimated 6 billion gallons of treated water lost daily, according to the [2021 report card](#) from the American Society of Civil Engineers.

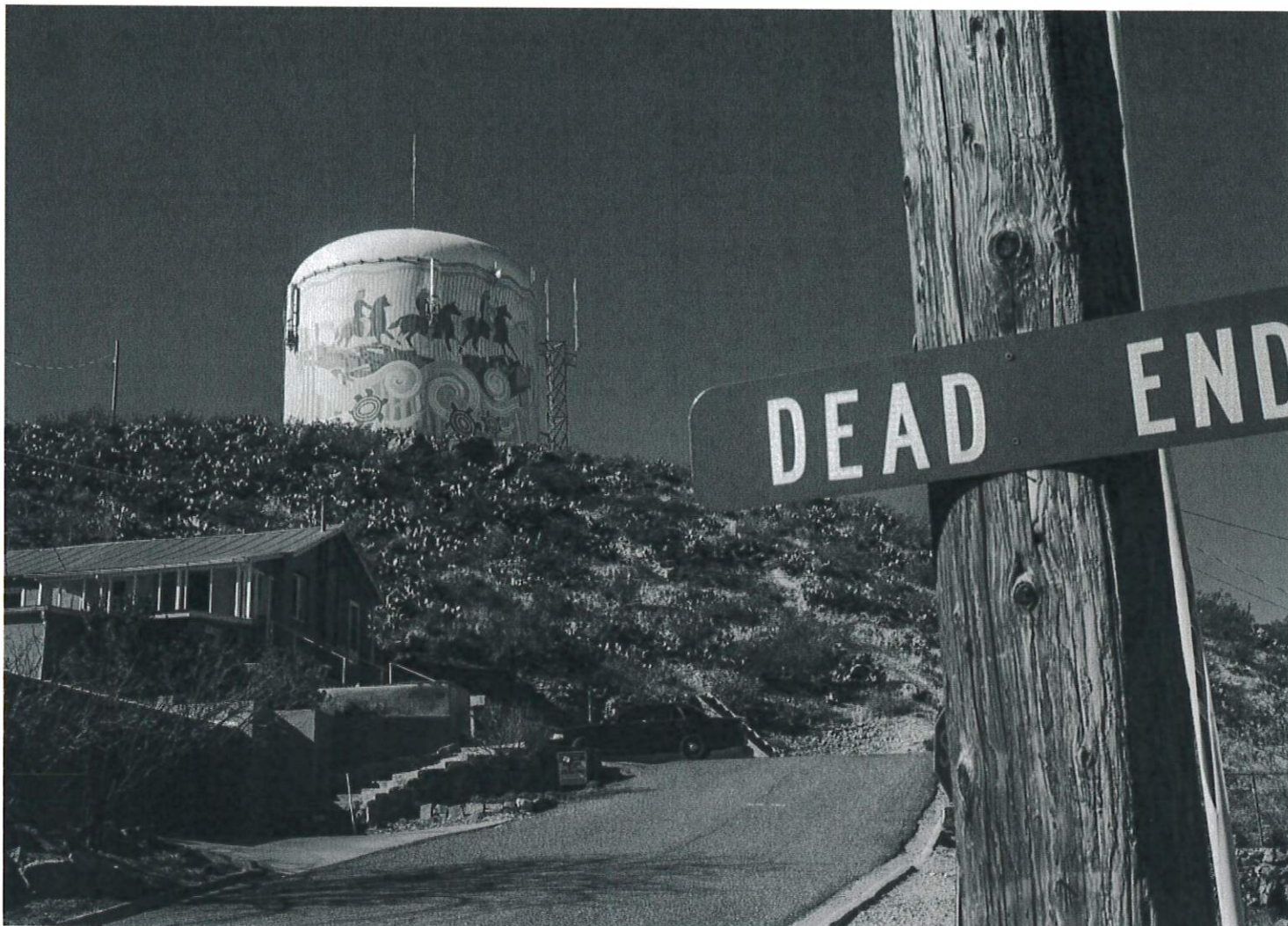
"All we're doing is repairing the water lines," Swingle said. "Once we make the repair, it's going to leak in very close proximity. The water will just find the next vulnerable spot and come to the surface."

Deon J. Hampton

Deon J. Hampton is a national reporter for NBC News.

Searchlight New Mexico,
Independent Investigation
Journalism on February 15, 2023

“In drought-plagued New Mexico, a
city loses nearly half its water - to
leaky pipes”



One of the city's old water tanks, which is no longer in use, atop Tower Hill in Truth or Consequences. Michael Benanav/Searchlight New Mexico

In drought-plagued New Mexico, a city loses nearly half its water — to leaky pipes

Aging water lines burst near-daily in Truth or Consequences, but funding for repairs has run dry.

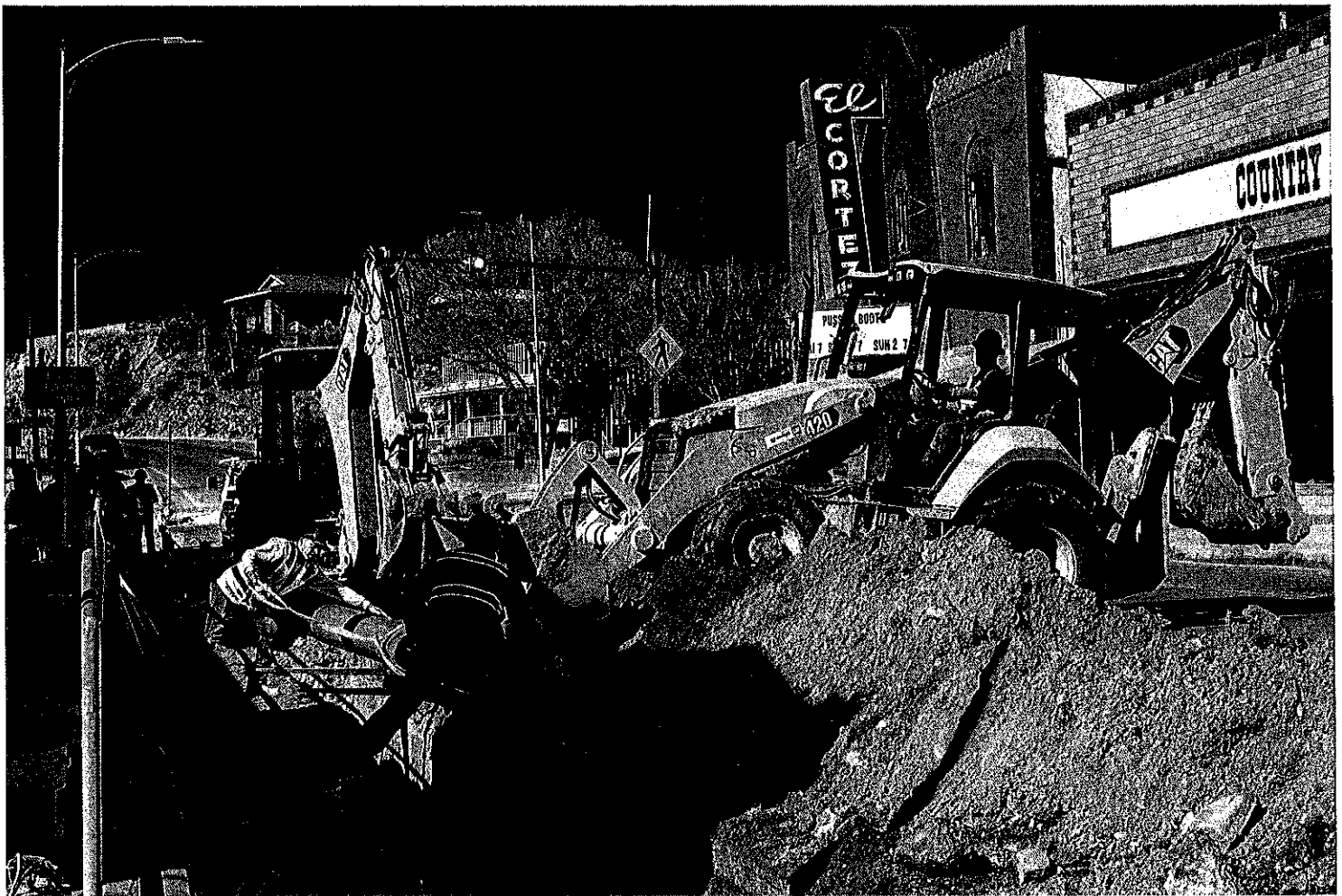
by **Michael Benanav**
February 15, 2023

Set on the northern bank of the Rio Grande, along a bend in the river about 150 miles south of Albuquerque, the city of Truth or Consequences is home to some 6,000 people. Neighborhoods of single-story houses and mobile homes fan out from a historic downtown district with galleries and restaurants, a local pharmacy and a grocery, and the visitor center for Spaceport America.

Since at least the late 19th century, the area has been known for its natural hot springs, and T or C still promotes itself as a low-key thermal resort town. “Most people who come here are on a magical getaway of some kind,” said John Masterson, co-owner of the Truth or Consequences Brewing Company.

Far less magical is what’s happening beneath the ground. About half of T or C’s water supply lines are more than 50 years old; some date to the 1930s, according to a 2021 [engineering report](#). Many are “beyond their expected useful life,” the report notes.

The result: leaks, and lots of them.



Water lines being replaced in downtown Truth or Consequences. Michael Benanav/Searchlight New Mexico

In 2022, over 200 million gallons — a staggering 43 percent of the water in the system — was lost to leakage, according to T or C's city manager, Bruce Swingle. Three years earlier, losses were at 28 percent. Not only does this show how quickly the system has been deteriorating, but "it's a sign of things to come," Swingle said during an interview at his office.

Line breaks in the fragile system are a near-daily event, with over 400 repairs made last year. As soon as one section is fixed, Swingle said, "the water finds the next most vulnerable spot" and bursts through it, like an endless game of water-line Whac-a-Mole. "We've had cars drive into sinkholes" after subsurface seepages destabilized the ground, he added.

While some residents accept the leaks and related water outages with patience, believing the city is doing the best it can, a certain amount of frustration is unavoidable. "Unless there's a geyser coming out of the ground, it's not a priority to the city," local artist June Jewell wrote in an email. Last year there was a leak in front of her house for four months, she elaborated, adding that since September there's also been "a steady flow of water 24/7" from another leak down the block.



Work on a water line in the city's downtown. Michael Benanav/Searchlight New Mexico

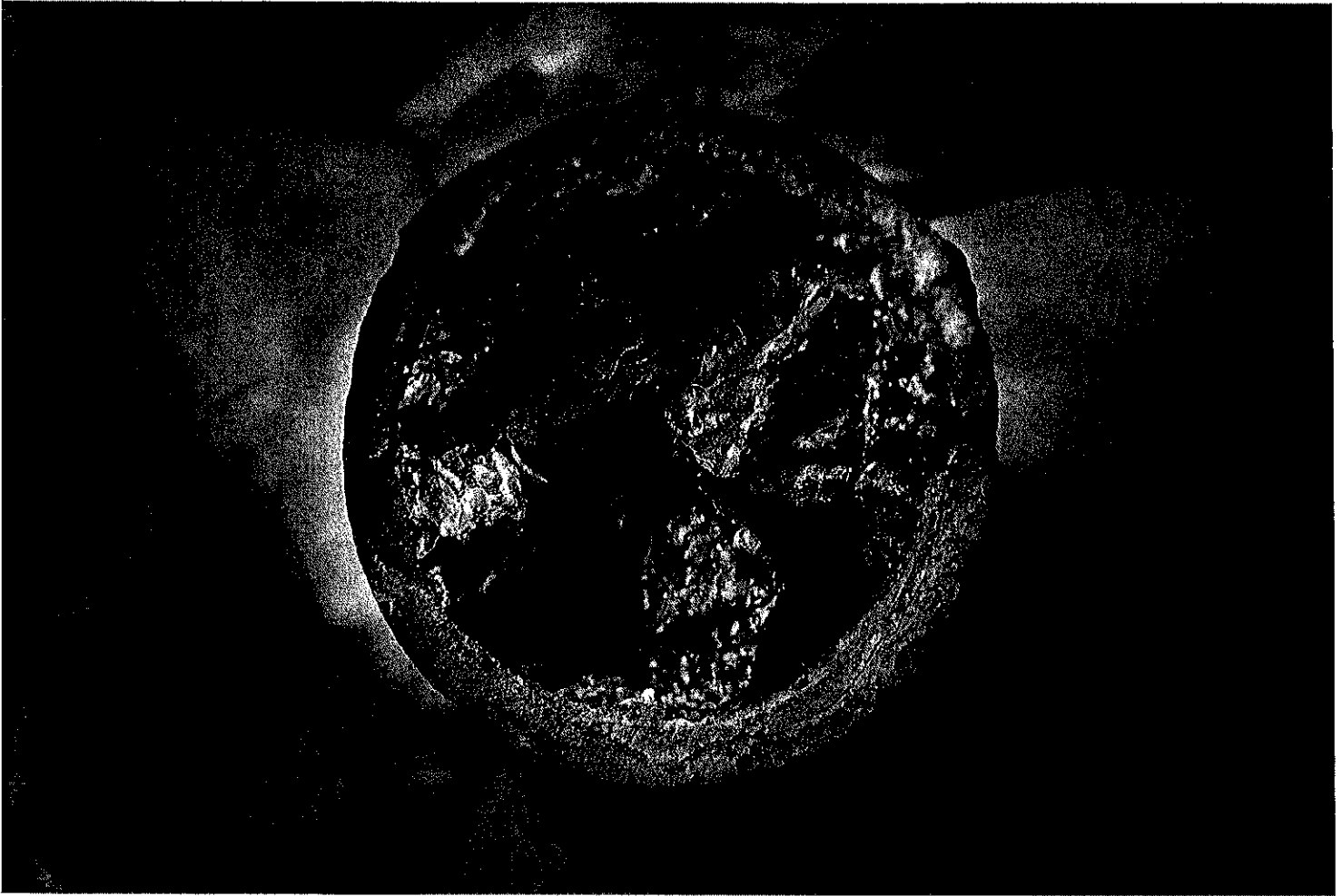
Robin McBroom, who has lived in T or C for less than a year, is “worried that the whole system is going to go down.” There are leaks all the time, she said, which can “make a little lake in the middle of the street.” Still, she’s happy about her move. “This is where I’ve always wanted to retire. I’d buy a 500-gallon water tank and hook it up if I had to.”

From its six wells, the city annually pumps 475 million gallons of water, which is also piped to the adjacent village of Williamsburg and its 500 residents. Utility crews are constantly performing triage, applying one Band-Aid after another to a water system that needs major surgery.

Two areas of town — the east side and the so-called metal streets, with names like Nickel and Tin — are in “critical condition,” Swingle said. “We have to replace those lines as soon as possible. It’s literally a crisis, and it’s only going to get worse in the next few months.” If nothing is done, the city faces system-wide failure.

Replacing those lines will cost an estimated \$20 million, engineers have concluded. Performing all of the improvements that the system needs has a price tag closer to \$150 million. T or C cannot afford either option. And it is not alone.





Sediment buildup inside a section of a pipe removed from the water system in Truth or Consequences. Michael Benanav/Searchlight New Mexico

Widespread problem, few solutions

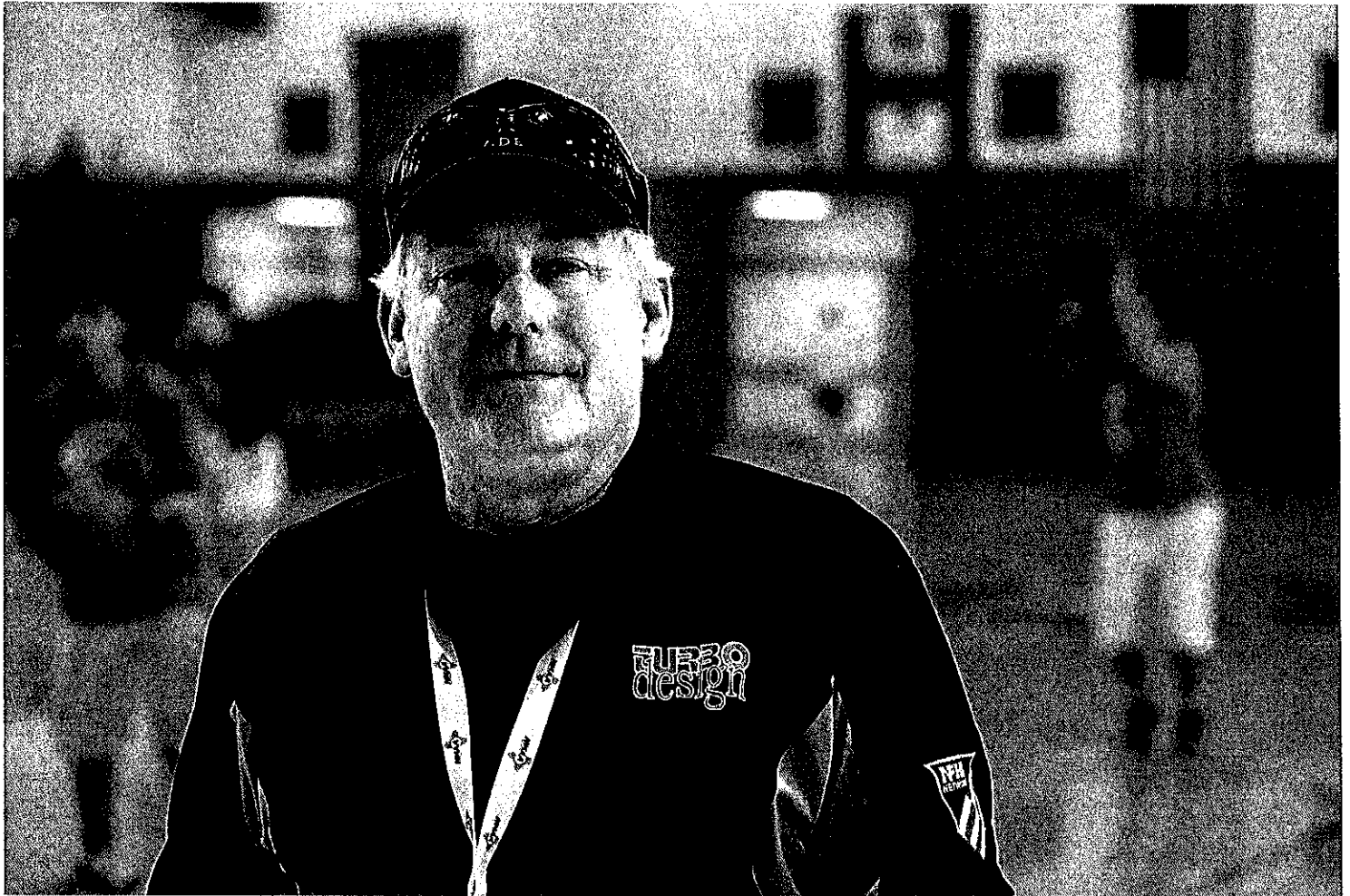
In drought-ridden New Mexico, concerns about water supply are paramount, yet hundreds of water utilities have **urgent infrastructure needs** and almost no way to pay for them. Smaller systems are affected disproportionately, and two-thirds of the state's water systems serve 500 people or fewer.

Revenue from user rates in these small communities is dwarfed by the costs of the needed upgrades. And the process for obtaining grants and loans is **prohibitively baroque** for smaller systems to pursue.

"The state's water finance system is fragmented and lacks a consistent strategy or goal," the Legislative Finance Committee **reported in 2021**, casting the problem in dire terms. New Mexico's water infrastructure (including wastewater systems) likely needs more than \$2.8 billion in repairs, the LFC concluded.

Additionally, the LFC found that funding is too often provided piecemeal, which increases the risk that work will flounder or stall indefinitely because the money runs out. In the village of Maxwell, south of Raton, for example, a \$1 million well project was stymied by a budget shortfall of about \$30,000, the LFC found.

Problems like this also plague water systems around the country, according to a 2021 “report card” issued by the American Society of Civil Engineers. “There is a water main break every two minutes and an estimated 6 billion gallons of treated water are lost each day in the United States,” the group found.



Paul Tooley, chief of the volunteer fire department in Truth or Consequences. Michael Benanav/Searchlight New Mexico

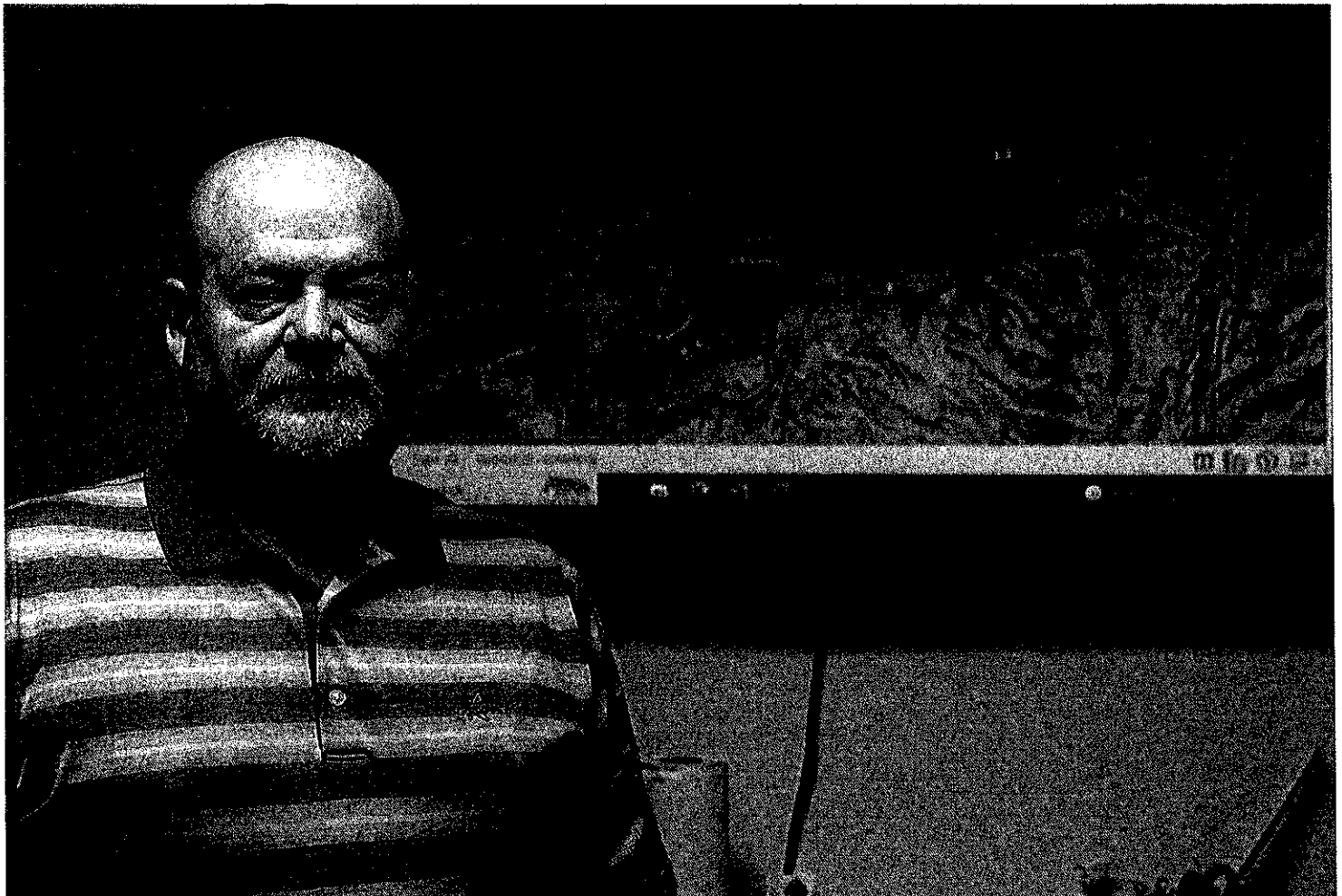
Financial drains

How was the water system in T or C allowed to deteriorate to such a degree of disrepair? “I think it’s a case of out of sight, out of mind,” said T or C’s fire chief, Paul Tooley, who joined the volunteer department 40 years ago and has led it since 2009. As long as water continued to flow, small problems buried underground could be overlooked while the city’s budget was channeled toward other priorities.

But the situation in which T or C now finds itself is also a result of past budgetary decisions.

Water utilities are intended to function as “enterprise systems,” according to the LFC, meaning that revenue from customers should cover the costs of operations and maintenance. Any money unspent at the end of a fiscal year, it adds, should be set aside for future projects.

T or C, however, has habitually moved income earned by its water utility into its general fund, to be spent on other things, depleting its reserves, budget documents show. Using ratepayer money for anything other than its intended purpose is **generally discouraged**; in some parts of the country, it’s even been outlawed. The practice can “conceal poor budgeting, ineffective planning, and other mismanagement that could spell disaster for the city and/or its utilities in the long term,” **according to the city of Elkins, West Virginia**, which is about the same size as T or C, and where such transfers are illegal.



Truth or Consequences City Manager Bruce Swingle. Michael Benanav/Searchlight New Mexico

Swingle, who has been in his position for less than two years, said he has raised this issue with T or C’s city commissioners. “It’s going to be corrected,” he said. But he said he is more interested in focusing on what

comes next than in reviewing past decisions. "Let's not point fingers, let's solve the problem."

That won't be easy. Though Swingle isn't daunted by the scope of the work, finding enough money to move forward poses a major challenge.

Currently, water lines in the downtown district are being replaced with the help of a \$3.9 million rural development grant from the U.S. Department of Agriculture, along with a \$5.4 million loan that the city obtained from the local Bank of the Southwest, Swingle said. None of that work will touch the two neighborhoods that are in critical condition, and it will barely make a dent in the city's overall needs.

In the past couple of years, T or C has raised water prices by more than 30 percent to increase revenue for operations and improvements. Voters approved a bond measure last November to provide \$1 million for water infrastructure. And the city has asked U.S. Sen. Martin Heinrich for \$54 million in federal appropriations to address the problems. But thus far Senator Heinrich has only been able to provide \$1.6 million to "get the ball moving," according to his office.

Though water utilities in New Mexico can apply for funding from several state agencies, T or C has exhausted those avenues, said Swingle, and it cannot take on any more debt. With its options dwindling and its water system rapidly degrading, it needs what amounts to a bailout by the state legislature or the federal government.





State Sen. Crystal Diamond talks with Sen. Leo Jaramillo on the Senate floor at the State Capitol in Santa Fe. Michael Benav/Searchlight New Mexico

Wanted: Pools of money

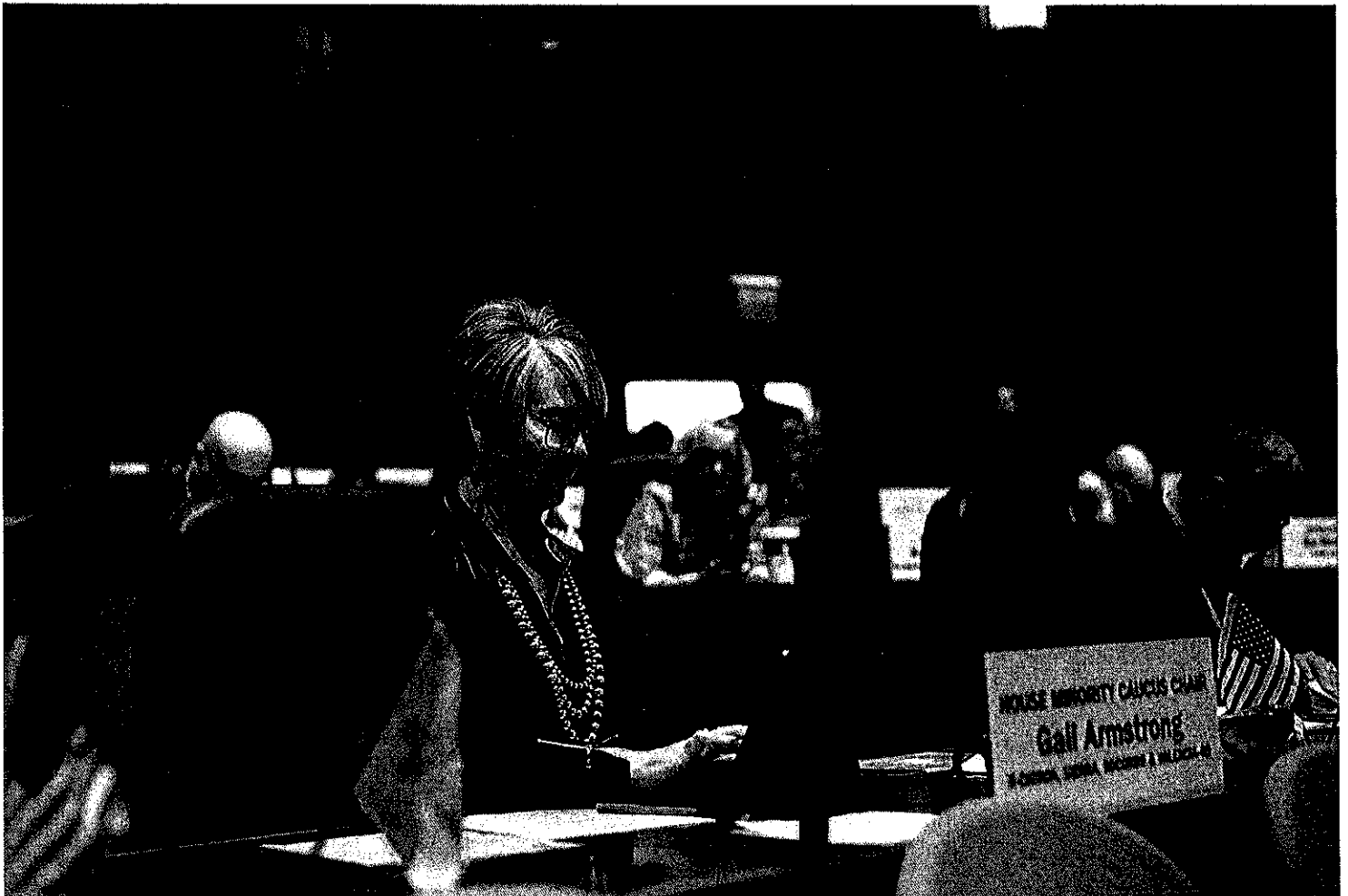
T or C's last best hope to avoid disaster is an infusion of cash drawn from the pools of discretionary monies that the governor and state legislators can use to fund high-priority projects. On February 10, Swingle and State Sen. Crystal Diamond said they met with Gov. Michelle Lujan Grisham to ask for \$19 million, to which Diamond pledged to add \$1 million — about one-third of the total capital outlay that the senator guesses she will be able to distribute this year, which she needs to spread among constituents in four counties. (The governor could not immediately be reached for comment.)

“We can’t kick the can down the road on this anymore,” Diamond said during an interview at the Roundhouse. “This is time-sensitive; it’s a basic need for our community.” Noting that the state expects a budget surplus in the range of \$3.5 billion to \$4 billion, she said that the best way to spend the windfall is on infrastructure.



State Rep. Gail Armstrong, whose district includes T or C, agrees that spending on infrastructure should be the top priority. But her optimism is muted. “There’s all this money now and everyone wants it. There’s a priority list, and a waiting list, and other communities that also have critical infrastructure needs. Hopefully, the situation in T or C doesn’t become a crazy emergency.”

For Swingle, patience is not an option. “We don’t have years to deal with this,” he said. “There are fewer problems in winter. In a few months, that’s when you’ll see catastrophic failure.”



State Rep. Gail Armstrong at her seat on the floor of the legislature. Michael Benanav/Searchlight New Mexico



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.7

SUBJECT: Discussion/Action – GRO Special Appropriation Intergovernmental Services Agreement with South Central Council of Governments as Fiscal Agent

DEPARTMENT: Community Development

DATE SUBMITTED: August 9, 2024

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Angie Gonzales, City Manager

Summary/Background:

City received a GRO Special Appropriation from Senator Brantley in the amount of \$100,000.00 to support law enforcement costs and resources. The legislation assigned SCCOG to be the fiscal agent and responsible manager of all funding, uses and administration of GRO Special Appropriation. Signature was executed by required deadline.

Recommendation:

Approve Agreement

Attachments:

- GRO Special Appropriation Intergovernmental Services Agreement
-

Fiscal Impact (Finance): Yes

[Click here to enter text.](#)

Legal Review (City Attorney): Yes

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC agendas 8-14-24



South Central
COUNCIL OF GOVERNMENTS
PO Box 1072
Elephant Butte, NM 87935
(575) 744-4857

INTERGOVERNMENTAL SERVICES AGREEMENT

City of Truth or Consequences

"GRO SPECIAL APPROPRIATIONS

Sierra City Law Enforcement Programmatic Costs and Resources (Brantley)

WHEREAS, in the 2024 Legislative Session, via House Bill 2 as appropriated and enacted by Governor Michelle Lujan Grisham, contained an appropriation to support programmatic costs, resources and services for Sierra City & The City of Truth or Consequences (Hereinafter called "City") and

WHEREAS, the legislation further articulated that the South-Central Council of Governments would be the fiscal agent and responsible manager of all funding, uses, and administration in alignment with all applicable State laws and contracts including the attached grant agreement(s); and

WHEREAS, the South-Central Council of Governments (hereinafter "SCCOG") provides a range of planning services on behalf of the City and other entities in the south central region of New Mexico, and moreover has specific knowledge of the background and intent of said planning grant; and

WHEREAS, SCCOG was statutorily established to function as a multi-jurisdictional planning entity, formed by and in service to a voluntary association of units of local government in Planning District 7, pursuant to: the Regional Planning Act, Section 3-56-1 through 3-56-9, NMSA 1978; the Planning District Act, Sections 4-58-1 through 4-58-6, NMSA 1978, NMSA 1978; and Executive Orders of the New Mexico Governor dated January 2, 1969 and January 10, 1973 regarding Planning and Development Districts in the State of New Mexico; and

WHEREAS, The City of Truth or Consequences is an active member of the SCCOG and holds a voting seats on the Board of Directors thereof; and

WHEREAS, the New Mexico Department of Finance and Administration further encourages the use of intergovernmental services agreements as appropriate to the efficient procurement of inter-agency services; and

WHEREAS, The SCCOG reviewed the GRO allocations with each legislator providing funding. These meetings provided guidance and direction; and

WHEREAS, the SCCOG desires to engage The City of Truth or Consequences to implement these proposed services based its experience with partners, provides, and track record in the use and accountability that comes with government funding; and

THEREFORE, this agreement is entered into by and between The City of Truth or Consequences (CITY) and the South Central Council of Governments (SCCOG) pursuant to the following purposes, conditions and terms:

GRO SPECIAL APPROPRIATIONS PROJECT # 24-ID134 (\$200,000)

Two Hundred Thousand Dollars and Zero Cents (\$200,000.00) for programmatic costs and resources for law enforcement departments in Sierra City and the city of Truth or Consequences.

One-Hundred-Thousand Dollars and Zero Cents for Sierra County

One-Hundred-Thousand Dollars and Zero Cents for The City of Truth or Consequences

A. **PURPOSE:** The purpose of this Agreement shall be for The City of Truth or Consequences to manage, implement, procure, deliver, report, on programs required to support law enforcement cost and resources;

1. **Funds may be used for, but not limited to:**

- i. Capital (Government entity only)
- ii. Employee costs for salaries.
- iii. Employee costs for supportive services.
- iv. Reports and studies.
- v. Property improvements projects.
- vi. Contracts to provide services.
- vii. Non-Profit contracting and supportive services (In compliance with the Anti-Donation Clause)

B. **PROGRAM REQUIREMENTS:**

1. The City of Truth or Consequences Shall:



- Develop a scope of work (SOW) and budget 45 days from the date of final signature between the City and SCCOG.
- Understand that this funding is part of two-year agreement that can be expended sooner and/or as needed.
- GRO Funds are not recurring, and must be spent prior to the two-year period expiring June 30, 2026
- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement.
- Commit to all upfront payments for all legitimate request for payments **THEN** request reimbursed through the SCCOG. The SCCOG will request reimbursement from the Department of Finance and Administration per the agreements.
- Pay requests shall be submitted to the SCCOG grant administrator quarterly. Pay request must provide all the appropriate information necessary to create a good pay request. The reimbursement will be mailed to the agency net 30 days via check. SCCOG will not make ACH payments.

- Provide quarterly reporting with pay request for each appropriation above including but not limited to amount encumbered, expenses, remaining and program beneficiaries and any other performance metrics that are currently being tracked by the City /City/SCCOG or its sub-contractors.
 - Quarterly reports and pay request may be submitted via email, USPS, private carrier or hand delivery. All correspondence shall be to the address provided in Section O.
 - Submit reports and pay requests on forms approved by the SCCOG.
 - For any Non-Profit agreements, Sub-contractor agreements, assure proper procuring, vetting, and management of portions of the agreements.
 - All Non-Profit agreements, Sub-contractors agreements shall be provided to SCCOG in accordance with local and State procurement codes;
 - Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
 - Act as liaison between SCCOG and appropriate NM state agencies;
 - Work and support the SCCOG with the Department of Administration to solve any discrepancy that may arise that would hold up project reimbursements to the SCCOG and acting as a facilitator if disagreement arises.
2. South-Central Council of Governments Role and Responsibilities. The SCCOG understands it remains ultimately responsible for executing and complying with all applicable Federal, State, and Local Laws and grant agreement requirements such as flow down provisions, executing procurement responsibilities and subcontractor management, including all reporting requirements established by the State of New Mexico.

C. TIMEFRAME:

1. Work pursuant to this agreement shall be effective no sooner than July 1, 2024, but not before the Notice of obligation is signed by SCCOG and DFA. Projects shall be completed by June 15, 2026. Funds not spent by June 30, 2026, shall revert to the State of New Mexico. Final payment request may be submitted by July 10th, 2026 (5pm/MST).

D. COMPENSATION:

1. Total compensation under this agreement shall not exceed **One-Hundred-Thousand Dollars (\$100,000)**  
2. Within the total compensation amount, The City of Truth or Consequences shall be authorized to subcontract work to qualified parties for expert assistance with the "PURPOSE" herein.

E. Method of Payment:

1. The City of Truth or Consequences shall present to the SCCOG invoices for services not more frequently than quarterly. Upon receipt of a complete pay request to the SCCOG fiscal agent, payment for the reported fees and reimbursable expenses shall

be made within thirty (30) days. ALL reimbursements shall be made by check mailed to the address of record. ACH payments shall not be utilized.

F. Record Keeping and Retention:

1. The City of Truth or Consequences shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the SCCOG or its designees. The SCCOG shall have the right to audit billings both before and after the payment. Payment under this Agreement shall not foreclose the right of the SCCOG to recover excessive or illegal payment.

G. ACCESS TO INFORMATION:

1. It is agreed that the SCCOG and its agencies shall furnish all available information, data, reports, records and maps to The City of Truth or Consequences. No charge shall be made to the City for such information, and the SCCOG and its agencies shall cooperate with the City to facilitate performance of the work described in this agreement.

H. OWNERSHIP OF DOCUMENTS:

1. All documents and data produced pursuant to this agreement shall be the property of SCCOG. The City shall be permitted to retain reproducible copies, to cite itself and/or its consultants as producers of said work, and to disseminate such documents as permitted by the City.

I. LIMITATION OF LIABILITY:

1. This Agreement shall not create a general liability of the constituent members of the City.
2. The City shall hold the SCCOG harmless with respect to any damages, expenses or claims arising or in connection with any negligent acts, errors or omissions performed by the City under this Agreement. This shall not be construed as a limitation of the City's liability under this Agreement or as otherwise provided by law.

J. MODIFICATION AND TERMINATION:

1. Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. The Agreement may be terminated by either party upon thirty (30) days written notice to the other.

K. CERTIFICATION:

1. The City shall comply with the requirements of all applicable laws, rules and regulations, and shall assume full responsibility for payment of federal, state and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws.

L. ADEQUATE APPROPRIATIONS:

1. This agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by the SCCOG to the City. The SCCOG's decision as to whether sufficient appropriations are available shall be accepted by the City and shall be final. If the SCCOG proposes an amendment to the Agreement to unilaterally reduce funding, the City shall have the option to terminate the Agreement or agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

M. STATUS OF CONTRACTOR:

1. The city and its officers, agents and employees are independent contractors performing professional services for the City and are not employees of the SCCOG. The City and its agents and employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the SCCOG as a result of this Agreement. The City agrees not to purport to bind the SCCOG unless the City has express written authority to do so and then only within the strict limits of that authority.

N. PENALTIES:

1. The Procurement Code, § 13-1-28 through §13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

O. NOTICES, PAY REQUESTS, REPORTS:

1. Any notices, payment requests and quarterly reports required to be given to either party by this Agreement shall be in writing and may be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows;
2. Pay requests and reports (only) may also utilize email.

To the SCCOG:

Jay Armijo, Executive Director
P.O. Box 1072
Elephant Butte, NM 87935

To: City of Truth or Consequences


Angie Gonzales
401 McAdoo St
Truth or Consequences, NM 87901

Fiscal Reporting:

Gary Whitehead, GRO Coordinator
PO Box 1072
Elephant Butte, NM 87935
gwhitehead@sccog-nm.com

IN WITNESS WHEREOF, the parties affix their signatures here below:

South Central Council of Governments:

BY: 

Jay Armijo, Executive Director

Date: Jul 23, 2024

City of Truth or Consequences:

BY: 
Angie Gonzales (Jul 25, 2024 09:46 MDT)

Angie Gonzales, City of Truth or Consequences

Date: Jul 25, 2024










FINAL - Gov to Gov Contract - City of T or C 24-ID134

Final Audit Report

2024-07-25

Created:	2024-07-23
By:	Gary Whitehead (gwhitehead@sccog-nm.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAprgtUlf-0z01XwNhAX1kl-sz8xhNOw9

"FINAL - Gov to Gov Contract - City of T or C 24-ID134" History

-  Document created by Gary Whitehead (gwhitehead@sccog-nm.com)
2024-07-23 - 3:12:29 PM GMT
-  Document emailed to Jay Armijo (jarmijo@sccog-nm.com) for signature
2024-07-23 - 3:14:52 PM GMT
-  Email viewed by Jay Armijo (jarmijo@sccog-nm.com)
2024-07-23 - 3:56:28 PM GMT
-  Document e-signed by Jay Armijo (jarmijo@sccog-nm.com)
Signature Date: 2024-07-23 - 3:58:21 PM GMT - Time Source: server
-  Document emailed to agonzales@torcnm.org for signature
2024-07-23 - 3:58:22 PM GMT
-  Email viewed by agonzales@torcnm.org
2024-07-24 - 3:56:08 PM GMT
-  Signer agonzales@torcnm.org entered name at signing as Angela Gonzales
2024-07-25 - 3:46:41 PM GMT
-  Document e-signed by Angela Gonzales (agonzales@torcnm.org)
Signature Date: 2024-07-25 - 3:46:43 PM GMT - Time Source: server
-  Agreement completed.
2024-07-25 - 3:46:43 PM GMT





City of Truth or Consequences

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.8

SUBJECT: Approval of Purchase Requisitions Over \$20,000
DEPARTMENT: Finance
DATE SUBMITTED: August 9, 2024
SUBMITTED BY: Leiandra Guerra, CPO
WHO WILL PRESENT THE ITEM: Angie Gonzales, City Manager

Summary/Background:

Per Resolution No 46 20/21 Execution of Contracts; Grant Agreements; Memoranda of Understanding; Joint Powers Agreements; Settlement Agreements; Purchases (Contract and Purchases More Than \$20,000)

Recommendation:

Approval Recommended by Finance Director

Attachments:

- Listing of Purchase Requisitions \$20,000 or More
- Purchase Requisitions, Procurement Documentation

Fiscal Impact (Finance): Choose an item.

As Per Total on Listing of Purchase Requisitions

Legal Review (City Attorney): Choose an item.

[Click here to enter text.](#)

Approved For Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. [Click here to enter text.](#)

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

Approved Denied Other: [Click here to enter text.](#)

File Name: CC agendas 8-14-24

**PURCHASE REQUISITION APPROVAL
COMMISSION MEETING 08/14/2024**

2024-25 Fiscal Year

Number	Vendor Name	Description	Requested By
92732	Full Send LineWork LLC	Pole Replacement- Austin Street	Priscilla Fuentes/Bo Easle
92733	Marto Energy	Pole Replacement- Marshall Street	Priscilla Fuentes/Bo Easle
92810	Western United Electric	Padmount Transformer-Comfort Inn Charging Station	Priscilla Fuentes/Bo Easle

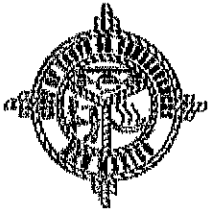
ATTEST:

Angela Torres, Clerk-Treasurer

Date

Rolf Hechler, Mayor

Date



REQUISITION

Requisition #: 92732

Date: 07/25/2024

Vendor #: 8772

ISSUED TO: FULL SEND LINEWORK, LLC
104 HUMMINGBIRD PLACE
CLOVIS, NM 88101-

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0 POLE REPLACEMENT- AUSTIN STREET		0.00	503-3702-47415	56,517.56

PO Description: POLE REPLACEMENT- AUSTIN STREET

Detailed Description:

POLE REPLACEMENT- AUSTIN STREET
3 QUOTES: FULL SEND LINEWORK, MARTO ENERGY, AK TOOLING, LLC

Authorized By: _____

SUBTOTAL:	52,150.00
TOTAL TAX:	0.00
SHIPPING:	4,367.56
TOTAL	56,517.56



REQUISITION

Requisition #: 92733

Date: 07/25/2024

Vendor #: 8748

ISSUED TO: MARTO ENERGY
PO BOX 20651
ALBUQUERQUE, NM 87154-

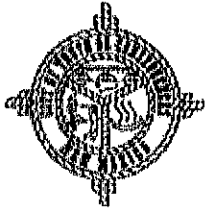
SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS DESCRIPTION	PROJECT #	PRICE	GL ACCOUNT NUMBER	AMOUNT
1	0 POLE REPLACEMENT- MARSHALL STREET		0.00	503-3702-47415	55,379.62

PO Description: POLE REPLACEMENT- MARSHALL STREET
Detailed Description:
POLE REPLACEMENT- MARSHALL STREET
3 QUOTES: MARTO ENERGY, FULL SEND LINework, B&D INDUSTRIESN INC,

Authorized By: _____

SUBTOTAL:	51,100.00
TOTAL TAX:	0.00
SHIPPING:	4,279.62
TOTAL	55,379.62



REQUISITION

Requisition #: 92810

Date: 08/05/2024

Vendor #: 7498

ISSUED TO: WESTERN UNITED ELECTRIC
SUPPLY CORPORATION
100 BROMLEY BUSINESS PKWY
BRIGHTON, CO 80603

SHIP TO: City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

ITEM	UNITS DESCRIPTION	PROJECT #	PRICE GL ACCOUNT NUMBER	AMOUNT
1	0 PADMOUNT TRANSFORMERS 750 KVA 3 I		0.00 503-3702-44607	42,000.00
PO Description: PADMOUNT TRANSFORMER- COMFORT INN CHARGING STATION				
Detailed Description:				
PADMOUNT TRANSFORMER- COMFORT INN CHARGING STATION				
3 QUOTES: WESTERN UNITED ELECTRIC, SUNBELT SOLOMON, LARSON ELECTRONICS, LLC				

Authorized By: _____

SUBTOTAL:	42,000.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	42,000.00



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.9

SUBJECT: Review, Approve and/or Allocate Funds for Sierra County Rock & Gem Society (SCRAGS) – Application #1 for 2025 Sierra Co. Rock & Gem Show

DEPARTMENT: City Manager's Office

DATE SUBMITTED: August 6, 2024

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Tammy Gardner

Summary/Background:

Commission approval of SCRAGS application for the 2025 Sierra Co. Rock & Gem Show.

Recommendation:

The applicant requested \$20,555.00 and the LTAB recommended to fully fund the project plus an additional \$3,000.00 for additional tables.

Attachments:

- SCRAGS Application
- SCRAGS Contract
- Approved Scope of Work

Fiscal Impact (Finance): Yes

\$23,555.00

Legal Review (City Attorney): Yes

Approved for Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

FY25 Lodgers' Tax Award

Approved Scope of Work

Lodgers' Tax Meeting Date: July 22, 2024

Applicant: Sierra County Rock & Gem Society

Project(s) Applied For: Sierra County Rock & Gem Show

Amount Requested: \$20,555 Amount Approved: \$23,555

Approved x Postponed Denied

Reason for Postponement/Denial/**Different** Award Amount: additional funding was provided so that the organization could buy additional tables

Scope of Work	Award Amount Approved
1) M Graphics	\$2500
2) Ready Web Service	\$2000
3) Got Print (post cards/posters)	\$ 705
4) NM Magazine	\$4300
5) Santa Fe Reporter	\$1500
6) Local IQ (ABQ)	\$1000
7) Neighbors	\$ 300
8) Desert Exposure	\$ 900
9) The Ink	\$ 800
10) El Paso Spotlight	\$ 200
11) El Defensor Chieftain	\$ 400
12) Facebook/Instagram	\$1000
13) Gem Show websites	\$ 300
14) USPS/UPS	\$ 350
15) Talon Septic	\$ 800
16) Security	\$1000
17) WX Fire Graph	\$ 400
18) TBA (tables)	\$4500

Total: \$23,555

ADVERTISING & PROMOTION CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as “City” and SIERRA COUNTY ROCK AND GEM SOCIETY (Sierra Co. Rock & Gem Show 2025) herein referred to as “Contractor”.

WHEREAS the City and Contractor desire to enter into a Contract to provide Lodgers Tax funds to the Contractor to aid the Contractor’s promotion and advertising of the City as a tourist attraction which will aid in the economic growth of the City.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises of the parties; it is hereby covenanted and agreed by and between the parties:

1. **The City shall** provide up to the sum of \$23,555.00 to the Contractor for a one (1) year period commencing on August 14, 2024 and continuing through June 30, 2025.
2. **The Contractor shall:**
 - a. Advertise, publicize and promote the City and its facilities as a tourism attraction. Such publicizing and promoting shall include but not be limited to the advertising of the fairgrounds, civic center, museums, convention center and other City and area resources and attractions.
 - b. Said promotion and advertising shall specifically consist of the plan as presented (and approved by the Lodgers Tax Board) in the Contractor’s application for Lodgers Tax Funds. The Scope of Work is set forth within the application.
3. **Fund Expenditures:** Funding under this contract is from Lodgers Tax. Such funds may be spent for promotion and advertising only.
4. **Procurement by Contractor:** The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for violation of this statute. Any property purchased by Contractor, the cost of which is to be paid under this agreement, shall be purchased in compliance with the Procurement Code.
 - a. The City and the Lodgers Tax Advisory Board shall determine which of these expenditures are allowable and are in compliance with the purpose of this contract.
 - b. If determined to be an eligible purchase, the City will pay the Contractor for reimbursement.
 - c. Since the purpose of the Tax is to bring visitors to town, the Contractor must use seventy-five percent (75%) of the funds outside the County. This will serve to increase the use of hotels, motels, and RV parks which will in turn yield more Lodgers Tax.

- d. All invoices must be turned into the City Manager's Office no later than the last business day of **May 2025**.
 - e. Invoices submitted after that date **WILL NOT BE PAID!** All unspent funds will revert to the City's Lodgers Tax Fund to be used for any purpose the City may deem eligible.
 - f. Reports are due sixty (60) days after completion of event/project.
5. **Termination:** Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party.
 6. **Records:** The Contractor agrees to keep accurate records of all time and expenses allocated to the performance of the agreed upon work. Such records shall be kept in the office of the Contractor and shall be made available to the City or its authorized representatives for inspection and copying upon reasonable request.
 7. **Ownership of Documents:** All reports, maps, ads, logos, or documents prepared as a part of this Agreement, including original drawings, estimates, specifications, field notes, and data are the property of the City. The Contractor may retain reproducible copies of drawings and other documents.
 8. **Claims:** The Contractor shall save and hold the City free from claims that might arise in connection with work the Contractor will perform under this Agreement. The Contractor also agrees to pay for staff time, at standard hourly billing rates, plus expenses at cost that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of Contractor's involvement in this assignment, whether subpoenaed by the City or any other group.
 9. **Personnel:**
 - a. The Contractor represents that they have, or will secure at their own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any Agreement relationship with the City.
 - b. All of the services required hereunder will be performed by the Contractor or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
 - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City and Lodgers Tax Advisory Board. Any work or services subcontracted hereunder be specified by written Subcontract and shall be subject to each provision of this Agreement.
 10. **Assignability:** The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of the Lodgers Tax Advisory

Board and City thereto: Provided, however, that claims for money by the Contractor from the City under the Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

11. **Authority:** Contractor agrees not to purport to bind the City to an obligation not herein assumed, unless Contractor has expressed written authority to do so, and then only within the strict limits of that authority.
12. **Reports and Information:** The Contractor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
13. **Copyright:** No report, maps, ads, logos, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
14. **Compliance with Local Laws:** The Contractor shall comply with all applicable laws, ordinances and codes of the State and the City and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
15. **Equal Employment Opportunity:** During the performance of this Agreement, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor will, in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
 - c. The Contractor will cause the foregoing provisions to be inserted in all Subcontracts for any work covered by this Agreement so that such

provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to Agreements or Subcontracts for standard commercial supplies or raw materials.

- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the City's representative, the funding agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - f. In the event of the Contractor's noncompliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The Contractor will include the provisions of paragraphs (a) through (g) in every Subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any Subcontract or purchase order as the City's representative may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
16. **Civil Rights Act of 1964:** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
17. **Access to Records:**
- a. The State Auditor, the City's auditor, the City, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this

specific Agreement, for the purpose of audits, examinations, and making excerpts and transcriptions.

- b. All records connected with this Agreement will be maintained in a central location by the City and will be maintained for a period of three (3) years from the official date of closeout of the contract.

18. **Third Party Rights:** The provisions of this agreement are for the sole benefit of the parties and shall not be construed as conferring rights on any other person or entity.
19. **Captions and Headings:** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.
20. **Severability:** If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement, and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.
21. **Venue:** All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Sierra County, New Mexico.
22. **Attorney Fees:** In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.
23. **Authority to Sign Agreement:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties.
24. **Interest of Members of the City:** No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

25. **Interest of other Local Public Officials** - No member of the governing body of the City and no other public official of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

26. **Bribes, Gratuities and Kickbacks:** It is illegal in this state for any public employee to solicit or accept anything of value in connection with award of this Agreement and for any person to offer or pay anything of value to any such public employee (§30-24-1 through §30-24-2 NMSA 1978). Pursuant to §13-1-191 NMSA 1978 reference is made to the criminal laws of this state (including §30-41-1 through §30-41-3 NMSA 1978) which prohibit bribes, kickbacks, and gratuities and violation of which constitutes a felony. Further, the Procurement Code (§13-1-28 through §13-1-199 NMSA 1978) imposes civil and criminal penalties for its violation.

CITY OF TRUTH OR CONSEQUENCES

Angie Gonzales, City Manager

Date

Finance Officer, Reviewed for Budgetary Sufficiency

Date

Jaime Rubin, City Attorney, Reviewed for Legal Sufficiency

Date

CONTRACTOR

Authorized Representative (Signature & Printed Name)

Date

For a recipient of Lodgers Tax to be eligible for the City, acting as the fiscal agent, to reimburse their incurred financial obligations using Lodgers Tax, the following must be strictly adhered to:

Please initial each requirement:

_____ PAID invoices must be presented to the City Manager's Office for reimbursement with a copy of the cancelled check (front & back) and a copy of the tear sheets or script within a timely manner so that we can maintain a good working relationship with the vendors. The tear sheets, scripts, and invoices are the responsibility of the Contractor. Please review invoices for accuracy. Do not assume that they are correct.

_____ No bill will be reimbursed if it differs from the services agreed upon in the application and signed contract unless the change is requested in writing, recommended by the Lodgers Tax Advisory Board and approved by the City Manager.

_____ It is the responsibility of the Contractor to keep a running total of their unused and available Lodgers Tax award.

_____ It is the responsibility of the Contractor to notify the City as to who are the two (2) eligible people to turn in bills for reimbursement. (Please print names below.)

Designee No. 1: _____ Phone No. _____

Designee No. 2: _____ Phone No. _____

_____ No bill will be reimbursed by the City unless it bears the signature of the City Manager or designee approving payment.

_____ Reports are due 90 days after a project/event is completed. It is the responsibility of the Contractor to get reports in on time.

_____ **By your signature on this contract, you have agreed to follow and implement all conditions within the time frame set forth and if you deviate without prior approval from the Lodgers Tax Advisory Board and the City Manager, then the City has no further fiscal responsibility per this contract.**

Dated this _____ day of _____, 2024

CONTRACTOR:

BY: _____
Printed Name of Authorized Representative

Signature of Authorized Representative



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.10

SUBJECT: Review, Approve and/or Allocate Funds for Geronimo Trail Scenic Byway Application #3 - National Park Journal

DEPARTMENT: City Manager's Office

DATE SUBMITTED: August 6, 2024

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Tammy Gardner

Summary/Background:

Commission approval of Geronimo Trail Scenic Byway application and contract for print & digital advertising in National Park Journal.

Recommendation:

The applicant requested \$4,745.00 and the LTAB recommended to fully fund the project.

Attachments:

- GTSB Application
- GTSB Contract
- Approved Scope of Work

Fiscal Impact (Finance): Yes

\$4,745.00

Legal Review (City Attorney): Yes

Approved for Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

FY25 Lodgers' Tax Award

Approved Scope of Work

Lodgers' Tax Meeting Date: July 22, 2024

Applicant: Geronimo Trail Scenic Byway

Project(s) Applied For: Print & digital advertising Grand Canyon National Park Journal

Amount Requested: \$4745 Amount Approved: \$4745

Approved x Postponed Denied

Reason for Postponement/Denial/Different Award Amount:

Scope of Work	Award Amount Approved
1) Outside Magazine/National Park Trips	\$ 4495
2) M Graphics	\$ 250
Total: \$4745	

ADVERTISING & PROMOTION CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as “City” and GERONIMO TRAIL SCENIC BYWAY (Print & Digital Ads-Grand Canyon National Park Journal) herein referred to as “Contractor”.

WHEREAS the City and Contractor desire to enter into a Contract to provide Lodgers Tax funds to the Contractor to aid the Contractor’s promotion and advertising of the City as a tourist attraction which will aid in the economic growth of the City.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises of the parties; it is hereby covenanted and agreed by and between the parties:

1. **The City shall** provide up to the sum of \$4,745.00 to the Contractor for a one (1) year period commencing on August 14, 2024 and continuing through June 30, 2025.
2. **The Contractor shall:**
 - a. Advertise, publicize and promote the City and its facilities as a tourism attraction. Such publicizing and promoting shall include but not be limited to the advertising of the fairgrounds, civic center, museums, convention center and other City and area resources and attractions.
 - b. Said promotion and advertising shall specifically consist of the plan as presented (and approved by the Lodgers Tax Board) in the Contractor’s application for Lodgers Tax Funds. The Scope of Work is set forth within the application.
3. **Fund Expenditures:** Funding under this contract is from Lodgers Tax. Such funds may be spent for promotion and advertising only.
4. **Procurement by Contractor:** The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for violation of this statute. Any property purchased by Contractor, the cost of which is to be paid under this agreement, shall be purchased in compliance with the Procurement Code.
 - a. The City and the Lodgers Tax Advisory Board shall determine which of these expenditures are allowable and are in compliance with the purpose of this contract.
 - b. If determined to be an eligible purchase, the City will pay the Contractor for reimbursement.
 - c. Since the purpose of the Tax is to bring visitors to town, the Contractor must use seventy-five percent (75%) of the funds outside the County. This will serve to increase the use of hotels, motels, and RV parks which will in turn yield more Lodgers Tax.

- d. All invoices must be turned into the City Manager's Office no later than the last business day of **May 2025**.
 - e. Invoices submitted after that date **WILL NOT BE PAID!** All unspent funds will revert to the City's Lodgers Tax Fund to be used for any purpose the City may deem eligible.
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 6. **Records:** The Contractor agrees to keep accurate records of all time and expenses allocated to the performance of the agreed upon work. Such records shall be kept in the office of the Contractor and shall be made available to the City or its authorized representatives for inspection and copying upon reasonable request.
 7. **Ownership of Documents:** All reports, maps, ads, logos, or documents prepared as a part of this Agreement, including original drawings, estimates, specifications, field notes, and data are the property of the City. The Contractor may retain reproducible copies of drawings and other documents.
 8. **Claims:** The Contractor shall save and hold the City free from claims that might arise in connection with work the Contractor will perform under this Agreement. The Contractor also agrees to pay for staff time, at standard hourly billing rates, plus expenses at cost that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of Contractor's involvement in this assignment, whether subpoenaed by the City or any other group.
 9. **Personnel:**
 - a. The Contractor represents that they have, or will secure at their own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any Agreement relationship with the City.
 - b. All of the services required hereunder will be performed by the Contractor or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
 - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City and Lodgers Tax Advisory Board. Any work or services subcontracted hereunder be specified by written Subcontract and shall be subject to each provision of this Agreement.
 10. **Assignability:** The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of the Lodgers Tax Advisory

Board and City thereto: Provided, however, that claims for money by the Contractor from the City under the Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

11. **Authority:** Contractor agrees not to purport to bind the City to an obligation not herein assumed, unless Contractor has expressed written authority to do so, and then only within the strict limits of that authority.
12. **Reports and Information:** The Contractor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
13. **Copyright:** No report, maps, ads, logos, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
14. **Compliance with Local Laws:** The Contractor shall comply with all applicable laws, ordinances and codes of the State and the City and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
15. **Equal Employment Opportunity:** During the performance of this Agreement, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor will, in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
 - c. The Contractor will cause the foregoing provisions to be inserted in all Subcontracts for any work covered by this Agreement so that such

provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to Agreements or Subcontracts for standard commercial supplies or raw materials.

- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the City's representative, the funding agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f. In the event of the Contractor's noncompliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of paragraphs (a) through (g) in every Subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any Subcontract or purchase order as the City's representative may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

16. Civil Rights Act of 1964: Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

17. Access to Records:

- a. The State Auditor, the City's auditor, the City, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this

specific Agreement, for the purpose of audits, examinations, and making excerpts and transcriptions.

- b. All records connected with this Agreement will be maintained in a central location by the City and will be maintained for a period of three (3) years from the official date of closeout of the contract.
18. **Third Party Rights:** The provisions of this agreement are for the sole benefit of the parties and shall not be construed as conferring rights on any other person or entity.
 19. **Captions and Headings:** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.
 20. **Severability:** If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement, and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.
 21. **Venue:** All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Sierra County, New Mexico.
 22. **Attorney Fees:** In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.
 23. **Authority to Sign Agreement:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties.
 24. **Interest of Members of the City:** No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

25. **Interest of other Local Public Officials** - No member of the governing body of the City and no other public official of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

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CITY OF TRUTH OR CONSEQUENCES

Angie Gonzales, City Manager

Date

Finance Officer, Reviewed for Budgetary Sufficiency

Date

Jaime Rubin, City Attorney, Reviewed for Legal Sufficiency

Date

CONTRACTOR

Authorized Representative (Signature & Printed Name)

Date

For a recipient of Lodgers Tax to be eligible for the City, acting as the fiscal agent, to reimburse their incurred financial obligations using Lodgers Tax, the following must be strictly adhered to:

Please initial each requirement:

_____ PAID invoices must be presented to the City Manager's Office for reimbursement with a copy of the cancelled check (front & back) and a copy of the tear sheets or script within a timely manner so that we can maintain a good working relationship with the vendors. The tear sheets, scripts, and invoices are the responsibility of the Contractor. Please review invoices for accuracy. Do not assume that they are correct.

_____ No bill will be reimbursed if it differs from the services agreed upon in the application and signed contract unless the change is requested in writing, recommended by the Lodgers Tax Advisory Board and approved by the City Manager.

_____ It is the responsibility of the Contractor to keep a running total of their unused and available Lodgers Tax award.

_____ It is the responsibility of the Contractor to notify the City as to who are the two (2) eligible people to turn in bills for reimbursement. (Please print names below.)

Designee No. 1: _____ Phone No. _____

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_____ No bill will be reimbursed by the City unless it bears the signature of the City Manager or designee approving payment.

_____ Reports are due 90 days after a project/event is completed. It is the responsibility of the Contractor to get reports in on time.

_____ **By your signature on this contract, you have agreed to follow and implement all conditions within the time frame set forth and if you deviate without prior approval from the Lodgers Tax Advisory Board and the City Manager, then the City has no further fiscal responsibility per this contract.**

Dated this _____ day of _____, 2024

CONTRACTOR:

BY: _____
Printed Name of Authorized Representative

Signature of Authorized Representative



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.11

SUBJECT: Review, Approve and/or Allocate Funds for Veterans Memorial & Museum – Application #3 for Billboard Rental

DEPARTMENT: City Manager's Office

DATE SUBMITTED: August 6, 2024

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Tammy Gardner

Summary/Background:

Commission approval of Veterans Memorial Application #3 for the rental of the billboard.

Recommendation:

The applicant requested \$4,275.00 and the LTAB recommended to fully fund the project.

Attachments:

- Vets Mem. Application
- Vets Mem. Contract
- Approved Scope of Work

Fiscal Impact (Finance): Yes

\$4,275.00

Legal Review (City Attorney): Yes

Approved for Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-2024

FY25 Lodgers' Tax Award

Approved Scope of Work

Lodgers' Tax Meeting Date: July 22, 2024

Applicant: Veterans Memorial Park & Museum

Project(s) Applied For:

1) Billboard Rental

Amount Requested: \$4275 **Amount Approved:** \$4275

Approved x Postponed _____ Denied _____

Reason for Postponement/Denial/Different Award Amount:

2) Brochure Reprint

Amount Requested: \$937.45 **Amount Approved:** \$937.45

Approved x Postponed _____ Denied _____

Reason for Postponement/Denial/Different Award Amount:

Scope of Work	Award Amount Approved
1) Lamar	\$4275.50
2) M Graphics	\$ 937.45

Total for the 2 projects: \$5212.95

ADVERTISING & PROMOTION CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as “City” and VETERANS MEMORIAL PARK & MUSEUM (Billboard Rental) herein referred to as “Contractor”.

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23. **Authority to Sign Agreement:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties.

24. **Interest of Members of the City:** No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

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CITY OF TRUTH OR CONSEQUENCES

Angie Gonzales, City Manager

Date

Finance Officer, Reviewed for Budgetary Sufficiency

Date

Jaime Rubin, City Attorney, Reviewed for Legal Sufficiency

Date

CONTRACTOR

Authorized Representative (Signature & Printed Name)

Date

For a recipient of Lodgers Tax to be eligible for the City, acting as the fiscal agent, to reimburse their incurred financial obligations using Lodgers Tax, the following must be strictly adhered to:

Please initial each requirement:

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_____ **By your signature on this contract, you have agreed to follow and implement all conditions within the time frame set forth and if you deviate without prior approval from the Lodgers Tax Advisory Board and the City Manager, then the City has no further fiscal responsibility per this contract.**

Dated this _____ day of _____, 2024

CONTRACTOR:

BY: _____
Printed Name of Authorized Representative

Signature of Authorized Representative



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: August 14, 2024

Agenda Item #: I.12

SUBJECT: Review, Approve and/or Allocate Funds for MainStreet – Application #1 for 2025 Desert Ultra

DEPARTMENT: City Manager's Office

DATE SUBMITTED: August 6, 2024

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Tammy Gardner

Summary/Background:

Commission approval of MainStreet application #1 for the 2025 Desert Ultra.

Recommendation:

The applicant requested \$6,800.00 and the LTAB recommended to fully fund the project.

Attachments:

- MainStreet Application
- MainStreet Contract
- Approved Scope of Work

Fiscal Impact (Finance): Yes

\$6,800.00

Legal Review (City Attorney): Yes

Approved for Submittal By: Department Director

Reviewed by: City Clerk Finance Legal Other: [Click here to enter text.](#)

Final Approval: City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

Approved Denied Other: -

File Name: CC Agendas 8-14-24

FY25 Lodgers' Tax Award

Approved Scope of Work

Lodgers' Tax Meeting Date: July 22, 2024

Applicant: MainStreet Truth or Consequences

Project(s) Applied For: Truth or Consequences Desert Ultra

Amount Requested: \$6800 Amount Approved: \$6800

Approved x Postponed Denied

Reason for Postponement/Denial/Different Award Amount:

Scope of Work	Award Amount Approved
1) Facebook	\$ 200
2) Sentinel	\$ 350
3) Talon Septic	\$ 250
4) TBA (graphic design)	\$ 400
5) Morningstar Sports	\$1750
6) Lobo Photo NM	\$1000
7) UltraRunning Magazine	\$ 850
8) Selfie Station design & construction	\$2000

Total: \$6800

ADVERTISING & PROMOTION CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Truth or Consequences, New Mexico, herein referred to as “City” and MAINSTREET (Desert Ultra 2024) herein referred to as “Contractor”.

WHEREAS the City and Contractor desire to enter into a Contract to provide Lodgers Tax funds to the Contractor to aid the Contractor’s promotion and advertising of the City as a tourist attraction which will aid in the economic growth of the City.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises of the parties; it is hereby covenanted and agreed by and between the parties:

1. **The City shall** provide up to the sum of \$6,800.00 to the Contractor for a one (1) year period commencing on August 14, 2024 and continuing through June 30, 2025.
2. **The Contractor shall:**
 - a. Advertise, publicize and promote the City and its facilities as a tourism attraction. Such publicizing and promoting shall include but not be limited to the advertising of the fairgrounds, civic center, museums, convention center and other City and area resources and attractions.
 - b. Said promotion and advertising shall specifically consist of the plan as presented (and approved by the Lodgers Tax Board) in the Contractor’s application for Lodgers Tax Funds. The Scope of Work is set forth within the application.
3. **Fund Expenditures:** Funding under this contract is from Lodgers Tax. Such funds may be spent for promotion and advertising only.
4. **Procurement by Contractor:** The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for violation of this statute. Any property purchased by Contractor, the cost of which is to be paid under this agreement, shall be purchased in compliance with the Procurement Code.
 - a. The City and the Lodgers Tax Advisory Board shall determine which of these expenditures are allowable and are in compliance with the purpose of this contract.
 - b. If determined to be an eligible purchase, the City will pay the Contractor for reimbursement.
 - c. Since the purpose of the Tax is to bring visitors to town, the Contractor must use seventy-five percent (75%) of the funds outside the County. This will serve to increase the use of hotels, motels, and RV parks which will in turn yield more Lodgers Tax.

- d. All invoices must be turned into the City Manager's Office no later than the last business day of **May 2025**.
 - e. Invoices submitted after that date **WILL NOT BE PAID!** All unspent funds will revert to the City's Lodgers Tax Fund to be used for any purpose the City may deem eligible.
 - f. Reports are due sixty (60) days after completion of event/project.
5. **Termination:** Either party shall have the right to terminate this Contract without cause by giving thirty (30) days written notice to the other party.
 6. **Records:** The Contractor agrees to keep accurate records of all time and expenses allocated to the performance of the agreed upon work. Such records shall be kept in the office of the Contractor and shall be made available to the City or its authorized representatives for inspection and copying upon reasonable request.
 7. **Ownership of Documents:** All reports, maps, ads, logos, or documents prepared as a part of this Agreement, including original drawings, estimates, specifications, field notes, and data are the property of the City. The Contractor may retain reproducible copies of drawings and other documents.
 8. **Claims:** The Contractor shall save and hold the City free from claims that might arise in connection with work the Contractor will perform under this Agreement. The Contractor also agrees to pay for staff time, at standard hourly billing rates, plus expenses at cost that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of Contractor's involvement in this assignment, whether subpoenaed by the City or any other group.
 9. **Personnel:**
 - a. The Contractor represents that they have, or will secure at their own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any Agreement relationship with the City.
 - b. All of the services required hereunder will be performed by the Contractor or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
 - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City and Lodgers Tax Advisory Board. Any work or services subcontracted hereunder be specified by written Subcontract and shall be subject to each provision of this Agreement.
 10. **Assignability:** The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of the Lodgers Tax Advisory

Board and City thereto: Provided, however, that claims for money by the Contractor from the City under the Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

11. **Authority:** Contractor agrees not to purport to bind the City to an obligation not herein assumed, unless Contractor has expressed written authority to do so, and then only within the strict limits of that authority.
12. **Reports and Information:** The Contractor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
13. **Copyright:** No report, maps, ads, logos, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
14. **Compliance with Local Laws:** The Contractor shall comply with all applicable laws, ordinances and codes of the State and the City and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
15. **Equal Employment Opportunity:** During the performance of this Agreement, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor will, in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
 - c. The Contractor will cause the foregoing provisions to be inserted in all Subcontracts for any work covered by this Agreement so that such

provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to Agreements or Subcontracts for standard commercial supplies or raw materials.

- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the City's representative, the funding agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - f. In the event of the Contractor's noncompliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The Contractor will include the provisions of paragraphs (a) through (g) in every Subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any Subcontract or purchase order as the City's representative may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
16. **Civil Rights Act of 1964:** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
17. **Access to Records:**
- a. The State Auditor, the City's auditor, the City, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this

specific Agreement, for the purpose of audits, examinations, and making excerpts and transcriptions.

- b. All records connected with this Agreement will be maintained in a central location by the City and will be maintained for a period of three (3) years from the official date of closeout of the contract.

18. **Third Party Rights:** The provisions of this agreement are for the sole benefit of the parties and shall not be construed as conferring rights on any other person or entity.

19. **Captions and Headings:** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

20. **Severability:** If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement, and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.

21. **Venue:** All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in Sierra County, New Mexico.

22. **Attorney Fees:** In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

23. **Authority to Sign Agreement:** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties.

24. **Interest of Members of the City:** No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

25. **Interest of other Local Public Officials** - No member of the governing body of the City and no other public official of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

26. **Bribes, Gratuities and Kickbacks:** It is illegal in this state for any public employee to solicit or accept anything of value in connection with award of this Agreement and for any person to offer or pay anything of value to any such public employee (§30-24-1 through §30-24-2 NMSA 1978). Pursuant to §13-1-191 NMSA 1978 reference is made to the criminal laws of this state (including §30-41-1 through §30-41-3 NMSA 1978) which prohibit bribes, kickbacks, and gratuities and violation of which constitutes a felony. Further, the Procurement Code (§13-1-28 through §13-1-199 NMSA 1978) imposes civil and criminal penalties for its violation.

CITY OF TRUTH OR CONSEQUENCES

Angie Gonzales, City Manager

Date

Finance Officer, Reviewed for Budgetary Sufficiency

Date

Jaime Rubin, City Attorney, Reviewed for Legal Sufficiency

Date

CONTRACTOR

Authorized Representative (Signature & Printed Name)

Date

For a recipient of Lodgers Tax to be eligible for the City, acting as the fiscal agent, to reimburse their incurred financial obligations using Lodgers Tax, the following must be strictly adhered to:

Please initial each requirement:

_____ PAID invoices must be presented to the City Manager's Office for reimbursement with a copy of the cancelled check (front & back) and a copy of the tear sheets or script within a timely manner so that we can maintain a good working relationship with the vendors. The tear sheets, scripts, and invoices are the responsibility of the Contractor. Please review invoices for accuracy. Do not assume that they are correct.

_____ No bill will be reimbursed if it differs from the services agreed upon in the application and signed contract unless the change is requested in writing, recommended by the Lodgers Tax Advisory Board and approved by the City Manager.

_____ It is the responsibility of the Contractor to keep a running total of their unused and available Lodgers Tax award.

_____ It is the responsibility of the Contractor to notify the City as to who are the two (2) eligible people to turn in bills for reimbursement. (Please print names below.)

Designee No. 1: _____ Phone No. _____

Designee No. 2: _____ Phone No. _____

_____ No bill will be reimbursed by the City unless it bears the signature of the City Manager or designee approving payment.

_____ Reports are due 90 days after a project/event is completed. It is the responsibility of the Contractor to get reports in on time.

_____ **By your signature on this contract, you have agreed to follow and implement all conditions within the time frame set forth and if you deviate without prior approval from the Lodgers Tax Advisory Board and the City Manager, then the City has no further fiscal responsibility per this contract.**

Dated this _____ day of _____, 2024

CONTRACTOR:

BY: _____
Printed Name of Authorized Representative

Signature of Authorized Representative